Version
as at 4 September 2026

Marine and Coastal Area (Takutai Moana) Act 2011

Public Act	2011 No 3
Date of assent	31 March 2011
Commencement	see section 2

Contents

		Page
	Preamble	
1	Title	9
2	Commencement	9
	Part 1 **Preliminary provisions**	
	Outline	
3	Outline of Act	9
	Purpose and acknowledgements	
4	Purpose	11
5	Repeal of Foreshore and Seabed Act 2004	12
6	Customary interests restored	12
7	Treaty of Waitangi (te Tiriti o Waitangi)	12
8	Rights and obligations under international law not affected	12
9	Interpretation	12
9A	Transitional, savings, and related provisions *[Repealed]*	20
9A	Customary marine title amendments: purposes and application	21

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Office of Treaty Settlements and Takutai Moana—Te Tari Whakatau.

9B Customary marine title amendments: interpretation and overriding effect 21
9C Transitional, savings, and related provisions 22
10 Act binds the Crown 22

Part 2
Common marine and coastal area

Subpart 1—Interests in common marine and coastal area

11 Special status of common marine and coastal area 22
12 Areas acquiring status under certain enactments may vest in Crown 23
13 Boundary changes of marine and coastal area 23
14 Roads located in marine and coastal area 24
15 No ownership in road that becomes part of common marine and coastal area 25
16 Continued Crown ownership of minerals 25
17 Additions to common marine and coastal area 26
18 Rights of owners of structures 26
19 Crown deemed to be owner of abandoned structures 26
20 Act does not affect existing resource consents or lawful activities 28
21 Certain proprietary interests to continue 28
22 Provisions relating to records of title wholly in common marine and coastal area 29
23 Provisions relating to record of title to land in common marine and coastal area and land above line of mean high-water springs 29
24 Exclusion of interests in marine and coastal area founded on adverse possession or prescriptive title 30
25 Local authorities may apply to Minister for redress for loss of divested areas 30

Subpart 2—Public rights and powers over common marine and coastal area

Rights of access

26 Rights of access 31

Rights of navigation

27 Rights of navigation within marine and coastal area 32

Rights of fishing

28 Fishing rights preserved 33

Subpart 3—Reclaimed land

29 Interpretation 33
30 Certain reclaimed land to vest in Crown 34
31 New status of existing reclaimed land 34
32 Minister may declare reclaimed land to be subject to Land Act 1948 35

33 Minister to administer reclaimed land subject to this subpart 35
34 Granting and disposition of interests in reclaimed land subject to this subpart 35
35 Eligible applicants for interests in reclaimed land subject to this subpart 35
36 Determination of application by Minister 36
37 Presumption that certain applicants to be granted freehold interest in reclaimed land subject to this subpart 37
38 Notification of determination and variation 38
39 Vesting of interest in reclaimed land subject to this subpart 38
40 Application for renewal of interests less than freehold 39
41 Pending applications under Resource Management Act 1991 that relate to reclaimed land 39
42 Savings 40
43 Land reclaimed from customary marine title areas by customary marine title groups 41

Rights of first refusal

44 Restrictions on disposition of freehold interest 42
45 Offers to Minister, iwi or hapū, or public 43

Part 3
Customary interests

46 Overview of this Part 44

Subpart 1—Participation in conservation processes in common marine and coastal area

47 Participation in conservation processes 44
48 Notification of conservation process 45
49 Obligation on decision maker 46
50 Stranded marine mammals 46

Subpart 2—Protected customary rights

51 Meaning of protected customary rights 46
52 Scope and effect of protected customary rights 47
53 Delegations and transfers of protected customary rights 48
54 Limitations on exercise of protected customary rights 49
55 Effect of protected customary rights on resource consent applications 49

Controls

56 Controls on exercise of protected customary rights 50
57 Notification of controls 51

Subpart 3—Customary marine title

Interpretation matters

57A Meaning of exclusive use and occupation 52

57B	Meaning of substantial interruption	52
	Determination of whether customary marine title exists	
58	Customary marine title	53
59	Matters relevant to whether customary marine title exists	55
59A	Outline of aspects of law altered by CMT Amendment Act	56
59B	Judgments given under this Act referred to in sections 9A and 9B	57
	Rights under customary marine title	
60	Scope and effect of customary marine title	58
61	Delegation and transfer	59
62	Rights conferred by customary marine title	60
62A	Information requirements for applicants for resource consents	61
	Accommodated activities	
63	Interpretation	61
64	Accommodated activities	64
65	Deemed accommodated activities	65
	RMA permission right	
66	Scope of Resource Management Act 1991 permission right	66
67	Procedural matters relevant to exercise of RMA permission right	67
68	Effect of RMA permission right	69
69	Offence and penalty provision	69
70	Environment Court may make enforcement orders	70
	Conservation permission right	
71	Scope and effect of conservation permission right	71
72	Obligation to refer proposals for conservation activity if conservation permission right applies	71
73	Obligations when conservation permission right is exercised	72
	Protection purposes	
74	Priority of protection purposes	72
75	Matters relevant to determining protection purposes	73
	Marine mammal watching permits	
76	Decisions on grant of marine mammal permits	73
	New Zealand coastal policy statement	
77	Consultation	74
	Wāhi tapu protection right	
78	Protection of wāhi tapu and wāhi tapu areas	74
79	Wāhi tapu conditions	75
80	Wardens and fishery officers	75
81	Compliance	76

Ngā taonga tūturu

82 Newly found taonga tūturu 77

Status of minerals

83 Status of minerals in customary marine title area 78
84 Status of existing privileges within common marine and coastal area 78

Planning document

85 Planning document 79
86 Lodging and registration of planning document 80
87 Transitional provision 81

Obligations arising in respect of customary marine title planning documents

88 Obligation on local authorities 81
89 Obligation on Heritage New Zealand Pouhere Taonga 81
90 Obligation on Director-General 82
91 Obligation on Minister of Fisheries 82
91A Obligations on Minister of Aquaculture 82
92 Interpretation 82
93 Obligations on regional councils in relation to planning documents 83

Part 4
Administrative and miscellaneous matters

Recognition of customary interests

94 Recognition of protected customary rights and customary marine title 85

Subpart 1—Recognition agreements

95 Recognition agreements 85
96 How recognition agreements to be brought into effect 86
97 Notification of agreement recognising protected customary rights 86

Subpart 2—Recognition by order of Court

98 Court may recognise protected customary right or customary marine title 87
99 Court may refer to Māori Appellate Court or pūkenga for opinion or advice on tikanga 87

Application for recognition order

100 Who may apply 88
101 Contents of application 88
102 Service of application 88
103 Public notice of application 89
104 Who may appear on application for recognition order 89
105 Evidence 89

106 Burden of proof 89
107 Court's flexibility in dealing with application 90
108 Rules governing procedure 90

Recognition orders

109 Form of recognition order 91
110 Requirements for notification of orders 91
111 Recognition order may be varied or cancelled 92

Appeal rights

112 Right of appeal against decision of Court 93

Sealing of recognition orders

113 Orders sealed by Court 93

Subpart 3—Marine and coastal area register

114 Marine and coastal area register 93
115 Requirements for keeping register 94
116 Inspection and copying 94
117 Application of Privacy Act 1993 *[Repealed]* 94

Subpart 4—Regulations and miscellaneous matters

Regulations and bylaws

118 Regulations for administrative purposes 95
119 Minister of Conservation to perform residual management functions 96
120 Regulations for management of common marine and coastal area 96
121 Bylaws 97
122 Persons breaching regulations or bylaws may be directed to stop 98

Local Acts

123 Relationship between local Acts and this Act 99

References

124 References to public foreshore and seabed 99

Transitional arrangements

125 Pending proceedings under Foreshore and Seabed Act 2004 99

Notices

126 Giving of notices 100

Amendments to other enactments

127 Amendment to section 7 of Conservation Act 1987 101
128 Consequential amendments to other enactments 101

Schedule 1AA 102
Transitional, savings, and related provisions

[Repealed]

Schedule 1AA 103
Transitional, savings, and related provisions

Schedule 1 107
Resource consents and controls in protected customary rights area

Schedule 2 115
Process by which certain new activities in customary marine title area become deemed accommodated activities

Schedule 3 121
Enactments consequentially amended

Preamble

Background to Act as enacted

(1) In June 2003, the Court of Appeal held in *Attorney-General v Ngāti Apa* [2003] 3 NZLR 643 that the Māori Land Court had jurisdiction to determine claims of customary ownership to areas of the foreshore and seabed. The Foreshore and Seabed Act 2004 (the **2004 Act**) was enacted partly in response to the Court of Appeal's decision:

(2) In its *Report on the Crown's Foreshore and Seabed Policy* (Wai 1071), the Waitangi Tribunal found the policy underpinning the 2004 Act in breach of the Treaty of Waitangi. The Tribunal raised questions as to whether the policy complied with the rule of law and the principles of fairness and non-discrimination against a particular group of people. Criticism was voiced against the discriminatory effect of the 2004 Act on whānau, hapū, and iwi by the United Nations Committee on the Elimination of Racial Discrimination and the United Nations Special Rapporteur:

(3) In 2009, a Ministerial Review Panel was set up to provide independent advice on the 2004 Act. It, too, viewed the Act as severely discriminatory against whānau, hapū, and iwi. The Panel proposed the repeal of the 2004 Act and engagement with Māori and the public about their interests in the foreshore and seabed, recommending that new legislation be enacted to reflect the Treaty of Waitangi and to recognise and provide for the interests of whānau, hapū, and iwi and for public interests in the foreshore and seabed:

(4) This Act takes account of the intrinsic, inherited rights of iwi, hapū, and whānau, derived in accordance with tikanga and based on their connection with the foreshore and seabed and on the principle of manaakitanga. It translates those inherited rights into legal rights and interests that are inalienable, enduring, and able to be exercised so as to sustain all the people of New Zealand and the coastal marine environment for future generations:

Background to amendments made by CMT Amendment Act

(5) In 2023, in *Whakatōhea Kotahitanga Waka (Edwards) v Te Kāhui and Whakatōhea Māori Trust Board* [2023] NZCA 504, [2023] 3 NZLR 252, the Court of Appeal interpreted provisions of this Act about the requirements for recognition of customary marine title:

(6) The Court of Appeal's interpretation of those provisions changed the effect that Parliament intends them to have, and materially reduced those requirements (for example, that an applicant group must prove exclusive use and occupation of a specified area from the start to the end of the applicable period without substantial interruption):

(7) In 2024, in *Whakatōhea Kotahitanga Waka (Edwards) v Te Kāhui Takutai Moana o Ngā Whānau Me Ngā Hapū o Te Whakatōhea* [2024] NZSC 164, [2024] 1 NZLR 857, the Supreme Court allowed an appeal by the Attorney-General against the Court of Appeal's decision:

(8) The Supreme Court stated its interpretation of those provisions, and held that the Court of Appeal was incorrect in its interpretation of them:

(9) In 2025, in *Whakatōhea Kotahitanga Waka (Edwards) v Ngāti Ira o Waioweka, Ngāti Patumoana, Ngāti Ruatākenga and Ngāi Tamahaua (Te Kāhui Takutai Moana o Ngā Whānau Me Ngā Hapū o Te Whakatōhea)* [2025] NZSC 104, the Supreme Court decided the remaining issues under the appeals before it, and applied its interpretation of those provisions:

(10) Amendments to those provisions are still needed, however, to ensure that they have the effect, and maintain the balance, that Parliament intends:

(11) In particular, amendments to those provisions are still needed to—

- (a) define more strictly the requirements for exclusive use and occupation:
- (b) require inferences by a decision maker (including the Court) to be based on evidence of physical use and occupation:
- (c) clarify that, in the case of an application for, or to vary or cancel, a recognition order, the applicant group must prove that the group both—
  - (i) holds the specified area in accordance with tikanga; and
  - (ii) had exclusive use and occupation of the specified area from the start to the end of the applicable period without substantial interruption:

(12) The enactment of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 makes those amendments:

Preamble recital (1) heading: inserted, on 25 October 2025, by section 4(1) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Preamble recital (5) heading: inserted, on 25 October 2025, by section 4(2) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Preamble recital (5): inserted, on 25 October 2025, by section 4(2) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Preamble recital (6): inserted, on 25 October 2025, by section 4(2) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Preamble recital (7): inserted, on 25 October 2025, by section 4(2) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Preamble recital (8): inserted, on 25 October 2025, by section 4(2) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Preamble recital (9): inserted, on 25 October 2025, by section 4(2) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Preamble recital (10): inserted, on 25 October 2025, by section 4(2) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Preamble recital (11): inserted, on 25 October 2025, by section 4(2) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Preamble recital (12): inserted, on 25 October 2025, by section 4(2) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Marine and Coastal Area (Takutai Moana) Act 2011 and may also be cited as—

(a) the Marine and Coastal Area Act 2011; or

(b) te Takutai Moana Act 2011.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1
Preliminary provisions

Outline

3 Outline of Act

(1) This section is a guide to the overall scheme and effect of this Act, but does not affect the interpretation or application of the other provisions of this Act.

(2) This Part—

(a) sets out the purpose of the Act and acknowledges the importance of the marine and coastal area to all New Zealanders and the customary interests of iwi, hapū, and whānau in that area; and

(b) repeals the Foreshore and Seabed Act 2004 and restores any customary interest extinguished by that Act; and

(c) states that, in order to take account of the Treaty of Waitangi, the Act recognises, and promotes the exercise of, the customary interests of

iwi, hapū, and whānau in the common marine and coastal area of New Zealand; and

(d) records the scope of the Crown's sovereignty; and

(e) defines terms used in this Act; and

(f) provides that the Act binds the Crown.

(3) Part 2 sets out the legal arrangements that are to apply to the common marine and coastal area, including,—

(a) in subpart 1, provision for—

(i) the special status of the common marine and coastal area as an area that is incapable of ownership; and

(ii) matters relevant to the legal status of existing interests in the area, including roads and minerals; and

(b) in subpart 2, provision for ongoing public rights and powers in the common marine and coastal area, namely,—

(i) rights of access; and

(ii) rights of navigation; and

(iii) rights of fishing; and

(c) in subpart 3, provisions relating to the reclamation of land from the marine and coastal area.

(4) Part 3 sets out the customary interests that may be recognised in the common marine and coastal area of New Zealand, namely,—

(a) in subpart 1, the participation of affected iwi and hapū in the specified conservation processes relating to the common marine and coastal area; and

(b) in subpart 2, the scope and effect of protected customary rights that may be recognised by an order of the High Court or under an agreement; and

(c) in subpart 3, the scope and effect of customary marine title that may be recognised by order of the High Court or under an agreement.

(5) Part 4 provides,—

(a) in subpart 1, for the responsible Minister, on behalf of the Crown, to enter into agreements with applicant groups for recognition of—

(i) protected customary rights, which must be brought into effect by Order in Council; and

(ii) customary marine title, which must be brought into effect by an Act of Parliament; and

(b) in subpart 2, for the jurisdiction of the High Court to hear and determine applications for recognition orders; and

(c) in subpart 3, for a marine and coastal area register to be set up for the recording of orders awarded, and agreements made, under subparts 1 and 2; and

(d) in subpart 4, for regulation-making and bylaw-making powers, the giving of notices, transitional matters, and consequential amendments.

(6) The 3 schedules set out—

(a) machinery provisions relevant to—

(i) decision making concerning resource consent applications that may adversely affect the exercise of protected customary rights; and

(ii) the process relating to how new activities become deemed accommodated activities; and

(b) consequential amendments.

Purpose and acknowledgements

4 Purpose

(1) The purpose of this Act is to—

(a) establish a durable scheme to ensure the protection of the legitimate interests of all New Zealanders in the marine and coastal area of New Zealand; and

(b) recognise the mana tuku iho exercised in the marine and coastal area by iwi, hapū, and whānau as tangata whenua; and

(c) provide for the exercise of customary interests in the common marine and coastal area; and

(d) acknowledge the Treaty of Waitangi (te Tiriti o Waitangi).

(2) To that end, this Act—

(a) repeals the Foreshore and Seabed Act 2004 and restores customary interests extinguished by that Act; and

(b) contributes to the continuing exercise of mana tuku iho in the marine and coastal area; and

(c) gives legal expression to customary interests; and

(d) recognises and protects the exercise of existing lawful rights and uses in the marine and coastal area; and

(e) recognises, through the protection of public rights of access, navigation, and fishing, the importance of the common marine and coastal area—

(i) for its intrinsic worth; and

(ii) for the benefit, use, and enjoyment of the public of New Zealand.

5 Repeal of Foreshore and Seabed Act 2004

The Foreshore and Seabed Act 2004 (2004 No 93) is repealed.

6 Customary interests restored

(1) Any customary interests in the common marine and coastal area that were extinguished by the Foreshore and Seabed Act 2004 are restored and given legal expression in accordance with this Act.

(2) Any application under this Act for the recognition of customary interests must be considered and determined as if the Foreshore and Seabed Act 2004 had not been enacted.

7 Treaty of Waitangi (te Tiriti o Waitangi)

In order to take account of the Treaty of Waitangi (te Tiriti o Waitangi), this Act recognises, and promotes the exercise of, customary interests of Māori in the common marine and coastal area by providing,—

(a) in subpart 1 of Part 3, for the participation of affected iwi, hapū, and whānau in the specified conservation processes relating to the common marine and coastal area; and

(b) in subpart 2 of Part 3, for customary rights to be recognised and protected; and

(c) in subpart 3 of Part 3, for customary marine title to be recognised and exercised.

8 Rights and obligations under international law not affected

To avoid doubt, this Act does not affect—

(a) the sovereignty of New Zealand under international law over the marine and coastal area, including the airspace above it; or

(b) the rights and obligations of New Zealand under international law pursuant to that sovereignty; or

(c) the provisions in any other enactment relating to any such rights and obligations under international law.

9 Interpretation

(1) In this Act, unless the context otherwise requires,—

accommodated activity has the meaning given in section 64

affected iwi, hapū, or whānau has the meaning given in section 47(1)

agreement means an agreement—

(a) made under section 95 between an applicant group and the responsible Minister on behalf of the Crown to recognise and provide, as the case may be, for—

(i) protected customary rights; or

(ii) customary marine title; and

(b) brought into effect under section 96

applicable period, for a determination of whether customary marine title exists in a specified area of the common marine and coastal area (*see* sections 57A, 57B, 58, 59, 95, 98, and 106), means the period specified (as applicable)—

(a) in section 58(1)(b)(i) (from 1840 to the present day); or

(b) in section 58(3)(c)(ii) and for the purposes of section 58(1)(b)(ii) (from 1840 to the time of a customary transfer); or

(c) in section 58(3)(d)(ii) and for the purposes of section 58(1)(b)(ii) (from the time of a customary transfer to the present day)

applicant group—

(a) means 1 or more iwi, hapū, or whānau groups that seek recognition under Part 4 of their protected customary rights or customary marine title by—

(i) a recognition order; or

(ii) an agreement; and

(b) includes a legal entity (whether corporate or unincorporate) or natural person appointed by 1 or more iwi, hapū, or whānau groups to be the representative of that applicant group and to apply for, and hold, an order or enter into an agreement on behalf of the applicant group

aquaculture activities has the meaning given in section 2(1) of the Resource Management Act 1991

chief executive means the chief executive of Land Information New Zealand

CMT Amendment Act means the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025

CMT amendments means this Act's provisions as amended, inserted, or replaced by the CMT Amendment Act

coastal permit has the meaning given in section 2(1) of the Resource Management Act 1991

common marine and coastal area means the marine and coastal area other than—

(a) specified freehold land located in that area; and

(b) any area that is owned by the Crown and has the status of any of the following kinds:

(i) a conservation area within the meaning of section 2(1) of the Conservation Act 1987:

(ii) a national park within the meaning of section 2 of the National Parks Act 1980:

(iii) a reserve within the meaning of section 2(1) of the Reserves Act 1977; and

(c) the bed of Te Whaanga Lagoon in the Chatham Islands

concession means a concession granted following the process required by Part 3B of the Conservation Act 1987

consent authority has the meaning given in section 2(1) of the Resource Management Act 1991

conservation area has the meaning given in section 2(1) of the Conservation Act 1987

conservation permission right means the permission right that a customary marine title group may exercise under a customary marine title order or an agreement in relation to the conservation activities specified in section 71(3)

conservation process means any of the conservation processes specified in section 47

conservation protected area—

(a) means a part of the marine and coastal area that is protected, primarily for the purposes of conserving natural resources or the historical and cultural heritage of the area, under 1 or more of the following Acts:

(i) the Conservation Act 1987:

(ii) the National Parks Act 1980:

(iii) the Reserves Act 1977:

(iv) the Wildlife Act 1953; and

(b) includes any adjoining land that may become part of that conservation protected area, whether or not it is within the marine and coastal area

contact details, as applying to an applicant group, protected customary rights group, or customary marine title group, means,—

(a) in relation to an individual, the full street address where the individual usually lives or where that individual can be contacted; and

(b) in relation to a body corporate or unincorporate, the full street address of the body's place of business or head office; and

(c) in every case, an email address or telephone numbers

council-controlled organisation has the meaning given in section 6(1) of the Local Government Act 2002

Court means the High Court

Crown has the meaning given in section 2 of the Public Finance Act 1989

Crown entity has the meaning given in section 7 of the Crown Entities Act 2004

customary marine title means the customary interests—

(a) established by an applicant group in accordance with subpart 3 of Part 3; and

(b) recognised by—

(i) a customary marine title order; or

(ii) an agreement

customary marine title area means the part of the common marine and coastal area where a customary marine title order applies or in respect of which an agreement is made and brought into effect

customary marine title group —

(a) means an applicant group to which a customary marine title order applies or with which an agreement is made and brought into effect; and

(b) includes a delegate or transferee of the group if the delegation or transfer is made in accordance with tikanga

customary marine title order means an order of the Court—

(a) granted in recognition of a customary marine title of a customary marine title group in respect of a customary marine title area; and

(b) sealed under section 113

deemed accommodated activity has the meaning given in section 65

Director-General means the Director-General of Conservation

effective date means,—

(a) in the case of a recognition order made under section 98, the date on which the order is sealed under section 113; and

(b) in the case of an agreement entered into under section 95, the date on which the agreement is brought into effect under section 96(1)

environment has the meaning given in section 2(1) of the Resource Management Act 1991

exclusive use and occupation has the meaning given in section 57A

infrastructure has the meaning given in section 2(1) of the Resource Management Act 1991

kaitiakitanga has the meaning given in section 2(1) of the Resource Management Act 1991

local authority has the meaning given in section 5(1) of the Local Government Act 2002

mana tuku iho means inherited right or authority derived in accordance with tikanga

Māori Appellate Court means the court continued by section 50 of Te Ture Whenua Maori Act 1993

Māori Land Court means the court continued by section 6 of Te Ture Whenua Maori Act 1993

marine and coastal area—

(a) means the area that is bounded,—

(i) on the landward side, by the line of mean high-water springs; and

(ii) on the seaward side, by the outer limits of the territorial sea; and

(b) includes the beds of rivers that are part of the coastal marine area (within the meaning of the Resource Management Act 1991); and

(c) includes the airspace above, and the water space (but not the water) above, the areas described in paragraphs (a) and (b); and

(d) includes the subsoil, bedrock, and other matter under the areas described in paragraphs (a) and (b)

mineral has the meaning given in section 2(1) of the Crown Minerals Act 1991

plan has the meaning given in section 43AA of the Resource Management Act 1991, and also includes any proposed plan

planning document means the document that may be prepared by a customary marine title group under section 85

privilege, in relation to any mineral,—

(a) has the same meaning as the definition of existing privilege in section 2(1) of the Crown Minerals Act 1991; and

(b) also means prospecting, exploration, and mining permits granted under that Act, and their associated mining operations (within the meaning of section 2(1) of that Act)

proposed plan has the meaning given in section 43AAC of the Resource Management Act 1991

protected customary right means an activity, use, or practice—

(a) established by an applicant group in accordance with subpart 2 of Part 3; and

(b) recognised by—

(i) a protected customary rights order; or

(ii) an agreement

protected customary rights area means the part of the common marine and coastal area where a protected customary rights order or an agreement applies

protected customary rights group—

(a) means an applicant group to which a protected customary rights order applies or with which an agreement is made; and

(b) includes a delegate or transferee of the group if the delegation or transfer is made in accordance with tikanga

protected customary rights order means an order of the Court granted in recognition of the protected customary rights of a protected customary rights group in respect of a protected customary rights area and sealed under section 113

public notice has the meaning given in section 2(1) of the Resource Management Act 1991

quota management system has the meaning given in section 2(1) of the Fisheries Act 1996

recognition order means a protected customary rights order or a customary marine title order, as the case requires, made under section 98(1)

regional council has the meaning given in section 2(1) of the Resource Management Act 1991

regional document has the meaning given in section 92

register means the marine and coastal area register that must be kept by the chief executive in accordance with subpart 3 of Part 4

Registrar means the Registrar-General of Land appointed in accordance with section 231 of the Land Transfer Act 2017

resource consent has the meaning given in section 2(1) of the Resource Management Act 1991

responsible Minister means the Minister of the Crown who, with the authority of the Prime Minister, is for the time being responsible for the administration of any provision in this Act

RMA permission right means the right held by a customary marine title group under a customary marine title order or agreement as provided for in sections 66 to 68

road means—

(a) a road within the meaning of section 315(1) of the Local Government Act 1974 or section 43(1) of the Government Roading Powers Act 1989; and

(b) a motorway within the meaning of section 2(1) of the Government Roading Powers Act 1989; and

(c) the supporting subsoil of any road described in paragraph (a) or (b)

sand has the meaning given in section 2(1) of the Crown Minerals Act 1991

ship has the meaning given in section 2(1) of the Maritime Transport Act 1994

specified freehold land means any land that, immediately before the commencement of this Act, is—

(a) Maori freehold land within the meaning of section 4 of Te Ture Whenua Maori Act 1993; or

(b) set apart as a Maori reservation under Te Ture Whenua Maori Act 1993; or

(c) registered under the Land Transfer Act 2017 and in which a person other than the Crown or a local authority has an estate in fee simple that is registered under that Act; or

(d) subject to the Deeds Registration Act 1908 and in which a person other than the Crown or a local authority has an estate in fee simple under an instrument that is registered under that Act

structure—

(a) has the meaning given in section 2(1) of the Resource Management Act 1991; and

(b) includes any breakwater, groyne, mole, or other such structure that is made by people and fixed to land

substantial interruption has the meaning given in section 57B

taonga tūturu has the meaning given in section 2(1) of the Protected Objects Act 1975

territorial authority has the meaning given in section 5(1) of the Local Government Act 2002

territorial sea means the territorial sea of New Zealand as defined by section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

tikanga means Māori customary values and practices

wāhi tapu and **wāhi tapu area** have the meanings given to the terms **wahi tapu** and **wahi tapu area** in section 6 of the Heritage New Zealand Pouhere Taonga Act 2014

warden means a person appointed under section 80.

(2) In Schedule 1 and elsewhere as the context requires, **effect** has the meaning given in section 3 of the Resource Management Act 1991.

Section 9(1) **applicable period**: inserted, on 25 October 2025, by section 5 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Section 9(1) **aquaculture activities**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **CMT Amendment Act**: inserted, on 25 October 2025, by section 5 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Section 9(1) **CMT amendments**: inserted, on 25 October 2025, by section 5 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Section 9(1) **coastal permit**: replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **consent authority**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **environment**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **environmental limit**: repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **exclusive use and occupation**: inserted, on 25 October 2025, by section 5 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Section 9(1) **High Court Rules**: repealed, on 18 October 2016, by section 183(c) of the Senior Courts Act 2016 (2016 No 48).

Section 9(1) **infrastructure**: replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **kaitiakitanga**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **marine and coastal area** paragraph (b): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **Minister responsible for aquaculture**: repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **national planning framework**: repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **NBEA permission right**: repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **network utility operator**: repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **permitted activity**: repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **permitted activity notice**: repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **plan**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **privilege** paragraph (a): amended, on 24 May 2013, by section 65 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 9(1) **proposed plan**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **public notice**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **regional council**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **regional planning committee**: repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **regional spatial strategy**: repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **Registrar**: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 9(1) **resource consent**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **RMA permission right**: inserted, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **RMA permission right**: repealed, on 24 August 2023, by section 805(3) of the Natural and Built Environment Act 2023 (2023 No 46).

Section 9(1) **specified freehold land** paragraph (c): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 9(1) **structure** paragraph (a): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **substantial interruption**: inserted, on 25 October 2025, by section 5 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Section 9(1) **target**: repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **te Oranga o te Taiao**: repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 9(1) **wāhi tapu** and **wāhi tapu area**: amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 9(2): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

9A Transitional, savings, and related provisions

[Repealed]

Section 9A: repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

9A Customary marine title amendments: purposes and application

Purposes

(1) The purposes of the CMT amendments (for example, sections 57A, 57B, 58, 59, and 106) are—

(a) to define the applicable requirements for recognising customary marine title (namely, requirements for, and for proof of, exclusive use and occupation of a specified area from the start to the end of the applicable period without substantial interruption); and

(b) in particular, consistent with recitals (5) to (12) of the Preamble of this Act, to alter aspects of the law that are—

(i) specified in section 59A; and

(ii) in reasoning and conclusions expressed in judgments given under this Act that include, for example, the judgments specified in section 59B.

Application

(2) The customary marine title decisions, agreements, and orders to which the CMT amendments apply are specified in Part 1 of Schedule 1AA.

Section 9A: inserted, on 25 October 2025, by section 6 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

9B Customary marine title amendments: interpretation and overriding effect

Provisions to which duty applies

(1) This section applies to—

(a) the CMT amendments; and

(b) in particular, sections 57A, 57B, 58, 59, and 106 of this Act.

Duty to interpret provisions to promote their purposes and application

(2) A decision maker (including the Court) must interpret the CMT amendments in a way that promotes their purposes and application (as stated in section 9A).

Overriding effect

(3) This section prevails over—

(a) section 4 (purpose) (including, without limitation, that purpose as given effect to through sections 4(2)(a) and (c) and 6(1)):

(b) section 7 (Treaty of Waitangi (te Tiriti o Waitangi)):

(c) the reasoning and conclusions (about the requirements for recognition of customary marine title, and aspects of the law specified in section 59A) that are expressed in the judgments given under this Act that are specified in section 59B, and any reasoning and conclusions that are—

(i) to the same effect, or to materially similar effect, in substance; and

(ii) expressed in any other judgment given under this Act.

Section 9B: inserted, on 25 October 2025, by section 6 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

9C Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

Section 9C: inserted, on 25 October 2025, by section 6 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

10 Act binds the Crown

This Act binds the Crown.

Part 2
Common marine and coastal area

Subpart 1—Interests in common marine and coastal area

11 Special status of common marine and coastal area

(1) The common marine and coastal area is accorded a special status by this section.

(2) Neither the Crown nor any other person owns, or is capable of owning, the common marine and coastal area, as in existence from time to time after the commencement of this Act.

(3) On the commencement of this Act, the Crown and every local authority are divested of every title as owner, whether under any enactment or otherwise, of any part of the common marine and coastal area.

(4) Whenever, after the commencement of this Act, whether as a result of erosion or other natural occurrence, any land owned by the Crown or a local authority becomes part of the common marine and coastal area, the title of the Crown or the local authority as owner of that land is, by this section, divested.

(5) The special status accorded by this section to the common marine and coastal area does not affect—

(a) the recognition of customary interests in accordance with this Act; or

(b) any lawful use of any part of the common marine and coastal area or the undertaking of any lawful activity in any part of the common marine and coastal area; or

(c) any power to impose, by or under an enactment, a prohibition, limitation, or restriction in respect of a part of the common marine and coastal area; or

(d) any power or duty, by or under an enactment, to grant resource consents or permits (including the power to impose charges) within any part of the common marine and coastal area; or

(e) any power, by or under an enactment, to accord a status of any kind to a part of the common marine and coastal area, or to set aside a part of the common marine and coastal area for a specific purpose; or

(f) any status that is, by or under an enactment, accorded to a part of the common marine and coastal area or a specific purpose for which a part of the common marine and coastal area is, by or under an enactment, set aside, or any rights or powers that may, by or under an enactment, be exercised in relation to that status or purpose.

(6) In this section, **enactment** includes bylaws, regional plans, and district plans.

12 Areas acquiring status under certain enactments may vest in Crown

(1) This section applies to any defined area within the common marine and coastal area that acquires a status of any of the following kinds:

(a) a conservation area within the meaning of section 2(1) of the Conservation Act 1987:

(b) a national park within the meaning of section 2 of the National Parks Act 1980:

(c) a reserve within the meaning of section 2 of the Reserves Act 1977.

(2) The Governor-General may, by Order in Council made on the recommendation of the Minister of Conservation, vest in the Crown any defined area to which this section applies other than an area that is within a customary marine title area.

(3) When an Order in Council made under this section comes into force, the defined area to which it relates ceases to be part of the common marine and coastal area.

(4) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 12(4): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

13 Boundary changes of marine and coastal area

(1) This Act (other than section 11(4)) does not affect any enactment or the common law that governs accretions or erosions.

(2) However, if, because of a change caused by a natural occurrence or process, any land, other than a road, that is owned by the Crown or a local authority

becomes part of the marine and coastal area, then that land becomes part of the common marine and coastal area (even if that land consists of or is included in a piece of land defined by fixed boundaries).

(3) If land has, because of a change caused by a natural occurrence or process, ceased to be part of the common marine and coastal area, and the title to that land is not determined by an enactment or the common law, then the land vests in the Crown as Crown land and is subject to the Land Act 1948.

14 Roads located in marine and coastal area

(1) Any road, whether formed or unformed, that is in the marine and coastal area on the commencement of this Act is not part of the common marine and coastal area.

(2) A certificate signed and dated by the responsible Minister may state, in respect of an unformed road to which subsection (1) applies,—

(a) that the formation of the road has commenced; or

(b) that the Minister believes that the formation of the road is intended to be commenced, having regard to any evidence that the Minister considers relevant, including, without limitation, any resource consent or other authorisation for that formation or any application or proposed application for such consent or authorisation.

(3) If, on the day before any quinquennial anniversary, an unformed road to which subsection (1) applies continues in existence as an unformed road, then that road is deemed to be stopped, and becomes part of the common marine and coastal area on that anniversary, unless a current certificate has been signed and dated in respect of that road.

(4) If a road to which subsection (1) applies continues to be unformed for at least 15 years after the commencement of this Act, the road is deemed to be stopped, and becomes part of the common marine and coastal area, on the date that the responsible Minister, in his or her discretion, signs and dates a certificate stating that—

(a) the formation of the road has not commenced; and

(b) the Minister believes that there is no longer an intention to commence the formation of the road.

(5) An unformed road that, after the commencement of this Act, comes into existence in the marine and coastal area is part of the common marine and coastal area.

(6) However, if a road to which subsection (5) applies is formed, the road ceases to be part of the common marine and coastal area on the day on which its formation is completed.

(7) In any case where a road in the marine and coastal area is not part of the common marine and coastal area, the ownership, management, and control of the road is determined and governed by the enactments that apply to the road.

(8) Nothing in this section (except subsection (7)) or in section 15 applies to a private road.

(9) In this section,—

current certificate means a certificate under subsection (2) that is dated not earlier than 6 months before the relevant quinquennial anniversary

formation and **form** have the same meaning as in section 2(1) of the Local Government Act 1974

private road has the same meaning as in section 315(1) of the Local Government Act 1974

quinquennial anniversary means any date that is the fifth, tenth, or 15th anniversary of the commencement of this Act.

15 No ownership in road that becomes part of common marine and coastal area

(1) When a road or a former road becomes part of the common marine and coastal area, the title of the Crown or other entity as owner of the road is divested.

(2) If a road in the marine and coastal area is stopped under the Local Government Act 1974 or the Public Works Act 1981, the former road becomes or, as the case requires, continues to be, part of the common marine and coastal area.

(3) A certificate signed by the responsible Minister that identifies a road or an area and states that a provision of section 14 or this section has, since a specified date, applied to the road or area is, in the absence of proof to the contrary, sufficient evidence of the matters stated in the certificate.

(4) This section and section 14 override section 18.

16 Continued Crown ownership of minerals

(1) Nothing in section 11 or 83 affects section 10 of the Crown Minerals Act 1991, which provides that all petroleum, gold, silver, and uranium existing in its natural condition in land is the property of the Crown.

(2) For the purposes of section 11 of the Crown Minerals Act 1991, the operation of section 11 or 17 is deemed to be an alienation from the Crown and, accordingly, every mineral (other than pounamu to which section 3 of the Ngai Tahu (Pounamu Vesting) Act 1997 applies) existing in its natural condition in the common marine and coastal area is reserved in favour of the Crown.

(3) Section 11 does not affect any privileges and the Crown Minerals Act 1991 continues to apply to those privileges in all respects.

(4) This section is subject to section 83.

17 Additions to common marine and coastal area

(1) If, at any time after the commencement of this Act, the Crown or a local authority acquires, whether by purchase, gift, exchange, or by operation of law, any specified freehold land that is wholly or partly within the marine and coastal area, then that land, to the extent that it is within the marine and coastal area, becomes on that acquisition part of the common marine and coastal area.

(2) Subsection (1) does not apply to any specified freehold land that is accorded a status under an enactment other than this Act.

18 Rights of owners of structures

(1) This section applies to any structure that is, on or after the commencement of this Act, fixed to, or under or over, any part of the common marine and coastal area.

(2) Each structure to which this section applies—

(a) is to be regarded as personal property and not as land or as an interest in land; and

(b) does not form part of the common marine and coastal area.

(3) A person who, immediately before the commencement of this Act, had an interest in a structure to which this section applies continues to have that interest in the structure as personal property until the person's interest is changed by a disposition or by operation of law.

(4) A person is presumed, unless the contrary is shown, to own a structure to which this section applies if the person holds a resource consent for the occupation of the part of the common marine and coastal area in which the structure is located.

(5) Any authority, in force immediately before the commencement of this Act, by which the Crown, a Minister, an officer, an employee, a department, an instrument of the Crown, or a local authority is authorised to exercise and perform powers, duties, or functions in respect of a structure to which this section applies continues to be in force according to its tenor until it is changed or ceases to have effect by a lawful direction, disposition, or by operation of law.

19 Crown deemed to be owner of abandoned structures

(1) The Crown is deemed to be the owner of any structure that is abandoned in the common marine and coastal area.

(2) For the purposes of this section, a structure is **abandoned** if the regional council with statutory functions in the part of the common marine and coastal area in which the structure is located has, after due inquiry, been unable to ascertain the identity or the whereabouts of the owner of the structure.

(3) This subsection and subsections (3A) to (3C) apply—

(a) if the ownership is uncertain in respect of a structure in a part of the common marine and coastal area for which a regional council has responsibility; and

(b) there is no current resource consent in respect of the structure.

(3A) The regional council must—

(a) undertake an inquiry under subsection (2); or

(b) remove the structure under section 12(7) of the Resource Management Act 1991.

(3B) The regional council may take action under subsection (3A)(b) if, in the opinion of the council, an inquiry under subsection (2) is not warranted because—

(a) the structure is likely to have no, or minimal, value to any owner or to the community; and

(b) efforts to locate the owner have not been successful, including, as a minimum,—

(i) a search of the relevant records held by the council; and

(ii) a reasonable effort to locate the owner from any contact details in those records.

(3C) A regional council may determine whether to remove a structure, in whole or in part,—

(a) in accordance with the provisions of the regional coastal plan; or

(b) without complying with any conditions in the regional coastal plan or obtaining a resource consent if, in the council's opinion, any adverse effects of removing the structure would be no more than minor.

(4) Every inquiry under subsection (2) must be undertaken in accordance with regulations made under section 118.

(5) Nothing in this section makes the Crown liable—

(a) for any breaches committed, in respect of a structure, before the Crown became the deemed owner of the structure; or

(b) for any effects attributable to anything done or omitted, in respect of a structure, before the Crown became the deemed owner of the structure; or

(c) to comply with any requirement in respect of the structure that does not relate to a matter of health or safety or to a significant adverse effect on the environment.

Section 19(3): replaced, on 19 April 2017, by section 123 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 19(3A): inserted, on 19 April 2017, by section 123 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 19(3A)(b): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 19(3B): inserted, on 19 April 2017, by section 123 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 19(3C): inserted, on 19 April 2017, by section 123 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 19(3C)(a): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 19(3C)(b): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

20 Act does not affect existing resource consents or lawful activities

Nothing in this Act limits or affects—

(a) any resource consent granted before the commencement of this Act; or

(b) any activities that can be lawfully undertaken without a resource consent or other authorisation.

21 Certain proprietary interests to continue

(1) In this section, **proprietary interest**—

(a) means any interest under a lease, licence, permit, easement, or statutory authorisation (not being a resource consent) granted in respect of any land that, on the commencement of this Act, is located within the common marine and coastal area; and

(b) includes any right to a renewal or an extension of that interest; but

(c) does not include a privilege.

(2) A proprietary interest that, immediately before the commencement of this Act, was in effect continues, so far as it is lawful, to have effect according to its tenor.

(3) Every proprietary interest that is continued by subsection (2) and that has been granted by a person other than the Crown is deemed to have been granted by the Crown.

(4) The Minister of Conservation is authorised to execute on behalf of the Crown any instrument or other document that is required to be executed by the grantor in respect of any proprietary interest.

(5) The Minister of Conservation may enforce any condition to which a proprietary interest is subject by taking any measures, including the taking of proceedings, that the grantor of the interest could take.

(6) The Crown may grant a renewal or extension of a proprietary interest only if the interest contains a right of renewal or extension.

(7) This section overrides section 11.

22 Provisions relating to records of title wholly in common marine and coastal area

(1) The Registrar must, at the request of the Minister of Conservation and without further authority than this section, cancel the whole of any record of title that comprises land that is wholly within the common marine and coastal area.

(2) Immediately upon the cancellation under subsection (1) of a record of title that is subject to a current registered interest or current registered notification, the Registrar must, without further authority than this section,—

(a) issue a record of title for that registered interest or notification; and

(b) record on that record of title that the land to which the registered interest or notification relates is located in the common marine and coastal area.

(3) When the interest or notification for which a record of title has been issued in accordance with subsection (2)(a) expires or is extinguished or is otherwise determined, the Registrar must, at the request of the Minister of Conservation and without further authority than this section, cancel the record of title.

Section 22 heading: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 22(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 22(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 22(2)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 22(2)(b): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 22(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

23 Provisions relating to record of title to land in common marine and coastal area and land above line of mean high-water springs

(1) If any record of title comprises any land that is part of the common marine and coastal area as well as any adjacent land (the **adjacent land**) above the line of mean high-water springs, either the Minister of Conservation or the owner of the adjacent land may apply to the Registrar for the issue of a record of title for the adjacent land.

(2) On presentation of the application, the Registrar, on payment of the appropriate fee, must, despite anything in the Land Transfer Act 2017,—

(a) cancel the record of title that comprises the land within the common marine and coastal area and the adjacent land; and

(b) issue a record of title in the name of the owner of the adjacent land for the adjacent land; and

(c) note any current registered interest or current registered notification that relates to the adjacent land against that record of title in the order in which it appears on the record of title cancelled under paragraph (a); and

(d) issue a record of title for any registered interest or current registered notification that relates to land within the common marine and coastal area that was part of the record of title cancelled under paragraph (a).

(3) The Registrar may require the deposit of any survey plan necessary for the issue of a record of title under subsection (2)(b).

(4) To avoid doubt, no action taken under this section is subject to Part 10 of the Natural and Built Environment Act 2023.

Section 23 heading: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 23(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 23(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 23(2)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 23(2)(b): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 23(2)(c): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 23(2)(d): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 23(4): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

24 Exclusion of interests in marine and coastal area founded on adverse possession or prescriptive title

(1) Despite any other enactment or rule of law, no person may claim an interest in any part of the marine and coastal area on the ground of adverse possession or prescriptive title.

(2) No relief may be claimed by any person for any loss or damage arising from this section.

25 Local authorities may apply to Minister for redress for loss of divested areas

(1) A local authority that, as a result of the operation of section 11(3) or (4) or 17, loses its title to any land in the common marine and coastal area that it had acquired by purchase may apply to the Minister of Conservation for redress.

(2) In considering an application by a local authority under subsection (1), the Minister of Conservation must be guided by whichever of the following criteria is applicable:

(a) if the local authority purchased the relevant land at full market value, compensation is to be paid at current market value:

(b) if the local authority did not purchase the relevant land at full market value, redress is limited to compensation for direct financial loss to the local authority arising from the loss of ownership, including loss of—

(i) any income that the local authority would, but for the operation of section 11(3) or (4) or 17, have derived from the relevant part of the marine and coastal area; and

(ii) any investment that the local authority made in the land after purchase.

(3) An application under subsection (1) must be made,—

(a) if the loss results from the operation of section 11(3), not later than 12 months after the commencement of this Act:

(b) if the loss results from the operation of section 11(4) or 17, not later than 12 months after the occurrence of the loss to which the application relates.

(4) No court has jurisdiction to hear any claim in respect of any loss suffered by a local authority as a result of the operation of section 11(3) or (4) or 17.

(5) Any application made under section 25 of the Foreshore and Seabed Act 2004 that, on the commencement of this Act, has not yet been finally determined by the Minister of Conservation must be treated as if this Act (other than this subsection) had not been enacted.

Subpart 2—Public rights and powers over common marine and coastal area

Rights of access

26 Rights of access

(1) Every individual has, without charge, the following rights:

(a) to enter, stay in or on, and leave the common marine and coastal area:

(b) to pass and repass in, on, over, and across the common marine and coastal area:

(c) to engage in recreational activities in or on the common marine and coastal area.

(2) The rights conferred by this section are subject to any authorised prohibitions or restrictions that are imposed under section 79, or by or under any other enactment.

(3) A prohibition or restriction of the kind described in subsection (2) may, subject to the enactment in which it is contained or by which it is authorised, apply to—

(a) any or all of the rights conferred by this section:

(b) 1 or more ways of exercising those rights:

(c) 1 or more defined periods, or an indefinite period, or recurring periods of a stated kind:

(d) 1 or more specified areas.

(4) In this section, **enactment** includes bylaws, regional plans, and district plans.

Rights of navigation

27 Rights of navigation within marine and coastal area

(1) Every person has the following rights:

(a) to enter, and pass and repass through, the marine and coastal area by ship:

(b) to temporarily anchor, moor, and ground within the marine and coastal area:

(c) to load and unload cargo, crew, equipment, and passengers within the marine and coastal area:

(d) to remain in a place within the marine and coastal area for a convenient time:

(e) to remain temporarily in a place within the marine and coastal area until wind or weather permits departure or until cargo has been obtained or repairs completed.

(2) The rights conferred by subsection (1) include anything reasonably incidental to their exercise.

(3) The rights conferred by subsection (1) may be exercised subject to any authorised restrictions and prohibitions that are imposed by or under an enactment, including restrictions and prohibitions imposed under sections 78 and 79.

(4) A restriction or prohibition of the kind described in subsection (3) may, subject to the enactment in which it is contained or by which it is authorised, apply to—

(a) 1 or more of the rights conferred by this section:

(b) 1 or more ways of exercising those rights:

(c) a definite period or an indefinite period, or recurring periods of a stated kind:

(d) 1 or more specified areas.

(5) In this section, **enactment** includes bylaws, regional plans, and district plans.

Rights of fishing

28 Fishing rights preserved

(1) Nothing in this Act prevents the exercise of any fishing rights conferred or recognised by or under an enactment or by a rule of law.

(2) Subsection (1) is subject to section 81.

Subpart 3—Reclaimed land

29 Interpretation

(1) In this section and in sections 30 to 45, unless the context otherwise requires,—

developer, in relation to any reclaimed land, means the person (including a customary marine title group) who holds the resource consent for the reclamation by which the land is formed, whether or not that resource consent was obtained after the commencement or completion of the reclamation

dispose of includes sell, exchange, gift, and transfer

eligible applicant, in relation to an application under section 35, means a person who, under a provision of that section, is entitled to make that application

freehold interest means an estate in fee simple but does not include a stratum estate in freehold or in leasehold created under the Unit Titles Act 1972 or the Unit Titles Act 2010

interest means a freehold interest or a lesser interest

lesser interest means an interest in reclaimed land that is less than a freehold interest and includes a lease, licence, or other right or title to occupy or use the land

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the Land Act 1948

reclaimed land means permanent land formed from land that formerly was below the line of mean high-water springs and that, as a result of a reclamation, is located above the line of mean high-water springs, but does not include—

(a) land that has arisen above the line of mean high-water springs as a result of natural processes, including accretion; or

(b) structures such as breakwaters, moles, groynes, or sea walls

reclaimed land subject to this subpart means reclaimed land vested in the Crown under section 30 or 31, but does not include reclaimed land that is subject to a declaration under section 32.

(2) The purpose of this subpart is to provide certainty to business and development interests in respect of investments in reclamations and to balance the interests of all New Zealanders, including their interests in conservation.

30 Certain reclaimed land to vest in Crown

(1) Subsection (2) applies to any reclaimed land that is formed from the common marine and coastal area as a result of a lawful reclamation.

(2) The full legal and beneficial ownership in any reclaimed land to which this subsection applies vests in the Crown absolutely if, after the commencement of this Act, a regional council approves a plan of survey, under section 245(5) of the Resource Management Act 1991, in respect of that land.

(3) Subsection (4) applies to reclaimed land that is formed from the common marine and coastal area as a result of an unlawful reclamation.

(4) The full legal and beneficial ownership in any reclaimed land to which this subsection applies vests in the Crown absolutely if the Minister signs a certificate that—

(a) describes the position and extent of the reclaimed land; and

(b) states that this subsection applies to the reclaimed land.

(5) A certificate signed under subsection (4) is, in the absence of proof to the contrary, sufficient evidence of the matter stated in the certificate.

(6) The Land Act 1948 does not apply to reclaimed land vested by this section.

Section 30(2): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

31 New status of existing reclaimed land

(1) This section applies to reclaimed land (**existing reclaimed land**) that,—

(a) immediately before the commencement of this Act, was—

(i) part of the public foreshore and seabed under the Foreshore and Seabed Act 2004; or

(ii) vested in the Crown under the Land Act 1948; or

(iii) subject to the Foreshore and Seabed Endowment Revesting Act 1991; or

(iv) otherwise owned by the Crown; and

(b) is not set apart for a specified purpose.

(2) On the commencement of this Act, the full legal and beneficial ownership of all existing reclaimed land vests in the Crown absolutely and, so far as it is, immediately before that commencement, subject to the Foreshore and Seabed Act 2004, the Foreshore and Seabed Endowment Revesting Act 1991, or the Land Act 1948, ceases to be subject to those Acts.

(3) However, this section does not affect—

(a) any lesser interest held, immediately before the commencement of this Act, by a person other than the Crown in existing reclaimed land; or

(b) the ownership in structures fixed to, or under or over, existing reclaimed land.

32 Minister may declare reclaimed land to be subject to Land Act 1948

(1) The Minister may, by notice in the *Gazette*, declare any land of the following kind to be Crown land subject to the Land Act 1948 and not to this Act:

(a) reclaimed land vested in the Crown by section 30 or 31:

(b) reclaimed land in which the Crown has, at any time after the commencement of this Act, acquired the freehold interest.

(2) A notice under subsection (1)—

(a) must describe the position and extent of the reclaimed land; and

(b) takes effect on the 28th day after its publication in the *Gazette*.

33 Minister to administer reclaimed land subject to this subpart

(1) The Minister may perform and exercise the functions, duties, and powers of the Crown as owner in respect of every area of reclaimed land that is subject to this subpart.

(2) The Minister may sign a certificate that—

(a) describes the position and extent of any land; and

(b) states that the land is, or is not, subject to this subpart.

(3) A certificate signed under subsection (2) is, in the absence of proof to the contrary, sufficient evidence of the matter stated in the certificate.

34 Granting and disposition of interests in reclaimed land subject to this subpart

(1) The Minister may, in accordance with sections 35 to 41, grant interests in reclaimed land subject to this subpart.

(2) The Crown may not dispose of any interest in reclaimed land subject to this subpart otherwise than in accordance with sections 35 to 41.

35 Eligible applicants for interests in reclaimed land subject to this subpart

(1) A developer of reclaimed land subject to this subpart that has been, or is being, or is to be formed may apply to the Minister for the grant to the developer of an interest in that reclaimed land.

(2) A network utility operator may apply to the Minister for the grant to the network utility operator of a lesser interest in reclaimed land subject to this subpart that has been, or is being, or is to be formed on the ground that the lesser interest is required for the purposes of the network utility operation undertaken by the network utility operator.

(3) Subsection (4) applies if—

(a) reclaimed land has been subject to this subpart for more than 10 years; and

(b) no interest has been granted in that land; and

(c) no current application for the grant of an interest in that land is awaiting the Minister's determination.

(4) If this subsection applies, any person may apply to the Minister for the grant to the person of an interest in the reclaimed land.

(5) A developer or other person who makes an application under this section becomes liable to pay any fees payable under regulations made under this Act.

(6) The fees referred to in subsection (5) are recoverable as a debt due to the Crown.

(7) In this section, **network utility operator** and **network utility operation** have the same meanings as in section 166 of the Resource Management Act 1991.

(7) *[Repealed]*

Section 35(7): inserted, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 35(7): repealed, on 24 August 2023, by section 805(3) of the Natural and Built Environment Act 2023 (2023 No 46).

36 Determination of application by Minister

(1) When an application under section 35 is made by an eligible applicant, the Minister must, without limitation, determine the following matters:

(a) whether the applicant is to be granted an interest in the reclaimed land and, if so, whether that interest should be a freehold interest or a lesser interest:

(b) if a lesser interest is to be granted, the terms and conditions of that lesser interest:

(c) any conditions that must be fulfilled before any interest in the reclaimed land is granted:

(d) the encumbrances, restrictions, or conditions (if any) that should attach to any interest (including a freehold interest) to be granted:

(e) any consideration (whether by payment of price, rental or other charge, or by way of set-off, or in whole or partial settlement of any claim, including any claim under the Treaty of Waitangi Act 1975) for the grant of the interest.

(2) In determining the matters specified in subsection (1), the Minister must take into account the following matters, so far as they are applicable:

(a) the minimum interest in the reclaimed land that is reasonably needed to allow the purpose of the grant to be achieved:

(b) the public interest in the reclaimed land, including existing or proposed public use of the reclaimed land:

(c) whether, and the extent to which, the public is benefiting, or is to benefit, from the use or proposed use of the reclaimed land:

(d) any conditions or restrictions imposed on the resource consent that authorised the reclamation:

(e) whether any historical claims have been made under the Treaty of Waitangi Act 1975 in respect of the reclaimed land or whether there are any pending applications under Part 4:

(f) the cultural value of the reclaimed land and surrounding area to tangata whenua:

(g) the financial value of the reclaimed land to the Crown:

(h) any natural or historic values associated with the reclaimed land:

(i) the potential public access, amenity, and recreational values of the reclaimed land:

(j) any special circumstances of the applicant, including the amount of any investment made by the applicant in respect of the reclaimed land.

(3) The Minister may determine that several eligible applicants may each be granted a distinct interest in the reclaimed land.

37 Presumption that certain applicants to be granted freehold interest in reclaimed land subject to this subpart

(1) In the case of an application made under section 35 by an eligible applicant who is a person of a kind specified in subsection (2), the Minister's determination of the matter specified in section 36(1)(a) must proceed on the basis that the person is to be granted a freehold interest in the reclaimed land unless—

(a) the person does not wish to be granted a freehold interest; or

(b) the Minister is satisfied, after considering the matters specified in section 36(2), that there is good reason not to grant the person a freehold interest.

(2) The persons are the following:

(a) any port company (as defined in section 2(1) of the Port Companies Act 1988):

(b) any port operator (as defined in Part 3A of the Maritime Transport Act 1994):

(c) the company (as defined in section 2 of the Auckland Airport Act 1987) that operates Auckland International Airport (including any entity that operates all or part of the airport and that is a subsidiary of, or successor to, that company):

(d) the company (as defined in section 2 of the Wellington Airport Act 1990) that operates Wellington International Airport (including any entity that operates all or part of the airport and that is a subsidiary of, or successor to, that company).

Section 37(2)(b): replaced, on 23 October 2013, by section 90 of the Maritime Transport Amendment Act 2013 (2013 No 84).

38 Notification of determination and variation

(1) The Minister must notify the applicant of a determination under section 36(1) and of any variation under subsection (3) of this section.

(2) Before the Minister makes a determination under section 36(1) or a variation under subsection (3) of this section, the Minister must give the applicant a reasonable opportunity to comment on the proposed determination or variation.

(3) The Minister may, on the Minister's own initiative or on application by an applicant, vary a determination made under section 36(1) before an interest in the reclaimed land to which the determination relates is vested under section 39 if that variation is, in the Minister's opinion, necessary or desirable—

(a) to take account of any of the matters specified in section 36(2); or

(b) for any other reason.

39 Vesting of interest in reclaimed land subject to this subpart

(1) The Minister may, by notice in the *Gazette*, vest in an applicant an interest in reclaimed land subject to this subpart if the Minister is satisfied that—

(a) the vesting is in accordance with a determination made under section 36(1), as varied by any variations under section 38(3); and

(b) any conditions imposed under section 36(1)(c) have been complied with or that adequate provision has been made to ensure that those conditions will be complied with; and

(c) a certificate under section 245(5)(b) of the Resource Management Act 1991 has been issued in respect of the reclaimed land.

(2) Every *Gazette* notice published under subsection (1) must—

(a) state the name of the applicant in whom the interest is vested and describe the position and extent of the reclaimed land; and

(b) describe the interest vested; and

(c) describe any encumbrances or restrictions imposed on the interest, including any restrictions that apply under section 44; and

(d) where the interest vested is a freehold interest and in any other case where the Minister considers it appropriate, be sent by the Minister to the Registrar, with a request that a record of title be issued accordingly; and

(e) where the Registrar receives a request under paragraph (d), be registered by the Registrar after receipt from the Minister.

(3) The Registrar must, in accordance with a request made under subsection (2)(d),—

(a) issue a record of title in respect of the interest in the land vested by the *Gazette* notice; and

(b) record on that record of title—

(i) that the land is reclaimed land subject to subpart 3 of Part 2 of the Marine and Coastal Area (Takutai Moana) Act 2011; and

(ii) where the interest vested is a freehold interest, that the disposition of the freehold interest in that land is restricted by that subpart.

Section 39(1)(c): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 39(2)(d): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 39(3)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 39(3)(b): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

40 Application for renewal of interests less than freehold

(1) The holder of a lesser interest vested under section 39(1) may apply to the Minister, not later than 3 months before the expiry of the existing interest, for a renewal of the interest in the same, or part of the same, reclaimed land.

(2) If an application is made under subsection (1), the holder may continue to operate under the existing interest until the application is determined.

(3) The holder of a lesser interest in reclaimed land may apply to the Minister for the vesting of a freehold interest in that land.

(4) In determining an application under this section, the Minister must take into account the matters specified in section 36(2), so far as those matters are relevant to the application.

(5) This section also applies to a lesser interest vested in a person under section 355 or 355AA of the Resource Management Act 1991 (as in force before the commencement of this Act) in land that has become reclaimed land subject to this subpart.

41 Pending applications under Resource Management Act 1991 that relate to reclaimed land

(1) This section applies to any application—

(a) that was made under section 355(1) of the Resource Management Act 1991, as in force immediately before the commencement of this Act; and

(b) that is to be, but has not yet been, substantively determined by the Minister of Conservation.

(2) No applicant may apply under section 35 if—

(a) the applicant has previously made an application (**application A**) to which this section applies; and

(b) application A was withdrawn or discontinued; and

(c) at the time of that withdrawal or discontinuance, application A was in competition with another application to which this section applies.

(3) An application to which this section applies must (subject to subsections (4) to (7)) be considered and determined by the Minister of Conservation as if this subpart (other than this section) had not been enacted and as if the Resource Management Act 1991 had not been amended by this Act.

(4) However, an applicant who has made an application to which this section applies may make a request, in accordance with subsection (6), to have the application considered and determined under section 35 by the Minister (within the meaning of section 29), but only if the conditions stated in subsection (5) are met.

(5) The conditions referred to in subsection (4) are that—

(a) as at the commencement of this Act, the application is not in competition with any other application to which this section applies; and

(b) the applicant would (but for having made the application to which this section applies) be eligible to apply under section 35.

(6) A request under subsection (4) must be made in writing to the Minister of Conservation not later than 180 days after the commencement of this Act.

(7) On receipt of a request under subsection (4), the Minister of Conservation must refer all the documents relating to the application to the Minister (within the meaning of section 29) and the reference of those documents must be treated as an application under section 35.

42 Savings

(1) Where, as at the commencement of this Act, any right, title, or interest in reclaimed land is to be vested in a person under a determination of an application under section 355 of the Resource Management Act 1991 (as in force immediately before the commencement of this Act) but the right, title, or interest has not yet been formally vested, the Minister of Conservation must, if satisfied that all relevant conditions have been fulfilled and the price (if any) has been paid, give effect to the determination as if—

(a) this subpart (other than this section) had not been enacted; and

(b) the Resource Management Act 1991 had not been amended by this Act.

(2) In subsection (1), **determination** includes an agreement referred to in section 355AA(2)(b) of the Resource Management Act 1991 (as in force immediately before the commencement of this Act).

43 Land reclaimed from customary marine title areas by customary marine title groups

(1) In any case where a customary marine title group is the developer of reclaimed land that has been formed or is being formed or is to be formed from the group's customary marine title area, this section applies instead of sections 31 to 41.

(2) The customary marine title group may apply to the Minister in writing for an interest in the area of reclaimed land, and on making the application becomes liable to pay any fees payable under regulations made under this Act, which are recoverable as a debt due to the Crown.

(3) On receiving an application duly made under subsection (2), the Minister must—

(a) consider the application by applying the criteria stated in section 36(2), so far as they are applicable; and

(b) proceed on the basis that the customary marine title group is to be granted a freehold interest in the reclaimed land unless—

(i) the customary marine title group does not wish to be granted a freehold interest; or

(ii) the Minister is satisfied, after considering the matters specified in section 36(2), that there is good reason not to grant the customary marine title group a freehold interest; and

(c) determine the application, including whether any conditions must be fulfilled before any interest in the reclaimed land is vested and the nature of any such conditions; and

(d) notify the customary marine title group of the determination.

(4) Before the Minister makes a determination under subsection (3)(c), the Minister must give the customary marine title group a reasonable opportunity to comment on the proposed determination.

(5) If satisfied that a certificate under section 245(5)(b) of the Resource Management Act 1991 has been issued in respect of the reclaimed land and that any conditions determined under subsection (3)(c) have been fulfilled, the Minister may, by notice in the *Gazette*, vest in the customary marine title group an interest in the reclaimed land.

(6) Every *Gazette* notice published under subsection (5) must—

(a) state the name of the customary marine title group, and describe the position and extent of the reclaimed land; and

(b) describe the interest vested; and

(c) describe any encumbrances or restrictions imposed on the interest; and

(d) where the interest vested is a freehold interest and in any other case where the Minister considers it appropriate, be sent by the Minister to the Registrar, with a request that a record of title be issued accordingly; and

(e) where the Registrar receives a request under paragraph (d), be registered by the Registrar after receipt from the Minister.

(7) The Registrar must, in accordance with a request made under subsection (6)(d), issue a record of title in respect of the interest in the land vested by the *Gazette* notice.

Section 43(5): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 43(6)(d): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 43(7): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Rights of first refusal

44 Restrictions on disposition of freehold interest

(1) For as long as a record of title issued for reclaimed land subject to this subpart contains a record made under section 39(3)(b), the freehold interest in the land may not be disposed of otherwise than in accordance with section 45, but if that record is removed (in accordance with subsection (6) of this section) following a disposition in accordance with section 45, the freehold interest may be disposed of in any lawful way.

(2) However, the restriction in subsection (1) does not apply to a disposition that—

(a) is made by a company to another company if both companies are—

(i) members of the same group (within the meaning of section 5 of the Financial Reporting Act 2013); or

(ii) related companies (within the meaning of section 2(3) of the Companies Act 1993); or

(b) affects not solely the freehold interest in the reclaimed land, but also 1 or more other assets.

(3) The Minister may, at the request of the proprietor of the freehold interest and on payment of any fees payable under regulations made under this Act, sign a certificate stating that the freehold interest in reclaimed land has been disposed of in accordance with section 45 or that the disposition is permitted by subsection (2).

(4) A certificate signed under subsection (3) is conclusive evidence of the matter stated in the certificate.

(5) A transfer instrument purporting to effect a disposition to which subsection (1) applies—

(a) may not be presented for registration under the Land Transfer Act 2017 unless the Minister has signed a certificate in respect of the disposition under subsection (3); and

(b) must, on being presented for registration under that Act, be accompanied by that certificate.

(6) If the certificate presented under subsection (5)(b) states that the freehold interest in reclaimed land has been disposed of in accordance with section 45, the Registrar must on registration of the transfer instrument remove from the record of title the record made under section 39(3)(b).

Section 44(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 44(2)(a)(i): amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 44(5)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 44(6): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

45 Offers to Minister, iwi or hapū, or public

(1) In order to dispose of a freehold interest in reclaimed land (the **freehold interest**) in compliance with this section, the proprietor of the freehold interest must dispose of the freehold interest in accordance with a written notice that is in effect at the time of the disposition and is given under whichever of subsection (2), (4), or (6) is applicable.

(2) A notice under this subsection—

(a) must be given to the Minister; and

(b) may be given at any time unless a notice under subsection (4) or (6) is in effect; and

(c) must state the following terms on which the Crown may acquire the freehold interest:

(i) the consideration:

(ii) any other terms and conditions.

(3) If, within the period that the notice under subsection (2) is in effect, the Crown does not enter into a contract to acquire the freehold interest, the proprietor may give public notice under subsection (4).

(4) A public notice under this subsection must be addressed to all iwi and hapū within the area in which the reclaimed land is located and must invite tenders from representatives of those iwi and hapū for the acquisition of the freehold interest and must state—

(a) the minimum consideration for the freehold interest, which may not be less than the consideration stated in the most recent notice given or sent under subsection (2):

(b) any other terms and conditions, which may not be more favourable than the terms and conditions stated in the most recent notice given under subsection (2).

(5) If, within the period that the notice under subsection (4) is in effect, no iwi or hapū enters into a contract to acquire the freehold interest, the proprietor may, before the second anniversary of the day on which the notice was given to the Minister under subsection (2), give public notice under subsection (6).

(6) A public notice under this subsection must invite tenders from any person for the acquisition of the freehold interest and state—

(a) the minimum consideration for the freehold interest, which may not be less than the consideration stated in the most recent public notice given under subsection (4):

(b) any other terms and conditions, which may not be more favourable than the terms and conditions stated in the most recent notice given under subsection (4).

(7) A notice given or published under subsection (2), (4), or (6) is in effect for the period that commences on the date on which the Minister receives the notice or, in the case of a public notice, the notice is first published and ends with the close of the 90th day after that date.

Part 3
Customary interests

46 Overview of this Part

This Part sets out the legal rights and interests that give expression to customary interests in the common marine and coastal area of New Zealand.

Subpart 1—Participation in conservation processes in common marine and coastal area

47 Participation in conservation processes

(1) In this section and sections 48 to 50, **affected iwi, hapū, or whānau** means iwi, hapū, or whānau that exercise kaitiakitanga in a part of the common marine and coastal area where a conservation process is being considered.

(2) Affected iwi, hapū, or whānau have the right to participate in conservation processes in the common marine and coastal area.

(3) For the purposes of subsection (1), the conservation processes are—

(a) applications made under section 5 of the Marine Reserves Act 1971 for the purpose of declaring or extending a marine reserve:

(b) proposals under section 22 of the Marine Mammals Protection Act 1978 to define and declare or extend a marine mammal sanctuary:

(c) proposals under the enactments relevant to conservation protected areas to declare or extend conservation protected areas:

(d) publicly notified applications for concessions:

(e) applications made under regulation 12 of the Marine Mammals Protection Regulations 1992 for permits authorising marine mammal watching.

48 Notification of conservation process

(1) If an application or a proposal is made for a conservation process, notice must be given as provided for in subsection (2), by—

(a) the Director-General, in the case of those referred to in section 47(3)(a) to (d); and

(b) the applicant, in the case of an application referred to in section 47(3)(e).

(2) Notice must be given as soon as is reasonably practicable after the application or proposal is received by the Director-General and may be given—

(a) as part of any public notice given to members of the public generally of the matter to which it relates; or

(b) in a case where the Director-General is not otherwise required to give public notice, to the affected iwi, hapū, or whānau in particular in any publication circulating in the locality to which the proposal relates.

(3) A notice given under this section must—

(a) include advice that any iwi, hapū, or whānau that consider they are affected iwi, hapū, or whānau may provide that advice to the Director-General; and

(b) state the day by which any iwi, hapū, or whānau who may be affected must provide their views; and

(c) provide sufficient information about the subject matter and scope of the application or proposal—

(i) to inform iwi, hapū, or whānau who may be affected, of the obligations on the Director-General under this subpart; and

(ii) to assist affected iwi, hapū, or whānau to decide whether they wish to make a submission on the application or proposal; and

(iii) to advise where further information on an application or proposal may be viewed.

(4) In the event of a dispute as to whether, or which, iwi, hapū, or whānau are affected by an application or proposal, the Director-General must—

(a) seek, and may rely on, any evidence that in his or her opinion is of sufficient authority to resolve the dispute; and

(b) advise iwi, hapū, or whānau without delay of the decision made under this subsection, with reasons.

(5) A decision of the Director-General as to whether iwi, hapū, or whānau are affected is final.

49 Obligation on decision maker

If the Director-General is advised by iwi, hapū, or whānau and accepts, or determines under section 48(4), that they are affected iwi, hapū, or whānau, the decision maker must have particular regard to the views of those affected iwi, hapū, or whānau in considering the application or proposal.

50 Stranded marine mammals

(1) In this section **marine mammal** has the same meaning as in section 2 of the Marine Mammals Protection Act 1978.

(2) This section applies if marine mammals are stranded in or on the common marine and coastal area.

(3) When making decisions about managing a stranded marine mammal, a marine mammals officer must—

(a) ensure that the welfare of the marine mammal and public safety are the primary considerations; and

(b) have particular regard to the views of any affected iwi, hapū, or whanau expressed to the officer.

(4) In subsection (3), **marine mammals officer**—

(a) means a person declared or appointed to be a marine mammals officer under section 11 of the Marine Mammals Protection Act 1978; and

(b) includes any other person authorised under section 18 of that Act to manage stranded marine mammals.

Subpart 2—Protected customary rights

51 Meaning of protected customary rights

(1) A **protected customary right** is a right that—

(a) has been exercised since 1840; and

(b) continues to be exercised in a particular part of the common marine and coastal area in accordance with tikanga by the applicant group, whether it continues to be exercised in exactly the same or a similar way, or evolves over time; and

(c) has not been extinguished as a matter of law.

(2) A **protected customary right** does not include an activity—

(a) that is regulated under the Fisheries Act 1996; or

(b) that is a commercial aquaculture activity (within the meaning of section 4 of the Maori Commercial Aquaculture Claims Settlement Act 2004); or

(c) that involves the exercise of—

(i) any commercial Māori fishing right or interest, being a right or interest declared by section 9 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 to be settled; or

(ii) any non-commercial Māori fishing right or interest, being a right or interest subject to the declarations in section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992; or

(d) that relates to—

(i) wildlife within the meaning of the Wildlife Act 1953, or any animals specified in Schedule 6 of that Act:

(ii) marine mammals within the meaning of the Marine Mammals Protection Act 1978; or

(e) that is based on a spiritual or cultural association, unless that association is manifested by the relevant group in a physical activity or use related to a natural or physical resource (within the meaning of section 2(1) of the Resource Management Act 1991).

(3) An applicant group does not need to have an interest in land in or abutting the specified part of the common marine and coastal area in order to establish protected customary rights.

Section 51(1)(c): amended, on 25 October 2025, by section 7 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Section 51(2)(e): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

52 Scope and effect of protected customary rights

(1) A protected customary right may be exercised under a protected customary rights order or an agreement without a resource consent, despite any prohibition, restriction, or imposition that would otherwise apply in or under sections 12 to 17 of the Resource Management Act 1991.

(2) In exercising a protected customary right, a protected customary rights group is not liable for—

(a) the payment of coastal occupation charges imposed under section 64A of the Resource Management Act 1991; or

(b) the payment of royalties for sand and shingle imposed by regulations made under the Resource Management Act 1991.

(3) However, subsections (1) and (2) apply only if a protected customary right is exercised in accordance with—

(a) tikanga; and

(b) the requirements of this subpart; and

(c) a protected customary rights order or an agreement that applies to the customary rights group; and

(d) any controls imposed by the Minister of Conservation under section 57.

(4) A protected customary rights group may do any of the following:

(a) delegate or transfer the rights conferred by a protected customary rights order or an agreement in accordance with tikanga:

(b) derive a commercial benefit from exercising its protected customary rights, except in relation to the exercise of—

(i) a non-commercial aquaculture activity; or

(ii) a non-commercial fishery activity that is not a right or interest subject to the declarations in section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992:

(c) determine who may carry out any particular activity, use, or practice in reliance on a protected customary rights order or agreement:

(d) limit or suspend, in whole or in part, the exercise of a protected customary right.

Section 52(1): replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 52(2)(a): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 52(2)(b): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

53 Delegations and transfers of protected customary rights

(1) A delegation or transfer may only be made under section 52(4) to a person identified in a protected customary rights order or an agreement as a person to whom a right may be delegated or transferred.

(2) A delegation or transfer of a protected customary right must be—

(a) notified to each of the persons or bodies referred to in section 110(2)(b); and

(b) registered in accordance with section 114.

(3) A delegation or transfer does not take effect until,—

(a) in the case of a protected customary rights order, the order is varied in accordance with section 111; and

(b) in the case of an agreement, the agreement is varied.

54 Limitations on exercise of protected customary rights

(1) A protected customary right does not include any right or title over the part of the common marine and coastal area where the protected customary right is exercised, other than the rights provided for in section 52.

(2) A protected customary right must be exercised in accordance with—

(a) any terms, conditions, or limitations on the scale, extent, and frequency of the activity specified in the order or in the agreement; and

(b) any controls imposed by the Minister of Conservation under section 56.

55 Effect of protected customary rights on resource consent applications

(1) This section applies if an application for a resource consent for an activity to be undertaken wholly or in part within a protected customary rights area is lodged on or after the date that—

(a) a protected customary rights agreement comes into effect under section 96(1)(a); or

(b) a protected customary rights order is sealed in accordance with section 113.

(2) A consent authority must not grant a resource consent for an activity (including a controlled activity) to be carried out in a protected customary rights area if the activity will, or is likely to, have adverse effects that are more than minor on the exercise of a protected customary right, unless—

(a) the relevant protected customary rights group gives its written approval for the proposed activity; or

(b) the activity is one to which subsection (3) applies.

(3) The existence of a protected customary right does not limit or otherwise affect the grant of—

(a) a coastal permit under the Resource Management Act 1991 to permit existing aquaculture activities to continue to be carried out in a specified part of the common marine and coastal area,—

(i) regardless of when the application is lodged or whether there is any change in the species farmed or in the method of marine farming; and

(ii) provided that there is no increase in the area, or change to the location, of the coastal space occupied by the aquaculture activity for which the existing coastal permit was granted; or

(b) a resource consent under section 330A of the Resource Management Act 1991 for an emergency activity (within the meaning of section 63) undertaken in accordance with section 330 of that Act, as if the emergency activity were an emergency work to which section 330 applies; or

(c) a resource consent for an existing accommodated infrastructure (within the meaning of section 63) if any adverse effects of the proposed activity on the exercise of a protected customary right will be or are likely to be—

(i) the same or similar in character, intensity, and scale as those that existed before the application for the resource consent was lodged; or

(ii) if more than minor or temporary in nature; or

(d) a resource consent for a deemed accommodated activity (within the meaning of section 65(1)(b)(i)).

(3A) *[Repealed]*

(4) In the case where a deemed accommodated activity within the meaning of section 65(1)(b)(i) applies, the consent authority must, when considering applications for a resource consent relating to that activity, have particular regard to the nature of the protected customary right.

(5) The provisions of Part 1 of Schedule 1 apply for the purposes of subsections (2) and (3).

Section 55(3)(a): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 55(3)(b): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 55(3A): repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Controls

56 Controls on exercise of protected customary rights

(1) If, at any time, the Minister of Conservation determines that the exercise of protected customary rights under a protected customary rights order or agreement has, or is likely to have, a significant adverse effect on the environment, the Minister may impose controls, including any terms, conditions, or restrictions that the Minister thinks fit, on the exercise of the rights.

(2) Any person may apply to the Minister of Conservation for controls to be imposed on the exercise of a protected customary right, stating the reasons for the application.

(3) If the Minister is satisfied that the application raises reasonable concerns that the exercise of a protected customary right has, or is likely to have, a significant adverse effect on the environment, the Minister must serve the notice, stating his or her intention to consider imposing controls, on—

(a) the protected customary rights group; and

(b) the local authorities that have statutory functions in the area where the protected customary right applies; and

(c) the person applying for controls to be imposed.

(4) If the Minister is not satisfied that an application under subsection (2) raises reasonable concerns that the exercise of a protected customary right has, or is likely to have, a significant adverse effect on the environment, the Minister must advise the applicant accordingly, giving reasons for that decision.

(5) Part 2 of Schedule 1 applies to making a determination as to whether there is, or is likely to be, a significant adverse effect on the environment, for the purpose of imposing controls under this section.

57 Notification of controls

(1) The Minister of Conservation must notify in the *Gazette* any controls imposed under section 56.

(2) The notice must set out—

(a) the name and contact details of the relevant protected customary rights group; and

(b) a description of the extent of the protected customary rights area that is subject to the controls; and

(c) a description of the protected customary right that is subject to the controls; and

(d) a description of the controls, including any standards, terms, conditions, or restrictions, to be applied and the reasons for the controls; and

(e) the date on which the controls take effect (which must be as soon as is reasonably practicable after the date of the notice).

(3) The Minister of Conservation must, as soon as practicable after giving notice, provide a copy of the notice to—

(a) the protected customary rights group to which the notice applies; and

(b) the Minister of Māori Affairs; and

(c) the local authorities that have statutory functions in, or relating to, the protected customary rights area; and

(d) the chief executive.

(4) Controls take effect on the date stated in the *Gazette* notice.

Subpart 3—Customary marine title

Interpretation matters

Heading: inserted, on 25 October 2025, by section 8 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

57A Meaning of exclusive use and occupation

(1) This section applies to a group or its members that is or are—

(a) an applicant group; or

(b) making a customary transfer; or

(c) a group or members of a group to whom a customary transfer was made.

(2) This section defines whether, for the purposes of this Act, the group or its members has, had, or have exclusive use and occupation of a specified area of the common marine and coastal area from the start to the end of the applicable period without substantial interruption.

(3) The group or its members has, had, or have **exclusive use and occupation** of the area from the start to the end of the applicable period without substantial interruption only if the group or its members had both the intention and the ability to control the area, to the exclusion of others, from the start to the end of the applicable period without substantial interruption.

Section 57A: inserted, on 25 October 2025, by section 8 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

57B Meaning of substantial interruption

In this Act, **substantial interruption**, to a group's exclusive use and occupation of a specified area of the common marine and coastal area,—

(a) means any 1 or more substantial interruptions to one or both of the following:

(i) the group's use and occupation of that area:

(ii) the exclusivity of the group's use and occupation of that area:

(b) requires a decision maker (including the Court) to consider the nature, extent, duration, and cause of any interruption to the group's exclusive use and occupation of the specified area:

(c) can be caused (without limiting paragraph (a)) by use and occupation carried out, or an activity (including, without limitation, an activity that is or includes fishing or navigation) carried out,—

(i) wholly or partly in that area; and

(ii) by a person, or persons, who did not belong to the group; and

(iii) with authorisation by or under legislation or otherwise lawfully:

(d) can be caused (without limiting paragraph (a)) by changes to the use and occupation carried out, or to an activity carried out,—

(i) wholly or partly in that area; and

(ii) by a person, or persons, who did belong to the group; and

(iii) with authorisation by or under legislation or otherwise lawfully:

(e) can be caused (without limiting paragraphs (a) to (d)) by the combined or cumulative effects of, or of changes to, 2 or more activities of the kind described in paragraph (c) or (d):

(f) has not occurred (despite paragraphs (a) to (e)) only because, in relation to that area, an activity is carried out wholly or partly in that area under a resource consent granted at any time between—

(i) the commencement of this Act; and

(ii) the effective date.

Section 57B: inserted, on 25 October 2025, by section 8 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Determination of whether customary marine title exists

58 Customary marine title

(1) Customary marine title exists in a specified area of the common marine and coastal area if the applicant group—

(a) holds the specified area in accordance with tikanga; and

(b) has, in relation to the specified area,—

(i) exclusively used and occupied it from 1840 to the present day without substantial interruption; or

(ii) received it, at any time after 1840, through a customary transfer in accordance with subsection (3).

(1A) In considering whether the requirements of subsection (1)(b)(i), (3)(c)(ii), or (3)(d)(ii) are met, no inference may be drawn about all or any of the geographic scope, continuity, or exclusivity of a group's use and occupation of a specified area in a period unless that inference—

(a) is based on evidence of a physical activity, or of a use, related to natural and physical resources (within the meaning of section 2(1) of the Resource Management Act 1991) in all or part of the area, by the group in that period; and

(b) is not based on a spiritual or cultural association with all or part of the area unless that association is manifested in a physical activity, or in a use, related to natural and physical resources (within the meaning stated in paragraph (a)) in all or part of the area, by the group in that period.

(2) *[Repealed]*

(3) For the purposes of subsection (1)(b)(ii), a transfer is a customary transfer if—

(a) a customary interest in a specified area of the common marine and coastal area was transferred—

(i) between or among members of the applicant group; or

(ii) to the applicant group or some of its members from a group or some members of a group who were not part of the applicant group; and

(b) the transfer was in accordance with tikanga; and

(c) the group or members of the group making the transfer—

(i) held the specified area in accordance with tikanga; and

(ii) had exclusively used and occupied the specified area from 1840 to the time of the transfer without substantial interruption; and

(d) the group or some members of the group to whom the transfer was made have—

(i) held the specified area in accordance with tikanga; and

(ii) exclusively used and occupied the specified area from the time of the transfer to the present day without substantial interruption.

(4) Customary marine title does not exist if the applicant group's customary interest proposed to be recognised in that title has been extinguished as a matter of law.

(5) For the purposes of subsection (4), the applicant group's customary interest proposed to be recognised in customary marine title has been extinguished as a matter of law if, in relation to a specified area of the common marine and coastal area,—

(a) legal title was vested, before 17 January 2005, in a legal person or a group, other than the applicant group, by any means, including—

(i) Crown grants made by or under any lawful authority, including ordinances, statutes, or the prerogative; or

(ii) the common law; or

(iii) a statutory vesting; or

(iv) administrative action; or

(b) an interest has been established before, on, or after 17 January 2005 that is legally inconsistent with exclusive use and occupation of the area by the applicant group.

(6) Subsection (5)(a) or (b) applies even if the person is the Crown or a local authority and is, under section 11(3), divested of that title as owner, because—

(a) section 11(3) does not revive customary interests in any part of the common marine and coastal area that existed before any vesting of title, or establishment of an interest, divested under section 11(3); and

(b) section 6 only restores and gives legal expression in accordance with this Act to customary interests in the common marine and coastal area that were extinguished by the Foreshore and Seabed Act 2004.

(7) Subsection (4)—

(a) does not limit section 57B (which sets out the requirements for determining whether substantial interruption has occurred to an applicant group's exclusive use and occupation); and

(b) is not limited by subsections (5) and (6) (which state some ways, but not the only ways, that the applicant group's customary interest proposed to be recognised in customary marine title has been extinguished as a matter of law for the purposes of subsection (4)).

Section 58(1A): inserted, on 25 October 2025, by section 9(1) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Section 58(2): repealed, on 25 October 2025, by section 9(2) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Section 58(4): replaced, on 25 October 2025, by section 9(3) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Section 58(5): inserted, on 25 October 2025, by section 9(3) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Section 58(6): inserted, on 25 October 2025, by section 9(3) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Section 58(7): inserted, on 25 October 2025, by section 9(3) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

59 Matters relevant to whether customary marine title exists

(1) Matters to which a decision maker (including the Court) must have particular regard in determining whether customary marine title exists in a specified area of the common marine and coastal area include whether the applicant group or any of its members—

(a) own land abutting all or part of the specified area and have done so, without substantial interruption, for all of the applicable period:

(b) exercise non-commercial customary fishing rights in all or part of the specified area, and have done so for all of the applicable period:

(c) exercise non-commercial customary fishing rights in named fishing grounds in all or part of the specified area, and have done so for all of the applicable period:

(d) have marae near all or part of the specified area.

(2) To avoid doubt, section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 does not limit subsection (1)(b).

(2A) In complying with subsection (1)(a), (b), or (c), the decision maker must also have particular regard to the extent to which there has been such ownership, or such exercise of fishing rights in the specified area, for all of the applicable period.

(3) The use at any time, by persons who are not members of an applicant group, of a specified area of the common marine and coastal area for fishing or navigation does not, of itself, preclude the applicant group from establishing the existence of customary marine title, unless that use causes or contributes to substantial interruption under section 57B.

(4) For the purpose of subsection (1)(a), **land abutting all or part of the specified area** means—

(a) land that directly abuts the specified area; or

(b) land that does not directly abut the specified area, but does directly abut any of the following:

(i) a marginal strip (as defined in section 2(1) of the Conservation Act 1987) that directly abuts the specified area:

(ii) an esplanade reserve (as defined in section 2(1) of the Resource Management Act 1991), but only to the extent that it directly abuts the specified area:

(iii) a reserve (as defined in section 2(1) of the Reserves Act 1977), but only to the extent that it directly abuts the specified area:

(iv) a Māori reservation (as defined in section 2(1) of the Reserves Act 1977) that directly abuts the specified area:

(v) a road that directly abuts the specified area:

(vi) a railway line that directly abuts the specified area.

Section 59(1): replaced, on 25 October 2025, by section 10(1) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Section 59(2): replaced, on 25 October 2025, by section 10(1) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Section 59(2A): inserted, on 25 October 2025, by section 10(1) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Section 59(3): amended, on 25 October 2025, by section 10(2) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Section 59(4): amended, on 25 October 2025, by section 10(3) of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Section 59(4)(b)(ii): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

59A Outline of aspects of law altered by CMT Amendment Act

The altered aspects of the law referred to in section 9A(1)(b) include alterations made by provisions that—

(a) define a group's exclusive use and occupation of a specified area of the common marine and coastal area from the start to the end of the applicable period:

(b) require the group's use and occupation of the area to be exclusive in that the group has had both the intention and the ability to control that area, to the exclusion of others, from the start to the end of the applicable period:

(c) require that no substantial interruption has occurred to the group's exclusive use and occupation of that area from the start to the end of the applicable period:

(d) define substantial interruption to the group's exclusive use and occupation of that area as meaning any 1 or more substantial interruptions to one or both of the following:

(i) the group's use and occupation of that area:

(ii) the exclusivity of the group's use and occupation of that area:

(e) clarify how substantial interruption to the group's exclusive use and occupation of that area can be caused, and when it has not occurred:

(f) clarify what inferences are permitted, and require particular regard to be had to specified matters, in determining whether the group has had exclusive use and occupation of that area from the start to the end of the applicable period without substantial interruption:

(g) clarify when the applicant group's customary interest proposed to be recognised in customary marine title has been extinguished as a matter of law by a vesting of a title as owner to any part of the common marine and coastal area:

(h) clarify what the group must prove in an application for the recognition of customary marine title in that area.

Section 59A: inserted, on 25 October 2025, by section 16 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

59B Judgments given under this Act referred to in sections 9A and 9B

Examples of judgments altered and overridden

(1) The judgments referred to in sections 9A(1)(b) and 9B(3)(c) as being altered and overridden include, for example, the following judgments (to the extent that they express reasoning and conclusions about the requirements for recognition of customary marine title, and aspects of the law specified in section 59A):

(a) *Colin Francis Reeder and Ngā Pōtiki ā Tamapāhore Trust on behalf of Ngā Pōtiki* [2021] NZHC 2726, [2022] 3 NZLR 304 (12 October 2021):

(b) *Ngāti Pāhauwera and others* [2021] NZHC 3599 (22 December 2021):

(c) *Whakatōhea Kotahitanga Waka (Edwards) v Te Kāhui and Whakatōhea Māori Trust Board* [2023] NZCA 504, [2023] 3 NZLR 252 (18 October 2023):

(d) *Ngāi Tūmapūhia-ā-Rangi Hapū Inc on behalf of Ngā Uri o Ngāi Tūmapūhia ā Rangi Hapū and others* [2024] NZHC 309 (26 February 2024):

(e) *Ngā Hapū o Tokomaru Ākau and others* [2024] NZHC 682 (25 March 2024; reissued redacted version 1 May 2024):

(f) *Muriwai Maggie Jones on behalf of Ngāi Tai Iwi and the Uri of Ngāi Tai Iwi* [2024] NZHC 1373 (28 May 2024; reissued 29 May 2024):

(g) *Re Papa* [2024] NZHC 3610 (29 November 2024):

(h) *Whakatōhea Kotahitanga Waka (Edwards) v Te Kāhui Takutai Moana o Ngā Whānau Me Ngā Hapū o Te Whakatōhea* [2024] NZSC 164, [2024] 1 NZLR 857 (2 December 2024):

(i) *Re Te Hika o Pāpāuma Mandated Iwi Authority* [2024] NZHC 3745 (10 December 2024) and *Re application for orders recognising Customary Marine Title and Protected Customary Rights* [2025] NZHC 1523 (11 June 2025):

(j) *Re Taueki (Ngāti Tamarangi)* [2025] NZHC 1488 (9 June 2025):

(k) *Whakatōhea Kotahitanga Waka (Edwards) v Ngāti Ira o Waioweka, Ngāti Patumoana, Ngāti Ruatākenga and Ngāi Tamahaua (Te Kāhui Takutai Moana o Ngā Whānau Me Ngā Hapū o Te Whakatōhea)* [2025] NZSC 104 (15 August 2025):

(l) *Re Application by Hutchinson (on behalf of Landowners of Ruapuke Island Group)* [2025] NZHC 2400 (22 August 2025).

Examples of judgments containing decision, order, or both, that must be taken to have no legal effect, and never to have had legal effect

(2) The judgments specified in subsection (1)(g), (i), (j), and (l) are examples of judgments that contain a CMT decision, a customary marine title order, or both, that must under clause 4(1) and (3) of Schedule 1AA be taken to have no legal effect, and never to have had legal effect.

(3) Subsection (2) does not limit clause 4 of Schedule 1AA.

Section 59B: inserted, on 25 October 2025, by section 16 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Rights under customary marine title

60 Scope and effect of customary marine title

(1) Customary marine title—

(a) provides an interest in land, but does not include a right to alienate or otherwise dispose of any part of a customary marine title area; and

(b) provides only for the exercise of the rights listed in section 62 and described in sections 66 to 93; and

(c) has effect on and from the effective date.

(2) A customary marine title group—

(a) may use, benefit from, or develop a customary marine title area (including derive commercial benefit) by exercising the rights conferred by a customary marine title order or agreement, but is not exempt from obtaining any relevant resource consent, permit, or approval that may be required under another enactment for the use and development of that customary marine title area; and

(b) is not liable for payment, in relation to the customary marine title area, of—

(i) coastal occupation charges imposed under section 64A of the Resource Management Act 1991; or

(ii) royalties for sand and shingle imposed by regulations made under the Resource Management Act 1991.

(3) A customary marine title group may—

(a) delegate the rights conferred by a customary marine title order or an agreement in accordance with tikanga; or

(b) transfer a customary marine title order or an agreement in accordance with tikanga.

Section 60(2)(b)(i): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 60(2)(b)(ii): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

61 Delegation and transfer

(1) A delegation or transfer permitted by section 60(3) may only be to persons who—

(a) belong to the same iwi or hapū as the customary marine title group making the delegation or transfer; and

(b) are specified in the relevant customary marine title order or agreement.

(2) A delegation or transfer of customary marine title recognised by an order or in an agreement takes effect only when, as the case requires,—

(a) the order has been varied in accordance with section 111; or

(b) the agreement has been varied.

(3) If customary marine title is delegated, the applicant group remains the holder of the customary marine title.

(4) If customary marine title is transferred, the persons to whom the title is transferred become the customary marine title group.

62 Rights conferred by customary marine title

(1) The following rights are conferred by, and may be exercised under, a customary marine title order or an agreement on and from the effective date:

(a) a Resource Management Act 1991 (**RMA**) permission right (*see* sections 66 to 70); and

(b) a conservation permission right (*see* sections 71 to 75); and

(c) a right to protect wāhi tapu and wāhi tapu areas (*see* sections 78 to 81); and

(d) rights in relation to—

(i) marine mammal watching permits (*see* section 76); and

(ii) the process for preparing, issuing, changing, reviewing, or revoking a New Zealand coastal policy statement (*see* section 77); and

(e) the prima facie ownership of newly found taonga tūturu (*see* section 82); and

(f) the ownership of minerals other than—

(i) minerals within the meaning of section 10 of the Crown Minerals Act 1991; or

(ii) pounamu to which section 3 of the Ngai Tahu (Pounamu Vesting) Act 1997 applies (*see* section 83); and

(g) the right to create a planning document (*see* sections 85 to 93).

(2) Subsection (3) applies if a person applies for a resource consent, a permit, or an approval in relation to a part of the common marine and coastal area in respect of which—

(a) no customary marine title order or agreement applies; but

(b) either—

(i) an applicant group has applied to the Court under section 100 for recognition of customary marine title and notice has been given in accordance with section 103; or

(ii) an applicant group has applied to enter negotiations under section 95.

(3) Before a person may lodge an application that relates to a right conferred by a customary marine title order or agreement, that person must—

(a) notify the applicant group about the application; and

(b) seek the views of the group on the application.

Section 62(1)(a): replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

62A Information requirements for applicants for resource consents

(1) This section applies in a case where a person applies for a resource consent relating to an area where applicant groups seek customary marine title.

(2) The person applying for a resource consent must—

(a) confirm that they have notified the applicant groups in the area to which the resource consent application relates and that they have sought the views of those applicant groups; and

(b) provide a list of the applicant groups notified; and

(c) record the views obtained from the applicant groups, describing how those views have influenced the contents of the resource consent application.

(3) If an application does not contain the information described in subsection (2), the consent authority must return the application as incomplete in accordance with section 88 of the Resource Management Act 1991.

Section 62A: inserted, on 24 August 2023, by section 805(3) of the Natural and Built Environment Act 2023 (2023 No 46).

Section 62A(3): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Accommodated activities

63 Interpretation

In this section and in sections 64 and 65,—

accommodated activities are activities that are—

(a) expressly excluded under section 64(1) from the exercise of an RMA permission right or a conservation permission right by a customary marine title group; and

(b) within the scope of the activities provided for by section 64(1)

accommodated infrastructure means infrastructure (including structures and associated operations) that is—

(a) lawfully established; and

(b) owned, operated, or carried out by 1 or more of the following:

(i) the Crown, including a Crown entity:

(ii) a local authority or a council-controlled organisation:

(iii) a network utility operator (within the meaning of section 166 of the Resource Management Act 1991):

(iv) an electricity generator (as defined in section 2(1) of the Electricity Act 1992):

(v) a port company (as defined in section 2(1) of the Port Companies Act 1988):

(vi) a port operator (as defined in Part 3A of the Maritime Transport Act 1994):

(vii) *[Repealed]*

(c) reasonably necessary for—

(i) the national social or economic well-being; or

(ii) the social or economic well-being of the region in which the infrastructure is located

associated operations means activities that are necessary for the functioning of an accommodated infrastructure, including—

(a) an activity carried out under a resource consent granted under the Resource Management Act 1991 to permit existing accommodated infrastructure to continue in the same location; and

(b) maintenance, remedial, and restoration work; and

(c) the upgrading of existing infrastructure, but only if the effects on the environment of the upgraded infrastructure, assessed at the date when an application is made to upgrade the existing infrastructure, are to be the same or similar in character, intensity, and scale as the effects of the infrastructure that is being upgraded; and

(d) the replacement of a part of existing infrastructure by a new part of the same or similar nature; and

(e) the relocation of existing infrastructure, if—

(i) that is necessary for the continuing operation of the infrastructure; and

(ii) the effects on the environment of the new location, assessed at the date when an application is made to relocate the existing infrastructure, are the same or similar in character, intensity, and scale as the effects of the infrastructure in its previous location; and

(f) dredging as part of the ongoing operation of a port

Crown agent has the meaning given in section 10(1) of the Crown Entities Act 2004

deemed accommodated activities are the activities described in section 65

emergency activity—

(a) means an activity undertaken in a customary marine title area to prevent, remove, or reduce—

(i) an actual or imminent danger to human health or safety; or

(ii) a danger to the environment or property so significant that immediate action is required; and

(b) includes all necessary coastal protection work undertaken in a customary marine title area by a local authority or Crown agency; and

(c) includes any activity authorised by an enactment for the purpose of preventing any of the matters referred to in paragraph (a), including an activity in relation to—

(i) a state of emergency declared under the Emergency Management Act 2026; or

(ii) a biosecurity emergency declared under section 144 of the Biosecurity Act 1993; or

(iii) an emergency or a special emergency declared under section 49B or 136 of the Hazardous Substances and New Organisms Act 1996; or

(iv) a marine oil spill response under the Maritime Transport Act 1994; or

(v) an emergency within the meaning of section 6 of the Fire and Emergency New Zealand Act 2017; or

(vi) emergency works described in section 330 of the Resource Management Act 1991

existing, in relation to an activity, means an activity for which, before the effective date, any necessary resource consents have been granted, whether or not any or all of them have been given effect to before the effective date.

Section 63 **accommodated activities** paragraph (a): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 63 **accommodated infrastructure** paragraph (b)(iii): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 63 **accommodated infrastructure** paragraph (b)(iii): amended, on 24 August 2023, by section 805(3) of the Natural and Built Environment Act 2023 (2023 No 46).

Section 63 **accommodated infrastructure** paragraph (b)(vi): replaced, on 23 October 2013, by section 90 of the Maritime Transport Amendment Act 2013 (2013 No 84).

Section 63 **accommodated infrastructure** paragraph (b)(vii): repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 63 **associated operations** paragraph (a): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 63 **emergency activity** paragraph (c)(i): amended, on 4 September 2026, by section 235 of the Emergency Management Act 2026 (2026 No 53).

Section 63 **emergency activity** paragraph (c)(v): amended, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

Section 63 **emergency activity** paragraph (c)(vi): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

64 Accommodated activities

(1) An accommodated activity—

(a) may be carried out in a part of the common marine and coastal area despite customary marine title being recognised in respect of that part under subpart 1 or 2 of Part 4; and

(b) is not limited or otherwise affected by the exercise of an RMA permission right or a conservation permission right; but

(c) does not limit or otherwise affect the exercise of any other right referred to in section 62(1).

(2) For the purposes of this subpart, **accommodated activity** means any of the following activities, to the extent that they are within a customary marine title area:

(a) an activity authorised under a resource consent, whenever granted, if the application for the consent is first accepted by the consent authority before the effective date:

(b) an activity that may be carried out under a resource consent, whenever granted, for a minimum impact activity (as defined in section 2(1) of the Crown Minerals Act 1991) relating to petroleum (as defined in section 2(1) of that Act):

(c) accommodated infrastructure:

(d) the management activities for which a resource consent is required in relation to—

(i) an existing marine reserve:

(ii) an existing wildlife sanctuary:

(iii) an existing marine mammal sanctuary:

(iv) an existing concession:

(e) an activity carried out under a coastal permit granted under the Resource Management Act 1991 to permit existing aquaculture activities to continue to be carried out in a specified part of the common marine and coastal area,—

(i) regardless of when the application is lodged or whether there is any change in the species farmed or in the method of marine farming; but

(ii) provided that there is no increase in the area, or change of location, of the coastal space occupied by the aquaculture activities for which the existing coastal permit was granted:

(f) an emergency activity:

(g) scientific research or monitoring that is undertaken or funded by—

(i) the Crown:

(ii) any Crown agent:

(iii) the regional council with statutory functions in the region where the research or monitoring is to take place:

(h) a deemed accommodated activity.

(3) Subsection (4) applies if, in relation to whether an activity is an accommodated activity, there is a dispute between—

(a) a customary marine title group; and

(b) the person who owns, operates, or carries out the activity that is the subject of the dispute.

(4) Either party to the dispute may refer the dispute to the Minister for Land Information for resolution.

(5) The decision of the Minister is final.

Section 64(1)(b): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 64(2)(a): replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 64(2)(b): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 64(2)(d): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 64(2)(e): replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

65 Deemed accommodated activities

(1) For the purpose of section 64(2)(h) and Schedule 2, the following activities are deemed to be accommodated activities:

(a) the construction or operation of any proposed infrastructure that—

(i) is within the meaning of paragraph (b) of the definition of **accommodated infrastructure**; and

(ii) cannot practicably be constructed or operated in any location other than within a customary marine title area; and

(iii) is essential for—

(A) the national social or economic well-being; or

(B) the social or economic well-being of the region in which the infrastructure is located; and

(iv) in any case where the construction of infrastructure is to take place at any time after the commencement of this Act, that construction is either—

(A) agreed in principle in accordance with Part 1 of Schedule 2 (subject to all necessary consents being obtained) by the group that holds a customary marine title order in the area relevant to the proposed infrastructure; or

(B) classified by the Minister for Land Information as a deemed accommodated activity (subject to all necessary resource consents being obtained) in accordance with Part 1 of Schedule 2:

(b) any activity—

(i) that, at any time after the commencement of this Act, is necessary for, or reasonably related to, prospecting, exploration, mining operations, or mining (as those terms are defined in section 2(1) of the Crown Minerals Act 1991) for petroleum under a privilege; and

(ii) for which an agreement or an arbitral award has been made under Part 2 of Schedule 2:

(c) any activity—

(i) that, at any time after the commencement of this Act, is necessary for, or reasonably related to, the exercise of a privilege in existence immediately before the effective date and of the rights associated with that privilege, as provided for in section 84(1); and

(ii) for which an agreement or arbitral award has been made under Part 2 of Schedule 2.

(2) Nothing in subsection (1)(a) or (b) limits the discretion of a consent authority—

(a) to decline an application for a resource consent; or

(b) to impose conditions on the resource consent.

RMA permission right

Heading: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

66 Scope of Resource Management Act 1991 permission right

(1) An RMA permission right applies to activities that are to be carried out under a resource consent, including a resource consent for a controlled activity, to

the extent that the resource consent is for an activity to be carried out within a customary marine title area.

(2) A customary marine title group may give or decline permission, on any grounds, for an activity to which an RMA permission right applies.

(3) Permission given by a customary marine title group cannot be revoked.

(4) An RMA permission right does not apply to the grant or exercise of a resource consent for an accommodated activity.

(5) An RMA permission right, or permission given under such a right, does not limit the discretion of a consent authority—

(a) to decline an application for a resource consent; or

(b) to impose conditions.

(6) In this section, **consent authority** includes the Minister of Conservation and the Minister for the Environment exercising the powers of a consent authority under the Resource Management Act 1991.

Section 66 heading: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 66(1): replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 66(2): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 66(4): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 66(5): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 66(6): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

67 Procedural matters relevant to exercise of RMA permission right

(1) A person seeking to carry out an activity (the **applicant**) to which an RMA permission right applies—

(a) must make a request for permission by notice in writing to the relevant customary marine title group; and

(b) may do so at any time before the relevant resource consent may commence.

(2) The customary marine title group must—

(a) notify in writing its decision on a request for permission to—

(i) the applicant who gave notice under subsection (1); and

(ii) the relevant consent authority; and

(b) if permission is given, specify—

(i) the activity for which permission is given; and

(ii) the applicant who is to have the benefit of the permission; and

(iii) the duration of the permission.

(3) Unless the customary marine title group has already notified its decision to the applicant under subsection (2), it must do so not later than 40 working days after it receives a notice from the applicant that the applicant has been granted the relevant resource consent (whether or not the applicant had previously notified the customary marine title group of the application).

(4) The customary marine title group is to be treated as having given permission for the resource consent, for its duration, if notice of its decision is not received by the applicant in accordance with subsection (3).

(5) In subsection (3), the grant of a resource consent means that the consent has been granted and any appeal rights exhausted, and that the resource consent would, but for the requirement for the permission of the customary marine title group, commence under section 116 of the Resource Management Act 1991.

(6) When the relevant consent authority receives an application for a resource consent to which an RMA permission right applies, it must refer the application to the relevant customary marine title group as soon as practicable unless the group has already notified its decision in accordance with subsection (2).

Section 67 heading: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 67(1): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 67(1)(a): amended, on 24 August 2023, by section 805(3) of the Natural and Built Environment Act 2023 (2023 No 46).

Section 67(1)(b): replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 67(3): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 67(5): replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 67(6): replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

68 Effect of RMA permission right

(1) The holder of a resource consent for an activity in a customary marine title area to which an RMA permission right applies must not commence the activity to which the consent applies unless—

(a) permission has been given by the relevant customary marine title group under section 66(2) for that activity; and

(b) the permission covers the activity to which the resource consent applies.

(2) To avoid doubt, a decision of a customary marine title group to give or to decline permission for an activity is not subject to—

(a) a right of appeal; or

(b) a right of objection under section 357 or 357A of the Resource Management Act 1991.

Section 68 heading: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 68(1): replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 68(2)(b): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

69 Offence and penalty provision

(1) In relation to an activity to which an RMA permission right applies, it is an offence to commence the activity in the relevant customary title area unless the relevant customary marine title group has given permission under section 66(2) or is to be treated as having given permission under section 67(4).

(2) Every person who commits an offence against subsection (1) is liable, on conviction,—

(a) in the case of a natural person, to imprisonment for a term not exceeding 2 years or a fine not exceeding $300,000:

(b) in the case of a person other than a natural person, to a fine not exceeding $600,000.

(3) A person convicted of an offence under this section is also liable for the full value of—

(a) any revenue or profits earned by, or accruing to, the offender as a result of the offence; or

(b) any revenue or profits lost by the customary marine title group as a result of the offence; or

(c) any savings in costs made by, or accruing to, the offender as a result of the offence.

(4) If a person is convicted of an offence under this section and a fine is imposed, the Environment Court must—

(a) deduct 10% from the total sum of the fine imposed and the full amount payable under subsection (3), to be credited to the Crown Bank Account; and

(b) order that the balance of the total sum described in paragraph (a) be paid—

(i) in full to the relevant customary marine title group that brought the prosecution; or

(ii) if another person or group brought the prosecution, to that person and the relevant customary marine title group in any proportion that the Environment Court directs.

(5) Proceedings under this section and section 70 must be heard either—

(a) by an Environment Judge sitting alone; or

(b) in the District Court and, unless the Chief District Court Judge directs otherwise, by a District Court Judge who is an Environment Judge.

Section 69(1): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 69(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

70 Environment Court may make enforcement orders

(1) Subsection (3) applies only if, in relation to the exercise of a resource consent,—

(a) the RMA permission right is applicable; and

(b) a resource consent is exercised without the permission of the customary marine title group being obtained.

(2) If proceedings for an offence are commenced in the Environment Court, the Criminal Procedure Act 2011 applies as if a reference to the District Court were a reference to the Environment Court, with any other necessary modifications.

(3) The Environment Court may make enforcement orders to—

(a) prohibit a person from continuing the activity:

(b) require a person to remove any structure or other work or materials from the customary marine title area:

(c) require a person to rectify any adverse effects of the activity on the customary marine title area.

Section 70(1): replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 70(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Conservation permission right

71 Scope and effect of conservation permission right

(1) A conservation permission right enables a customary marine title group to give or decline permission, on any grounds, for the Minister of Conservation or the Director-General, as the case requires, to proceed to consider an application or proposal for a conservation activity specified in subsection (3).

(2) A conservation permission right applies only in the case of an application or proposal made on or after the effective date.

(3) The conservation activities to which a conservation permission right applies are activities wholly or partly within the relevant customary marine title area and for which—

(a) an application is made under section 5 of the Marine Reserves Act 1971 to declare or extend a marine reserve:

(b) a proposal is made under the enactments relevant to a conservation protected area to declare or extend a conservation protected area:

(c) an application for a concession is made.

(4) Permission given by a customary marine title group cannot be revoked.

(5) A conservation permission right, or permission given under such a right, does not limit—

(a) the discretion of the Minister of Conservation or Director-General, as the case may require,—

(i) to decline an application or a proposal; or

(ii) to impose conditions, including conditions not sought by the customary marine title group, or more stringent conditions than those it may have sought; or

(b) the matters provided for in sections 74 and 75.

(6) Nothing in this section or sections 72 or 73 applies to an accommodated activity.

72 Obligation to refer proposals for conservation activity if conservation permission right applies

(1) The Minister of Conservation or Director-General, as the case requires,—

(a) must refer an application or a proposal for a conservation activity to the relevant customary marine title group for its consideration, unless

the person making the proposal has already sought permission from the customary marine title group; and

(b) must not proceed to consider the application or proposal until the written permission of the group for the proposed activity is received by the Minister or Director-General; and

(c) must not approve an application or a proposal except to the extent that any permission given by the customary marine title group covers the application or proposal.

(2) In referring an application in respect of a marine reserve under subsection (1), the Director-General must include information on—

(a) any boundary markers that may be placed in the reserve under section 22 of the Marine Reserves Act 1971; and

(b) any signs that may be erected, or any management that may be carried out, in the reserve under that Act.

(3) Permission given under section 71 is to be treated as including permission for the placement of boundary markers, signs, and management activities disclosed to the customary marine title group under subsection (2).

73 Obligations when conservation permission right is exercised

(1) A customary marine title group must, not later than 40 working days after it receives an application or a proposal for its consideration under section 72,—

(a) decide whether to give or decline permission for the Minister of Conservation or Director-General, as the case requires, to proceed to determine the application or proposal; and

(b) give written notice of that decision to the Minister of Conservation or Director-General, as the case requires.

(2) The group is to be treated as having given permission if advice of its decision under subsection (1)(a) is not received under subsection (1)(b) within the stated time.

(3) To avoid doubt,—

(a) the group is not obliged to comply with any obligations arising under the enactments listed in section 71(3); and

(b) there is no right of appeal against the decision of a customary marine title group in the exercise of its conservation permission right.

Protection purposes

74 Priority of protection purposes

(1) This section applies to a proposal—

(a) to declare or extend a marine reserve that is wholly or partly in a customary marine title area; or

(b) to declare or extend a conservation protected area that is wholly or partly in a customary marine title area.

(2) The Minister of Conservation or the Director-General, as the case requires, may proceed with a proposal described in subsection (1) without the permission of the relevant customary marine title group if the Minister or Director-General is satisfied that the proposal is for a protection purpose that is of national importance.

75 Matters relevant to determining protection purposes

In making a determination under section 74(2), the Minister of Conservation or the Director-General, as the case requires, must have regard to—

(a) the views of the customary marine title group on the effects of the proposal on the interests of the group; and

(b) whether the proposal minimises as far as practicable any adverse effects on the interests of the group; and

(c) whether there are no practicable options for achieving a protection purpose that is of national importance, other than within the customary marine title area, because—

(i) the protection relates to a unique or rare habitat, ecosystem, feature, or area of scientific value; or

(ii) the area is nationally important for the conservation of a species; or

(iii) protection of the area is essential for the viability, integrity, or effective management of a nationally important—

(A) conservation protected area:

(B) marine reserve:

(C) network of such protected areas; or

(iv) the protection relates to a habitat, ecosystem, or species that occurs at a number of sites where it is not practicable to achieve the protection purposes; and

(d) any other matter similar in nature to the matters set out in paragraphs (a) to (c).

Marine mammal watching permits

76 Decisions on grant of marine mammal permits

(1) Before the Director-General determines an application under the Marine Mammals Protection Regulations 1992 to watch marine mammals within a customary marine title area, the Director-General must—

(a) give written notice to the customary marine title group relevant to that area—

(i) of the proposed permit; and

(ii) that the Director-General seeks its views (which must be given within 40 working days of that notice being received); and

(b) recognise and provide for the views of the group on the proposed permit, if they are provided within the specified time.

(2) The obligation under subsection (1)(b) does not limit the discretion of the Director-General to—

(a) approve or decline an application on the grounds set out in the Marine Mammals Protection Regulations 1992; or

(b) impose any conditions on a permit that the Director-General thinks fit.

(3) The notice must include a copy of the proposed permit and sufficient information to enable the customary marine title group to provide its views on the application.

New Zealand coastal policy statement

Heading: replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

77 Consultation

If the Minister of Conservation is proposing to prepare, issue, change, review, or revoke a New Zealand coastal policy statement under section 57 of the Resource Management Act 1991, the Minister must seek and consider the views of the customary marine title groups recorded on the register.

Section 77: replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Wāhi tapu protection right

78 Protection of wāhi tapu and wāhi tapu areas

(1) A customary marine title group may seek to include recognition of a wāhi tapu or a wāhi tapu area—

(a) in a customary marine title order; or

(b) in an agreement.

(2) A wāhi tapu protection right may be recognised if there is evidence to establish—

(a) the connection of the group with the wāhi tapu or wāhi tapu area in accordance with tikanga; and

(b) that the group requires the proposed prohibitions or restrictions on access to protect the wāhi tapu or wāhi tapu area.

(3) If a customary marine title is recognised under subpart 1 or 2 of Part 4, the customary marine title order or agreement must set out the wāhi tapu conditions that apply, as provided for in section 79.

79 Wāhi tapu conditions

(1) The wāhi tapu conditions that must be set out in a customary marine title order or an agreement are—

(a) the location of the boundaries of the wāhi tapu or wāhi tapu area that is the subject of the order; and

(b) the prohibitions or restrictions that are to apply, and the reasons for them; and

(c) any exemption for specified individuals to carry out a protected customary right in relation to, or in the vicinity of, the protected wāhi tapu or wāhi tapu area, and any conditions applying to the exercise of the exemption.

(2) Wāhi tapu conditions—

(a) may affect the exercise of fishing rights, but must not do so to the extent that the conditions prevent fishers from taking their lawful entitlement in a quota management area or fisheries management area; and

(b) do not affect the exercise of kaitiakitanga by a customary marine title group in relation to a wāhi tapu or wāhi tapu area in the customary marine title area of that group.

(3) A customary marine title group may seek to vary or revoke a wāhi tapu condition by applying to—

(a) vary a recognition order under section 111; or

(b) vary an agreement.

(4) In this section, **fisheries legislation** means—

(a) the Fisheries Act 1983; and

(b) the Fisheries Act 1996; and

(c) regulations made under those Acts.

80 Wardens and fishery officers

(1) Wardens may be appointed by a customary marine title group with an interest in a wāhi tapu or wāhi tapu area, in accordance with regulations made under section 118, to promote compliance with a prohibition or restriction imposed under section 79.

(2) A warden appointed under subsection (1) is responsible to the customary marine title group for the following functions:

(a) to assist in implementing any prohibition or restriction:

(b) to enter a wāhi tapu or wāhi tapu area for the purpose of performing the warden's functions:

(c) to advise members of the public of any applicable prohibition or restriction:

(d) to warn a person to leave a wāhi tapu or wāhi tapu area:

(e) to record—

(i) any failure to comply with a prohibition or restriction if the warden has reason to believe that the failure is intentional; and

(ii) the name, contact details, and date of birth of a person who the warden has reason to believe is intentionally failing to comply with a prohibition or restriction:

(f) to report to a constable any failure to comply with a prohibition or restriction in any case where the warden has reason to believe that the failure is intentional.

(3) Fishery officers and honorary fishery officers may enforce wāhi tapu conditions imposed under section 79 if, and to the extent that, any fishing in a wāhi tapu or wāhi tapu area breaches those conditions.

(4) For the purpose of subsection (3), fishery officers and honorary fishery officers may enter a wāhi tapu or wāhi tapu area—

(a) to assist in implementing a prohibition or restriction:

(b) to advise fishers of any applicable prohibition or restriction:

(c) to warn fishers to leave the wāhi tapu or wāhi tapu area:

(d) to record any failure of a fisher, and the details of that fisher, to comply with a prohibition or restriction, if the officer has reason to believe the failure is intentional:

(e) to report any such failure to a constable.

(5) In this section, **fishery officer**, **honorary fishery officer**, and **fishing** have the meanings given in section 2(1) of the Fisheries Act 1996.

81 Compliance

(1) A local authority that has statutory functions in the location of a wāhi tapu or wāhi tapu area that is subject to a wāhi tapu protection right must, in consultation with the relevant customary marine title group, take any appropriate action that is reasonably necessary to encourage public compliance with any wāhi tapu conditions.

(2) Every person commits an offence who intentionally fails to comply with a prohibition or restriction notified for that wāhi tapu or wāhi tapu area, and is liable on conviction to a fine not exceeding $5,000.

(3) Despite subsection (2), the offence provisions of the Heritage New Zealand Pouhere Taonga Act 2014 apply if a wāhi tapu or wāhi tapu area subject to a

wāhi tapu protection right is protected by a heritage covenant under section 39 of that Act.

(4) To avoid doubt, it is not an offence for a person to do anything that is inconsistent with the prohibition or restriction included in the wāhi tapu conditions if—

(a) the person is carrying out an emergency activity (within the meaning of section 63); or

(b) the person has an exemption notified under section 79(1)(c).

Section 81(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 81(3): replaced, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Ngā taonga tūturu

82 Newly found taonga tūturu

(1) Any taonga tūturu found in a customary marine title area on or after the effective date is prima facie the property of the relevant customary marine title group.

(2) Accordingly, section 11(1) of the Protected Objects Act 1975 does not apply to taonga tūturu to which subsection (1) applies.

(3) Any person finding a taonga tūturu in a customary marine title area has a duty to notify the finding within 28 days, in accordance with section 11(3) of the Protected Objects Act 1975.

(4) The obligations of the chief executive under section 11(4) of the Protected Objects Act 1975 apply, but with the following modifications:

(a) the relevant customary marine title group is entitled to have interim custody of the taonga tūturu, at the discretion of the chief executive and subject to any conditions that the chief executive considers fit; and

(b) the public notice given by the chief executive must provide for a period of 6 months from the date of the notice for any claims of ownership to the taonga tūturu to be lodged.

(5) To avoid doubt, the discretion conferred on the chief executive or other person by section 11(2) of the Protected Objects Act 1975 to apply to the Māori Land Court also applies under this section.

(6) If no competing claims have been lodged with the chief executive after 6 months from the date of the notice given under subsection (4)(b), the relevant customary marine title group becomes the owner of the taonga tūturu.

(7) If competing claims are lodged in respect of the taonga tūturu within the specified time,—

(a) the relevant customary marine title group must be treated as having also lodged a claim for the ownership of the taonga tūturu; and

(b) the ownership of the taonga tūturu must be determined in accordance with sections 11(6) and (7) and 12 of the Protected Objects Act 1975.

(8) Section 11(8) and (9) of the Protected Objects Act 1975 apply to the finding of taonga tūturu to which this section applies.

(9) In this section, **relevant customary marine title group** means the group that holds a customary marine title order or has entered into an agreement in relation to the part of the common marine and coastal area where the taonga tūturu is found.

Status of minerals

83 Status of minerals in customary marine title area

(1) This section applies on and after the effective date.

(2) A customary marine title group has, and may exercise, ownership of minerals (other than petroleum, gold, silver, and uranium existing in their natural condition) that are within the customary marine title area of that group.

(3) The reservation of minerals in favour of the Crown continued by section 16(2) ceases.

(4) This section does not limit or have any effect on section 11(1A) of the Crown Minerals Act 1991 (which excludes the reservation of minerals in favour of the Crown from applying to pounamu to which section 3 of the Ngai Tahu (Pounamu Vesting) Act 1997 applies).

84 Status of existing privileges within common marine and coastal area

(1) Despite section 83(2) and (3), the following privileges, rights, obligations, functions, and powers (including those preserved by the transitional provisions in Part 2 of the Crown Minerals Act 1991) continue as if section 83 had not been enacted:

(a) privileges in existence immediately before the effective date; and

(b) rights that can be exercised under the Crown Minerals Act 1991 by the holders of those privileges or any other person; and

(c) subsequent rights and privileges granted to those holders or any other person following the exercise of the rights referred to in paragraph (b) (including those provided for by section 32 of the Crown Minerals Act 1991); and

(d) the obligations on those holders or any other person imposed by or under the Crown Minerals Act 1991; and

(e) the exercise by the Crown of its functions and powers under the Crown Minerals Act 1991 in relation to any of the matters referred to in paragraphs (a) to (d).

(2) A customary marine title group is entitled to receive the following royalties:

(a) from the Crown, any royalties due to the Crown under the Crown Minerals Act 1991 in respect of minerals (other than petroleum, gold, silver, and uranium existing in their natural condition) that are subject to any privilege referred to in subsection (1)(a) to (d) that applies to its customary marine title area; and

(b) from the regional council, any royalties for sand and shingle taken from the customary marine title area imposed by regulations made under the Resource Management Act 1991.

(3) Royalties due under subsection (2)—

(a) are payable on and after the date on which—

(i) a customary marine title order is sealed under section 113; or

(ii) an agreement is brought into effect under section 96(1)(b); but

(b) must be calculated from the date on which an application is made for—

(i) a recognition agreement under section 95; or

(ii) a recognition order under section 100.

Section 84(2)(b): replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Planning document

85 Planning document

(1) A customary marine title group has a right to prepare a planning document in accordance with its tikanga.

(2) The purposes of the planning document are—

(a) to identify issues relevant to the regulation and management of the customary marine title area of the group; and

(b) to set out the regulatory and management objectives of the group for its customary marine title area; and

(c) to set out policies for achieving those objectives.

(3) A planning document may include any matter that can be regulated under the enactments specified in subsection (5), including matters that are relevant to—

(a) promoting the sustainable management of the natural and physical resources of the customary marine title area; and

(b) the protection of the cultural identity and historic heritage of the group.

(3A) *[Repealed]*

(4) A planning document may relate—

(a) only to the customary marine title area of the group; or

(b) if it relates to areas outside the customary marine title area, only to the part of the common marine and coastal area where the group exercises kaitiakitanga.

(5) The planning document may include only matters that may be regulated under—

(a) the Conservation Act 1987 or the Acts listed in Schedule 1 of that Act:

(b) the Heritage New Zealand Pouhere Taonga Act 2014:

(c) the Local Government Act 2002:

(d) the Resource Management Act 1991.

Section 85(2)(b): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 85(2)(c): replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 85(3): replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 85(3A): repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 85(5): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 85(5)(b): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 85(5)(d): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

86 Lodging and registration of planning document

(1) A planning document is of no effect until it is lodged with—

(a) the regional council with jurisdiction in the region to which the planning instrument relates; and

(aa) *[Repealed]*

(b) any of the agencies referred to in sections 88 to 91A whose jurisdiction is relevant to the contents of the planning document; and

(c) the chief executive.

(2) A document is deemed to be registered on the day that is 20 working days after it is first lodged with an agency.

Section 86(1)(aa): repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 85(1)(b): amended, on 24 August 2023, by section 805(3) of the Natural and Built Environment Act 2023 (2023 No 46).

87 Transitional provision

The obligations arising under sections 89 and 91 do not apply to applications for resource consents or other approvals that are accepted before a planning document is lodged under section 86(1).

Obligations arising in respect of customary marine title planning documents

88 Obligation on local authorities

(1) This section applies if a planning document is lodged with a local authority that has statutory functions in the district or region where the customary marine title area is located.

(2) On and after the date that a planning document is registered, the local authority must take the planning document into account when making any decision under the Local Government Act 2002 in relation to the customary marine title area.

89 Obligation on Heritage New Zealand Pouhere Taonga

If a customary marine title group lodges a planning document with Heritage New Zealand Pouhere Taonga, on and after the date that the planning document is registered,—

(a) Heritage New Zealand Pouhere Taonga must have particular regard to matters set out in the document that relate to the functions of Heritage New Zealand Pouhere Taonga when considering an application under section 44 of the Heritage New Zealand Pouhere Taonga Act 2014 to destroy or modify an archaeological site within the customary marine title area of the group; and

(b) in the event of an appeal under section 58 of that Act against a decision of Heritage New Zealand Pouhere Taonga made under paragraph (a), the Environment Court must have particular regard to the planning document.

Section 89 heading: amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 89: amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 89(a): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 89(b): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

90 Obligation on Director-General

(1) If a customary marine title group lodges a planning document with the Director-General, the Director-General must, on and after the date that a planning document is registered, take into account the relevant matters set out in the document when reviewing or amending a conservation management strategy that directly affects the customary marine title area of the group that lodged the planning document.

(2) In this section, **conservation management strategy** has the meaning given in section 2(1) of the Conservation Act 1987.

91 Obligation on Minister of Fisheries

(1) If a customary marine title group lodges a planning document with the Minister of Fisheries, the Minister must, on and after the date that the planning document is registered, have regard to the planning document to the extent that it is relevant to fisheries management when setting or varying sustainability measures under section 11(1) of the Fisheries Act 1996 if these measures apply to an area that includes, wholly or in part, the customary marine title area of the group.

(2) This section—

(a) does not extend the scope of the rights conferred by section 85 or 86 or give a customary marine title group the right to include fisheries or other matters in a planning document; and

(b) relates only to matters—

(i) included in a planning document that are provided for by the Resource Management Act 1991; and

(ii) that are relevant to fisheries management.

91A Obligations on Minister of Aquaculture

If a customary marine title group lodges a planning document with the Minister of Aquaculture, the Minister must consider the document when deciding under section 360B of the Resource Management Act 1991 to recommend the making of regulations that directly affect the customary marine title area of the group.

Section 91A: replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

92 Interpretation

In this section and section 93, unless the context otherwise requires,—

regional document means any of the following:

(a) a regional plan or regional policy statement (within the meanings given in section 43AA of the Resource Management Act 1991):

(b) a proposed regional plan or proposed policy statement (within the meanings of sections 43AA and 43AAC of that Act)

relevant regional document means a regional document that relates, directly or indirectly, to all or part of the area to which a planning document applies.

Section 92 **regional document**: replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

93 Obligations on regional councils in relation to planning documents

Preliminary obligations

(1) A regional council with functions in a region where 1 or more planning documents are registered in accordance with section 86 must, until the requirements of subsection (5) have been completed, attach the planning documents to copies of its relevant regional documents that it makes publicly available.

Identification and application of resource management matters included in planning document

(2) Between the time that a planning document is lodged under section 86(1) and the time it is deemed to be registered under section 86(2), a regional council must identify the matters in the planning document that relate to resource management issues within its functions under the Resource Management Act 1991, to the extent that those matters are relevant within—

(a) the customary marine title area to which the planning document relates; and

(b) any parts of the common marine and coastal area to which the planning document relates other than the customary marine title area.

(3) When considering, under section 104 of the Resource Management Act 1991, a resource consent application for an activity that would, if the consent were granted, directly affect, wholly or in part, the area to which the planning document applies, a consent authority of a regional council must have regard to any matters identified under subsection (2).

(4) The obligation under subsection (3) applies only to the matters in respect of which a regional council is able to exercise discretion.

(5) The obligation under subsection (3) continues until—

(a) a regional document, altered in accordance with this section, becomes operative in accordance with Schedule 1 of the Resource Management Act 1991; or

(b) 30 working days after the date that the customary marine title group is informed of the decision under subsection (11) that no alterations are to be made to the relevant regional documents.

Obligations with respect to relevant regional documents

(6) A regional council must initiate a process to determine whether to alter its relevant regional documents, if and to the extent that any alteration would achieve the purpose of the Resource Management Act 1991, in order to—

(a) recognise and provide for any matters identified under subsection (2)(a); and

(b) take into account any matters identified under subsection (2)(b).

(7) The process required by subsection (6) may be commenced—

(a) at any time after a planning document is registered; but

(b) not later than the first proposed change to, or variation or review of, any provision in a relevant regional document that applies to a customary marine title area.

(8) In making a determination under subsection (6), a regional council must consider the extent to which alterations must be made to its relevant regional documents to—

(a) recognise and provide for the matters in a planning document that relate to the customary marine title area; and

(b) take into account the matters in a planning document that relate to the parts of the common marine and coastal area other than the customary marine title area.

(9) The obligations on a regional council under subsection (8) must be carried out in accordance with the requirements and procedures that relate to regional documents in—

(a) Part 5 of the Resource Management Act 1991; and

(b) Schedule 1 of that Act.

(10) A regional council may decide, in conducting the process required by subsection (6), not to alter its relevant regional documents, but only on the grounds that the matters in the planning document—

(a) are already provided for in a relevant regional document; or

(b) would not achieve the purpose of the Resource Management Act 1991; or

(c) would be more effectively and efficiently addressed in another way.

(11) If a regional council determines that no alterations should be notified in a proposed policy statement or plan that is notified under clause 5 of Schedule 1 of the Resource Management Act 1991, it must inform the customary marine title group in writing and provide reasons for its decision within 5 working days of that decision.

(12) If an application is made to a regional council under Part 2 of Schedule 1 of the Resource Management Act 1991 for a private plan change that includes a

customary marine title area in respect of which a planning document has been lodged,—

(a) the provisions of Part 2 of that schedule apply to the application, subject to the regional council having regard to any matters in the planning document when making a decision under clause 25 of that schedule; and

(b) if the private plan change is not rejected or treated as a resource consent application, the regional council must adopt the request and initiate the process required by subsection (6).

Section 93: replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Part 4
Administrative and miscellaneous matters

Recognition of customary interests

94 Recognition of protected customary rights and customary marine title

(1) A protected customary right or customary marine title relating to a specified part of the common marine and coastal area may be recognised by—

(a) an agreement made in accordance with section 95 and brought into effect under section 96; or

(b) an order of the Court made on an application under section 100.

(2) A protected customary right or customary marine title may not be recognised in any other way.

Subpart 1—Recognition agreements

95 Recognition agreements

(1) An applicant group and the responsible Minister on behalf of the Crown may enter into an agreement recognising—

(a) a protected customary right:

(b) customary marine title.

(2) Subsection (1) does not apply unless the applicant group, not later than 6 years after the commencement of this Act, has given notice to the responsible Minister of its intention to seek an agreement recognising a protected customary right or customary marine title.

(3) Nothing requires the Crown to enter into the agreement, or to enter into negotiations for the agreement: in both cases this is at the discretion of the Crown.

(4) The Crown must not enter into an agreement unless the applicant group satisfies the Crown that,—

(a) in the case of a protected customary right, the requirements in section 51 are met; or

(b) in the case of customary marine title, the requirements in section 58 are met.

96 How recognition agreements to be brought into effect

(1) An agreement is of no effect unless and until it is brought into effect,—

(a) in the case of an agreement to recognise a protected customary right, on the date prescribed by an Order in Council, which must also specify—

(i) the applicant group in sufficient detail to identify it; and

(ii) the area to which the agreement relates, with a map or diagram that is sufficient to identify the area; and

(b) in the case of an agreement to recognise customary marine title, by an Act of Parliament on the date specified in the enactment.

(2) The responsible Minister must introduce legislation into Parliament that contains the full text of the agreement for the purpose of subsection (1)(b).

(3) An order under subsection (1)(a) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 96(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

97 Notification of agreement recognising protected customary rights

The responsible Minister must, without delay, provide a copy of any agreement recognising a protected customary right and brought into effect under section 96(1)(a) to—

(a) the chief executive; and

(b) the local authorities that are affected by the agreement; and

(c) the Minister of Conservation; and

(d) the Minister of Fisheries; and

(e) the Minister of Māori Affairs; and

(f) any other person who the responsible Minister considers is directly affected by the agreement.

Subpart 2—Recognition by order of Court

98 Court may recognise protected customary right or customary marine title

(1) The Court may make an order recognising a protected customary right or customary marine title (a **recognition order**).

(2) The Court may only make an order if it is satisfied that the applicant,—

(a) in the case of an application for recognition of a protected customary right, meets the requirements of section 51(1); or

(b) in the case of an application for recognition of customary marine title, meets the requirements of section 58.

(3) No other court has jurisdiction to make a recognition order.

(4) On and after the commencement of this Act, the jurisdiction of the Court to hear and determine any aboriginal rights claim is replaced fully by the jurisdiction of the Court under this Act.

(5) In subsection (4), **aboriginal rights claim** means any claim in respect of the common marine and coastal area that is based on, or relies on, customary rights, customary title, aboriginal rights, aboriginal title, the fiduciary duty of the Crown, or any rights, titles, or duties of a similar nature, whether arising before, on, or after the commencement of this Act and whether or not the claim is based on, or relies on, any 1 or more of the following:

(a) a rule, principle, or practice of the common law or equity:

(b) the Treaty of Waitangi:

(c) the existence of a trust:

(d) an obligation of any kind.

(6) Nothing in this section limits section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

(7) Subsection (3) does not limit section 112.

99 Court may refer to Māori Appellate Court or pūkenga for opinion or advice on tikanga

(1) If an application for a recognition order raises a question of tikanga, the court may—

(a) refer that question in accordance with section 61 of Te Ture Whenua Maori Act 1993 to the Māori Appellate Court for its opinion; or

(b) obtain the advice of a court expert (a **pūkenga**) appointed in accordance with the High Court Rules 2016 who has knowledge and experience of tikanga.

(2) The opinion of the Māori Appellate Court is binding on the Court but the advice of a pūkenga is not.

Section 99(1)(b): amended, on 18 October 2016, by section 183(c) of the Senior Courts Act 2016 (2016 No 48).

Application for recognition order

100 Who may apply

(1) An applicant may apply to the Court—

(a) for a recognition order; or

(b) to vary or cancel a recognition order.

(2) However, the application must be filed not later than 6 years after the commencement of this Act, and the Court must not accept for filing or otherwise consider any application that purports to be filed after that date.

101 Contents of application

An application for a recognition order must—

(a) state whether it is an application for recognition of a protected customary right, or of customary marine title, or both; and

(b) if it is an application for recognition of a protected customary right, describe that customary right; and

(c) describe the applicant group; and

(d) identify the particular area of the common marine and coastal area to which the application relates; and

(e) state the grounds on which the application is made; and

(f) name a person to be the holder of the order as the representative of the applicant group; and

(g) specify contact details for the group and for the person named to hold the order; and

(h) be supported by an affidavit or affidavits that set out in full the basis on which the applicant group claims to be entitled to the recognition order; and

(i) contain any other information required by regulations made under section 118(1)(i).

102 Service of application

The applicant group applying for a recognition order must serve the application on—

(a) the local authorities that have statutory functions in the area of the common marine and coastal area to which the application relates; and

(b) any local authority that has statutory functions in the area adjacent to the area of the common marine and coastal area to which the application relates; and

(c) the Solicitor-General on behalf of the Attorney-General; and

(d) any other person who the Court considers is likely to be directly affected by the application.

103 Public notice of application

(1) The applicant group applying for a recognition order must give public notice of the application not later than 20 working days after filing the application.

(2) The public notice must include, as a minimum,—

(a) the name of the applicant group and its description as an iwi, hapū, or whānau, whichever applies; and

(b) a brief description of the application, including whether it is an application for recognition of a protected customary right or of customary marine title or both; and

(c) a description of the particular area of the common marine and coastal area to which the application relates; and

(d) the name of the person who is proposed as the holder of the order; and

(e) in the case of an application for recognition of a protected customary right, a description of the right; and

(f) a date that complies with subsection (3) for filing a notice of appearance in support of or in opposition to the application; and

(g) the registry of the Court for filing the notice of appearance.

(3) The date for filing a notice of appearance must not be less than 20 working days after the first public notice of the application is published.

104 Who may appear on application for recognition order

Any interested person may appear and be heard on an application for a recognition order if that person has, by the due date, filed a notice of appearance.

105 Evidence

In hearing an application for a recognition order, the Court may receive as evidence any oral or written statement, document, matter, or information that the Court considers to be reliable, whether or not that evidence would otherwise be admissible.

106 Burden of proof

(1) In the case of an application for recognition of protected customary rights in a specified area of the common marine and coastal area, the applicant group must prove that the protected customary right—

(a) has been exercised in the specified area; and

(b) continues to be exercised by that group in the same area in accordance with tikanga.

(2) In the case of an application for the recognition of customary marine title in a specified area of the common marine and coastal area, the applicant group must prove that the group—

(a) holds the specified area in accordance with tikanga, as required by section 58(1)(a); and

(b) had exclusive use and occupation of the specified area from the start to the end of the applicable period without substantial interruption, as required by section 58(1)(b)(i) or (ii).

(3) In the case of every application for a recognition order, it is presumed, in the absence of proof to the contrary, that a customary interest has not been extinguished.

Section 106(2): replaced, on 25 October 2025, by section 11 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

107 Court's flexibility in dealing with application

(1) The Court may, if it considers that an application for recognition of a protected customary right is more appropriately decided as an application for recognition of customary marine title, treat it as the latter.

(2) The Court may, if it considers that an application for recognition of customary marine title is more appropriately decided as an application for recognition of a protected customary right, treat it as the latter.

(3) The Court may strike out all or part of an application for a recognition order or a notice of appearance filed under section 104 if it—

(a) discloses no reasonably arguable case; or

(b) is likely to cause prejudice or delay; or

(c) is frivolous or vexatious; or

(d) is otherwise an abuse of the Court.

(4) If the Court strikes out an application under subsection (3), it may by the same or a subsequent order dismiss the application.

(5) Instead of striking out all or part of an application under subsection (3), the Court may stay all or part of the application on such conditions as are considered just.

(6) This section does not affect the Court's inherent jurisdiction.

108 Rules governing procedure

Rules not inconsistent with this Act may be made under section 148 of the Senior Courts Act 2016 to regulate the practice and procedure of the Court or the Court of Appeal or the Supreme Court in relation to any application to the Court under this Act.

Section 108: amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

Recognition orders

109 Form of recognition order

(1) An applicant group in whose favour the Court grants recognition of a protected customary right or customary marine title must submit a draft order for approval by the Registrar of the Court.

(2) Every recognition order must specify—

(a) the particular area of the common marine and coastal area to which the order applies; and

(b) the group to which the order applies; and

(c) the name of the holder of the order; and

(d) contact details for the group and for the holder.

(3) A protected customary rights order must also include—

(a) a description of the right, including any limitations on the scale, extent, or frequency of the exercise of the right; and

(b) a diagram or map that is sufficient to identify the area.

(4) Every customary marine title order must include—

(a) a survey plan that sets out the extent of the customary marine title area, to a standard of survey determined for the purpose by the Surveyor-General; and

(b) a description of the customary marine title area; and

(c) any prohibition or restriction that is to apply to a wāhi tapu or wāhi tapu area within the customary marine title area.

110 Requirements for notification of orders

(1) Not later than 5 working days after a recognition order has been sealed, the Registrar of the Court must provide a copy of it to—

(a) the responsible Minister; and

(b) the chief executive.

(2) The responsible Minister must—

(a) publish a minute of the sealed order, including any wāhi tapu conditions, in the *Gazette*; and

(b) send a copy of the sealed order to—

(i) the local authorities that have statutory functions in the area of the common marine and coastal area to which the order applies; and

(ii) any local authorities with statutory functions in an area adjacent to the area of the common marine and coastal area to which the order applies; and

(iia) *[Repealed]*

(iii) the Minister of Conservation; and

(iv) the Minister of Māori Affairs; and

(v) each person who appeared on the application; and

(vi) any other person that the Court directs.

(3) If a customary marine title order includes recognition of wāhi tapu or wāhi tapu areas, the responsible Minister must—

(a) publicly notify the conditions; and

(b) give written notice of the conditions to—

(i) the customary marine title group; and

(ii) Heritage New Zealand Pouhere Taonga.

Section 110(2)(b)(iia): repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 110(3)(b)(ii): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

111 Recognition order may be varied or cancelled

(1) The Court may—

(a) vary a recognition order, including—

(i) varying any of the matters referred to in section 109(2); and

(ii) varying or cancelling a protected customary right or customary marine title that has been delegated or transferred under section 53 or 60(3); or

(b) cancel a recognition order.

(2) However, the Court may vary a recognition order only if the requirements of section 51 or 58, as the case requires, are met by the variation.

(3) In the case of a variation, the variation—

(a) must not have the effect of depriving the group to which the order applied before variation of the benefits of the order; but

(b) does not preclude the transfer or delegation of a right in accordance with tikanga.

(4) An application for variation or cancellation of a recognition order may be made only by—

(a) the holder of the order; or

(b) a representative of the group to which the order applies, if the holder—

(i) has ceased to exist; or

(ii) being a natural person, has died or no longer has legal capacity.

(5) The Court must not vary or cancel the order unless it is satisfied that—

(a) the applicant is authorised to apply for the variation or cancellation by the group to which the order applies; and

(b) the applicant has given sufficient notice of the application to that group; and

(c) there has been sufficient opportunity for that group to consider the application and make its views known to the applicant; and

(d) that group has no meritorious objections to the application that would require the Court to decline the application.

(6) Sections 101 to 108 apply, with necessary modifications, to an application under this section.

(7) Sections 110 and 113 apply, with the necessary modifications, to the sealing and notification of a variation to, or cancellation of, a recognition order under this section.

Appeal rights

112 Right of appeal against decision of Court

(1) A party to a proceeding under this subpart who is dissatisfied with a decision of the Court may appeal to the Court of Appeal on a matter of fact or law.

(2) In relation to a proceeding under this subpart, the Crown—

(a) may lodge an appeal on a matter of fact or law (whether or not it was a party to the proceedings in the Court) and must be treated as a party to the appeal; or

(b) may apply to be an intervener in the proceedings.

(3) An appeal made under this section must be commenced by notice of appeal, given in accordance with the Court of Appeal (Civil) Rules 2005.

Sealing of recognition orders

113 Orders sealed by Court

A recognition order must be sealed—

(a) on the application of the applicant group; but

(b) not before the expiry of the appeal period or the disposal of any appeal.

Subpart 3—Marine and coastal area register

114 Marine and coastal area register

(1) The chief executive must keep a marine and coastal area register (the **register**) as a permanent record of—

(a) recognition orders, including those varied or cancelled; and

(b) agreements brought into effect, including those varied or cancelled; and

(c) planning documents registered in accordance with section 86(2); and

(d) notices given under section 57 of any controls imposed by the Minister of Conservation under section 56.

(2) The chief executive must enter a document on the register without delay after—

(a) receiving it under section 86, 97, or 110; or

(b) an agreement is brought into force under section 96(1).

(3) The chief executive may only enter a document on the register if he or she is satisfied that the document meets all the requirements for registration.

(4) No compensation is payable by the Crown for any loss or damage arising from the operation of this section.

115 Requirements for keeping register

(1) The register must be held in the safe custody of the chief executive.

(2) The register may be kept—

(a) in an electronic, electromagnetic, optical, digital, or photographic system or process; or

(b) as a paper record; or

(c) by other means for recording, reproducing, copying, or storing information; or

(d) in any combinations of these processes, systems, or means.

116 Inspection and copying

(1) All orders and other documents contained in the register must be available for public inspection and copying, and copies may be supplied to any person upon request on payment of the prescribed fee (if any).

(2) The right to inspect and copy orders and other documents includes the right to receive,—

(a) in the case of an order or other document that is a paper record, a paper copy of the order or other document; and

(b) in the case of an instrument recorded by a process, system, or means other than as a paper record, a paper document that records the content of the instrument.

117 Application of Privacy Act 1993

[Repealed]

Section 117: repealed, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

Subpart 4—Regulations and miscellaneous matters

Regulations and bylaws

118 Regulations for administrative purposes

(1) The Governor-General may, by Order in Council, make regulations for any of the following purposes:

(a) prescribing the duties of the chief executive in relation to the register:

(b) providing for the appointment of wardens under section 80, the qualification for appointment, the terms of those appointments (including the responsibility of the customary marine title group for their funding), and the termination of such appointments:

(c) prescribing additional functions of wardens appointed under section 80, being functions that are reasonably incidental to the functions specified in that section:

(d) prescribing any duties or powers to be exercised by wardens for the purpose of performing their functions:

(e) prescribing the means (including, without limitation, identity cards or badges, or both) by which wardens are to be identified:

(f) giving directions relating to the management of wardens by a customary marine title group whose customary marine title order includes prohibitions and restrictions in respect of a wāhi tapu or wāhi tapu area:

(g) prescribing the steps that a regional council must or may take in undertaking an inquiry under section 19(2):

(h) prescribing the fees payable, or the methods or rates by which fees are to be assessed, for—

(i) the consideration and processing of applications made, or actions taken, under sections 34 to 45:

(ii) decisions made under Schedule 2:

(iii) public inspection and copying of documents on the register:

(i) prescribing the information that must be included in applications made under subpart 1 or 2:

(j) prescribing the information that the chief executive may require for the purposes of section 114:

(k) providing for any other matters contemplated by this Act or necessary for giving it full effect.

(2) Regulations made under subsection (1) must be made on the advice of the Minister of Justice, after consultation with the responsible Minister who must consult with the customary marine title groups that appear to the Minister to be likely to be affected by the regulations.

(3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 118(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

119 Minister of Conservation to perform residual management functions

(1) The Minister of Conservation may perform a managerial or administrative function provided for or contemplated by this Act or by any regulations or bylaws made under section 120 or 121 in respect of the common marine and coastal area but only if, and to the extent that, the same or similar function is not conferred on the local authority or other person with responsibility for the relevant part of the common marine and coastal area in which the function is to be performed.

(2) Nothing in this section or in any regulations or bylaws made under section 120 or 121 limits any power conferred under an enactment on a local authority or any other person that may be exercised in respect of the common marine and coastal area.

(3) In performing and exercising the functions, duties, and powers under this section and under sections 120 and 121, the Minister of Conservation must act consistently with the purpose stated in section 4.

120 Regulations for management of common marine and coastal area

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Conservation, make regulations for all or any of the following purposes:

(a) the safety and protection of members of the public who exercise rights of access or navigation in or over the common marine and coastal area or any specified part of that area:

(b) the preservation or protection of the natural environment of the common marine and coastal area or any specified part of that area:

(c) prohibiting or regulating the construction or use of structures in the common marine and coastal area or any specified part of that area, and providing for the removal or destruction of those structures:

(d) prohibiting or regulating the placing or deposit of objects in the common marine and coastal area or any specified part of that area, and providing for the removal or destruction of those objects:

(e) prescribing offences punishable on conviction by a fine not exceeding $5,000 in any one case:

(f) providing for any other matters contemplated by this Part, necessary for its administration, or necessary for giving it full effect.

(2) The Minister of Conservation must not make a recommendation under subsection (1) unless satisfied that—

(a) the proposed regulations are necessary for the proper management of the common marine and coastal area or of the specified part to which the proposed regulations relate; and

(b) the objectives of the proposed regulations cannot be, or are not being, achieved under an existing enactment.

(3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 120(1)(e): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 120(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

121 Bylaws

(1) The Minister of Conservation may make bylaws for any specified part of the common marine and coastal area for all or any of the following purposes:

(a) prohibiting or regulating the use or parking of vehicles in a specified part of the common marine and coastal area:

(b) regulating the use or mooring of vessels in the specified part of a common marine and coastal area:

(c) prohibiting the hovering or landing of any aircraft, as defined in section 5 of the Civil Aviation Act 2023, over or in a specified part of the common marine and coastal area:

(d) prescribing fines, not exceeding $500 in any one case, for the breach of any bylaws made under this section.

(2) The Minister of Conservation must not make any bylaws under subsection (1) unless satisfied that—

(a) the proposed bylaws are necessary for the proper management of the specified part of the common marine and coastal area to which the proposed bylaws relate; and

(b) the objectives of the proposed bylaws cannot be, or are not being, achieved under an existing enactment.

(3) Bylaws under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 121(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 121(1)(c): amended, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Section 121(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

122 Persons breaching regulations or bylaws may be directed to stop

(1) If a person in the common marine and coastal area is engaging in an activity that the Director-General or a delegate of the Director-General has reasonable grounds to believe constitutes a breach of any regulations made under section 120 or any bylaws made under section 121, the Director-General or the delegate may direct the person to stop that activity.

(2) If the Director-General or a delegate of the Director-General has reasonable grounds to believe that the use or the location of a vehicle, vessel, or other moveable thing in the common marine and coastal area constitutes a breach of any regulations made under section 120 or any bylaws made under section 121, the Director-General or the delegate may—

(a) take charge, or authorise another person to take charge, of the vehicle, vessel, or thing for the purpose of moving it or preparing it for movement; and

(b) move, or authorise another person to move, the vehicle, vessel, or thing to another location.

(3) A person who intentionally fails to comply with a direction given under subsection (1) commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding $5,000 or to both.

(4) Every person who fails to comply with a direction given under subsection (1) may be arrested without warrant by any constable.

(5) The Director-General may from time to time, either generally or particularly, delegate the power conferred by subsection (1) or (2) to any of the following persons:

(a) a warranted officer within the meaning of the Conservation Act 1987:

(b) employees of local authorities.

(6) Subsection (5) does not limit clauses 2 to 4 of Schedule 6 of the Public Service Act 2020, and those sections apply with any necessary modifications to any delegation under subsection (5).

(7) Before a delegate exercises a power under subsection (1) or (2), the delegate must produce his or her warrant of appointment or other evidence of his or her authority.

Section 122(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 122(6): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Local Acts

123 Relationship between local Acts and this Act

(1) If a provision of a local Act is inconsistent with a provision of this Act, the provision of this Act prevails.

(2) Despite subsection (1), to the extent that there is any conflict between this Act and the following Acts, those Acts prevail over this Act:

(a) the Timaru Harbour Board Act 1876 Amendment Act 1881:

(b) the Timaru Harbour Board Reclamation and Empowering Act 1980:

(c) the Wellington Harbour Board and Wellington City Council Vesting and Empowering Act 1987.

References

124 References to public foreshore and seabed

(1) On and after the commencement of this Act, a reference in any instrument to the public foreshore and seabed is taken to be a reference to the common marine and coastal area unless on the facts of any particular case the relevant part of the public foreshore and seabed is excluded from the common marine and coastal area by or under this Act.

(2) Subsection (1) does not apply to any document filed, served, or issued in any proceeding commenced under, or in reliance on, the Foreshore and Seabed Act 2004.

Transitional arrangements

125 Pending proceedings under Foreshore and Seabed Act 2004

(1) On the commencement of this Act, all applications made under the Foreshore and Seabed Act 2004 to the Māori Land Court for customary rights orders and not finally determined under that Act before the commencement of this Act

must, without further authority than this section, be transferred to the High Court.

(2) The High Court must treat applications transferred under subsection (1) as if they were applications made under subpart 2 for orders recognising protected customary rights.

(3) The High Court—

(a) must give priority to applications transferred under this section ahead of any applications made under subpart 2:

(b) may deem any of the steps that are required for a proceeding under the High Court Rules 2016 to have been met by the applications transferred under this section:

(c) may give directions to applicants to take such steps that, in the opinion of the High Court, are necessary to enable the proceedings to be completed.

(4) An application made under section 33 of the Foreshore and Seabed Act 2004 for a finding that a group would have held territorial customary rights is to be treated by the High Court as an application under subpart 2 for an order recognising customary marine title.

Section 125(3)(b): amended, on 18 October 2016, by section 183(c) of the Senior Courts Act 2016 (2016 No 48).

Notices

126 Giving of notices

(1) If a notice or other document is to be given or served on a person under this Act, it must be given in writing—

(a) by personal service; or

(b) by registered post addressed to the person at the person's usual or last known place of business or residence; or

(c) by service on the person's lawyer or another person authorised to act on behalf of that person; or

(d) by registered post to that other person; or

(e) by electronic transmission to the person or that person's lawyer or another person authorised to act on behalf of that person, including transmission by fax, electronic mail, or electronic data transfer.

(2) A notice or document sent by post or registered post is deemed to have been given or received 7 days after the date on which it was posted, unless the person to whom it was sent proves that, other than through that person's fault, the notice or document was not received.

Amendments to other enactments

127 Amendment to section 7 of Conservation Act 1987

(1) This section amends the Conservation Act 1987.

(2) Section 7 of the Conservation Act 1987 is amended by inserting the following subsection after subsection (1A):

(1B) In the case of land that is foreshore within the common marine and coastal area, the Minister may declare, by notice in the *Gazette* describing the land, that the land is held for conservation purposes.

128 Consequential amendments to other enactments

The enactments specified in Schedule 3 are amended in the manner specified in that schedule.

Schedule 1AA
Transitional, savings, and related provisions

[Repealed]

s 9A

Schedule 1AA: repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Part 1
Provisions relating to Natural and Built Environment Act 2023 and Spatial Planning Act 2023

[Repealed]

Schedule 1AA Part 1: repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

1 Definitions

[Repealed]

Schedule 1AA clause 1: repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

2 Lodgement and consideration of planning documents during applicable interim period

[Repealed]

Schedule 1AA clause 2: repealed, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Schedule 1AA
Transitional, savings, and related provisions

ss 9A, 9C, 59B

Schedule 1AA: inserted, on 25 October 2025, by section 12 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Part 1
Provisions relating to CMT Amendment Act

Schedule 1AA Part 1: inserted, on 25 October 2025, by section 12 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

1 Definitions

In this Part, unless the context otherwise requires,—

announcement time means midnight on 25 July 2024

commencement means the commencement of the CMT Amendment Act

CMT Amendment Act has the meaning given in section 9(1)

CMT amendments has the meaning given in section 9(1)

CMT decision means a decision relating to whether customary marine title exists in a specified area of the common marine and coastal area and that is—

(a) a decision made by the responsible Minister on behalf of the Crown relating to a notice of intention (*see* section 95)—

  (i) to seek an agreement recognising customary marine title; and

  (ii) given by an applicant group; or

(b) a decision made by the Court (as defined in this clause) relating to an application (*see* sections 98 and 100)—

  (i) for a recognition order recognising customary marine title; and

  (ii) made by an applicant group

decision made by the Court, for the purposes of paragraph (b) of the definition of CMT decision, includes, but is not limited to, each of the following done, made, or issued by or on behalf of the Court:

(a) an interlocutory decision (for example, a direction, minute, or order) of any kind:

(b) any consideration or any hearing, of any kind, in part or in full, of one or both of—

  (i) an interlocutory matter:

  (ii) a substantive matter:

(c) a substantive decision (for example, a direction, minute, or order) of any kind

interim period means the period that—

(a) starts at the announcement time; and

(b) ends on the commencement

old law means the following provisions (as in force before the announcement time, and as interpreted by courts before, at, or after that time):

(a) subpart 3 (customary marine title) of Part 3 (customary interests):

(b) provisions of this Act that relate to that subpart (for example, related definitions in section 9 and related provisions in section 106 (burden of proof)).

Schedule 1AA clause 1: inserted, on 25 October 2025, by section 12 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

2 CMT amendments do not apply to CMT decision made at announcement time

Main rule

(1) The CMT amendments do not apply to or affect a CMT decision made—

(a) before or at the announcement time; and

(b) under the old law.

(2) The CMT amendments also do not apply to or affect the following, made before the announcement time, that give effect to a CMT decision of a kind specified in subclause (1):

(a) an agreement made and entered into under section 95 that recognises and provides for customary marine title:

(b) a customary marine title order made under section 98(1) that recognises customary marine title.

Related interlocutory applications, appeals, or rehearings

(3) The old law continues to apply to any interlocutory application, appeal, or rehearing related to a CMT decision of a kind specified in subclause (1).

If CMT decision not given effect to in agreement or order

(4) This clause applies even if, at the announcement time, a CMT decision of a kind specified in subclause (1) is not given effect to in—

(a) an agreement made and entered into under section 95 that recognises and provides for customary marine title; or

(b) a customary marine title order made under section 98(1) that recognises customary marine title.

(5) A CMT decision to which subclause (4) applies may, after the announcement time, be given effect to in an agreement or an order specified in subclause (4)(a) or (b).

Schedule 1AA clause 2: inserted, on 25 October 2025, by section 12 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

3 CMT amendments apply to CMT decision made after announcement time

Main rule

(1) The CMT amendments apply to a CMT decision made after the announcement time.

Related interlocutory applications, appeals, or rehearings

(2) The CMT amendments apply to any interlocutory application, appeal, or rehearing related to a CMT decision of a kind specified in subclause (1).

Effect of consideration, without decision, at announcement time

(3) This clause applies even if, at the announcement time,—

(a) the Crown has considered, but has not decided, whether the applicant group has satisfied the Crown that the group has satisfied the requirements of the old law; or

(b) the Court has considered, but has not decided, whether the applicant group has satisfied the Court that the group meets the requirements of the old law.

Schedule 1AA clause 3: inserted, on 25 October 2025, by section 12 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

4 Certain CMT decisions made in interim period, and related agreements and orders made, have no legal effect and never have had legal effect

CMT decisions based on old law (as in force in interim period)

(1) A CMT decision must be taken to have no legal effect, and never to have had legal effect, if it was made—

(a) in the interim period; and

(b) in accordance with the old law (as in force in the interim period).

Related agreements

(2) An agreement must be taken to have no legal effect, and never to have had legal effect,—

(a) if it was made and entered into—

(i) in the interim period; and

(ii) under section 95; and

(b) to the extent that it gives effect to a CMT decision to which subclause (1) applies.

Related customary marine title orders

(3) A customary marine title order (whether or not sealed under section 113) must be taken to have no legal effect, and never to have had legal effect, if it—

(a) was made—

(i) in the interim period; and

(ii) under section 98(1); and

(b) gives effect to a CMT decision to which subclause (1) applies.

Schedule 1AA clause 4: inserted, on 25 October 2025, by section 12 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

5 Court may continue to hear, or rehear, affected applications

Application to which clause applies

(1) This clause applies to an applicant group's application for a recognition order for customary marine title if, at the announcement time, the Court has considered, but has not decided, whether the group has satisfied the Court that the group meets the requirements of the old law.

(2) Subclause (1) applies whether or not the Court in the interim period makes in respect of the application one or both of the following:

(a) a CMT decision to which clause 4(1) applies:

(b) a customary marine title order to which clause 4(3) applies.

Court may continue to hear, or rehear, all, or any part of, application

(3) The Court may, after the commencement, and in a way that complies with clause 3,—

(a) continue to hear or rehear, all, or any part of, the application; and

(b) invite and consider related further submissions from all or any parties to, or other participants in, the application.

Schedule 1AA clause 5: inserted, on 25 October 2025, by section 12 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

6 No entitlement to compensation

A person is not entitled to compensation of any kind on account of the operation of the CMT amendments.

Schedule 1AA clause 6: inserted, on 25 October 2025, by section 12 of the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58).

Schedule 1
Resource consents and controls in protected customary rights area

ss 55(5), 56(5)

Part 1
Matters relevant to applications

1 Determination of adverse effects

In determining whether a proposed activity will, or is likely to, have an adverse effect on the exercise of a protected customary right, a consent authority must consider the following matters:

(a) the effects of the proposed activity on a protected customary right; and

(b) the area that the proposed activity would have in common with the relevant protected customary rights area; and

(c) the degree to which the proposed activity must be carried out to the exclusion of other activities; and

(d) the degree to which the exercise of a protected customary right must be carried out to the exclusion of other activities; and

(e) whether an alternative location or method would avoid, remedy, or mitigate any adverse effects of the proposed activity on the exercise of the protected customary right; and

(f) whether any conditions could be included in a resource consent for the proposed activity that would avoid, remedy, or mitigate any adverse effects of the proposed activity on the exercise of the protected customary right.

2 Written approval

(1) This clause applies if—

(a) a protected customary rights group gives written approval under section 55(2) for a resource consent for a proposed activity; and

(b) the proposed activity, if carried out under the resource consent, would have the effect of preventing, in whole or in part, the exercise of a protected customary right.

(2) The protected customary rights group must acknowledge in writing that the resource consent, if granted, would have the effect described in subclause (1)(b).

(3) Both the written approval given under section 55(2) and the written acknowledgement required by subclause (2)—

(a) form part of the application for the resource consent for the proposed activity; and

(b) if a resource consent is granted, form part of the resource consent for that activity.

(4) An approval given by a protected customary rights group is not able to be revoked.

3 Process if grant of resource consent has effect of cancelling protected customary right

(1) If the effect of carrying out an activity under a resource consent granted in the circumstances contemplated by clause 2 would be permanently to cancel a protected customary rights order or agreement, in whole or in part,—

(a) the protected customary rights group must apply, as the case requires,—

(i) to the High Court under section 111 to vary or cancel the order; or

(ii) to the responsible Minister to vary or cancel an agreement; and

(b) a decision by the consent authority to grant a resource consent for the proposed activity is of no effect until the application referred to in paragraph (a) has been—

(i) determined by the High Court under section 111 and all appeal rights have been pursued, and registered under section 114; or

(ii) agreed to by the responsible Minister as if it were an application for an agreement to which sections 95, 96, and 114 apply.

(2) If the High Court or the responsible Minister, as the case requires, declines an application to cancel a protected customary rights order, the relevant resource consent must be treated as if it were declined by the consent authority.

4 Assessment of effects of exercise of protected customary rights

(1) An enforcement officer authorised in writing for the purpose by a local authority may do any of the following for the purpose of assessing the effects on the environment of the exercise of a protected customary right:

(a) carry out surveys, investigations, tests, or measurements:

(b) take samples of any water, air, soil, or vegetation:

(c) enter or re-enter land (except a dwelling house).

(2) These powers may be exercised—

(a) at any reasonable time; and

(b) with or without assistance, vehicles, appliances, machinery, or equipment reasonably necessary for the purpose.

Part 2
Controls on exercise of protected customary rights

Power to impose controls

5 Power to impose controls

(1) The Minister of Conservation may impose controls (including terms, standards, and restrictions) on the exercise of a protected customary right, but only if the Minister considers that—

(a) the exercise of a protected customary right has, or may have, a significant adverse effect on the environment; and

(b) the controls—

(i) will not prevent the exercise of the right; and

(ii) are reasonable and, in the circumstances, not unduly restrictive; and

(iii) are necessary to avoid, remedy, or mitigate any significant adverse effects of the exercise of the right on the environment.

(2) However, the Minister of Conservation must not impose controls on the exercise of a protected customary right under subclause (1) unless the Minister—

(a) has received a copy of an adverse effects report under clause 12 or carried out his or her own adverse effects assessment and completed a report on that assessment; and

(b) has consulted with the relevant protected customary rights group and the Minister of Māori Affairs.

(3) The Minister may seek any other relevant information and views before imposing controls.

(4) The Minister of Conservation must not undertake an assessment under this clause if, before he or she has begun an assessment, the relevant regional council notifies the Minister of Conservation under clause 9 that it is carrying out an adverse effects assessment of the protected customary right in accordance with clause 8.

(5) The Minister of Conservation must give written notice of his or her decision to carry out an adverse effects assessment under this clause not later than 5 working days after making that decision to—

(a) the relevant regional council; and

(b) the relevant protected customary rights group.

6 Matters relevant to consideration

The Minister of Conservation, when considering whether to impose controls on the exercise of a protected customary right,—

(a) must have regard to—

(i) the effects on the environment of exercising the right; and

(ii) any adverse effects report received by the Minister in relation to the exercise of the right; and

(iii) the views expressed by the persons with whom the Minister has consulted; and

(iv) any other relevant information and views that the Minister has received; and

(b) may have regard to—

(i) any relevant national policy statement:

(ii) the New Zealand coastal policy statement:

(iii) the relevant regional policy statement or proposed regional policy statement:

(iv) any relevant plan or proposed plan.

7 Timing and giving of notice

The Minister of Conservation must—

(a) decide whether to impose controls on the exercise of a protected customary right no later than 60 working days after—

(i) receiving an adverse effects report on the matter from the regional council; or

(ii) giving notice under clause 5(5) that the Minister will be carrying out his or her own assessment; and

(b) give written notice of his or her decision, and the reasons for it, to—

(i) the relevant regional council; and

(ii) the relevant protected customary rights group; and

(iii) the Minister of Māori Affairs; and

(iv) the chief executive.

Adverse effects assessment and reporting

8 Adverse effects assessment

(1) For the purpose of imposing controls on the exercise of a protected customary right under this Part, a regional council must, if directed by the Minister of Conservation at any time, and may of its own initiative in the circumstances set out in subclause (3),—

(a) carry out an adverse effects assessment of the effects on the environment of exercising a protected customary right in its region; and

(b) complete, and give to the Minister, an adverse effects report based on that assessment.

(2) If a regional council is directed under subclause (1), it must begin the adverse effects assessment not later than 5 working days after receiving the direction.

(3) If a regional council has not been notified by the Minister of Conservation that the Minister intends to carry out his or her own adverse effects assessment, the regional council may, of its own initiative, carry out an adverse effects assessment of, and prepare an adverse effects report on, the exercise of the protected customary right.

(4) However, the regional council may only carry out an assessment if—

(a) it begins the assessment, for any reason, not later than 20 working days after a protected customary rights order or an agreement is registered under section 114; or

(b) at any time after the expiry of the 20 working day period referred to in paragraph (a), it considers that the effects of exercising the protected customary right on the environment are, or are likely to be, materially different from those effects considered when, whichever is the later,—

(i) the controls were last imposed; or

(ii) the controls were last reviewed under this schedule.

9 Notification

(1) A regional council must give written notice regarding an adverse effects assessment in relation to the exercise of a protected customary right if—

(a) it decides to carry out an adverse effects assessment under clause 8(3); or

(b) in the period between the date that the relevant protected customary rights order or an agreement is registered and 20 working days after that date, it decides not to carry out an adverse effects assessment; or

(c) it is directed by the Minister of Conservation under clause 8(1) to begin an adverse effects assessment.

(2) The written notice must be given to the Minister of Conservation and the relevant protected customary rights group.

(3) Written notice given under subclause (1) must be given—

(a) for an assessment required by the Minister of Conservation under clause 8(1), not later than 5 working days after receiving a direction from the Minister:

(b) for an assessment under clause 8(4)(a) or (b), not later than 5 working days after deciding to carry out an adverse effects assessment:

(c) for a decision referred to in subclause (1)(b), not later than 25 working days after the protected customary rights order or agreement is registered.

10 Process and relevant considerations for adverse effects assessment

A regional council, in carrying out an adverse effects assessment under this Part,—

(a) must seek the views of the relevant protected customary rights group; and

(b) may seek any other relevant information; and

(c) must have regard to—

(i) the effects on the environment of the exercise of a protected customary right; and

(ii) any relevant information and views it has received; and

(d) may have regard to—

(i) any relevant national policy statement:

(ii) the New Zealand coastal policy statement:

(iii) its regional policy statement or proposed regional policy statement:

(iv) any relevant plan or proposed plan.

11 Adverse effects report

(1) A regional council must complete its adverse effects assessment and adverse effects report no later than 40 working days after giving notice of the assessment under clause 9.

(2) The regional council must include in that report—

(a) details of the protected customary right and the effects on the environment of its exercise; and

(b) an outline of the information received and any views expressed by the relevant protected customary rights group; and

(c) whether it considers that the exercise of the protected customary right has, or may have, a significant adverse effect on the environment; and

(d) its recommendations (if any) to the Minister of Conservation on any controls it considers the Minister of Conservation should impose under clause 5(1); and

(e) the reasons for any recommendations.

12 Report to Minister of Conservation and protected customary rights group

No later than 5 working days after completing an adverse effects report, a regional council must give a copy to the Minister of Conservation and the relevant protected customary rights group.

Review of controls

13 Review

The Minister of Conservation may—

(a) review, in accordance with clauses 14 and 15, controls imposed on the exercise of a protected customary right; and

(b) after reviewing the controls,—

(i) confirm them; or

(ii) revoke them; or

(iii) revoke them and impose new controls (which may include some or all of the reviewed controls).

14 Procedure for review

(1) If the Minister of Conservation reviews controls under clause 13, he or she must either—

(a) request the regional council—

(i) to carry out an adverse effects assessment; and

(ii) prepare an adverse effects report under clauses 8 to 12; or

(b) notify the regional council that the Minister will carry out an adverse effects assessment under clause 5(5).

(2) Clauses 5 to 7—

(a) apply (with all necessary changes) to a review of controls imposed by the Minister of Conservation; and

(b) are to be read, in relation to a review, as if all references in those clauses to controls imposed by the Minister of Conservation on the exercise of a protected customary right were references to controls on that right imposed or confirmed by the Minister after a review.

15 Timing of review

(1) The Minister of Conservation—

(a) may review the controls imposed on the exercise of a protected customary right at any time; and

(b) must carry out a review of those controls if the protected customary rights group requests a review in writing.

(2) A protected customary rights group may request a review only if—

(a) at least 2 years have passed since the controls were imposed or since they were last reviewed; or

(b) the protected customary rights group considers, on reasonable grounds, that the effects of the exercise of a protected customary right on the environment are, or are likely to be, materially different from those effects considered when, whichever is the later,—

(i) the controls were last imposed; or

(ii) the controls were last reviewed under this Part of this schedule.

Schedule 2
Process by which certain new activities in customary marine title area become deemed accommodated activities

ss 63, 65

Part 1
Deemed accommodated infrastructure

1 Prior to an application being lodged under the Resource Management Act 1991 for any resource consents for proposed infrastructure (within the meaning of section 65(1)(a)) in a customary marine title area, the proposed infrastructure may become a deemed accommodated activity in accordance with this Part.

Schedule 2 clause 1: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

2 Any person listed in paragraph (b) of the definition of accommodated infrastructure in section 63 may apply to the Minister for Land Information to declare a proposed infrastructure to be a deemed accommodated activity. In this Part, **Minister** means the Minister of Land Information.

3 In applying under this Part, the applicant must provide to the Minister the following information:

(a) a survey and a plan that—

(i) shows the customary marine title area where the proposed infrastructure is to be constructed; and

(ii) must meet the requirements of the Cadastral Survey Act 2002 as if it were a cadastral survey within the meaning of that Act; and

(b) a detailed description of the proposed infrastructure, including all of the relevant resource consents that will be applied for in support of the proposed infrastructure; and

(c) a detailed description of the purpose for which the proposed infrastructure is to be used; and

(d) why the applicant considers that the proposed infrastructure complies with section 65(1)(a)(iii); and

(e) an assessment of all practicable alternative locations (within or outside the coastal marine area), and reasons why the proposed infrastructure cannot practicably be constructed in any location outside of the customary marine title area; and

(f) a description of the negotiations that have already taken place with the customary marine title group and, on the basis of those negotiations,

reasons why the applicant considers it cannot reasonably obtain the permission of that group for the proposed infrastructure.

4 Upon receipt of an application under clause 3, the Minister must consider and decide to—

(a) make an initial decision on whether there is sufficient information to demonstrate that all of those requirements and criteria have been adequately addressed; or

(b) seek more information from the applicant; or

(c) decline the application on the basis that—

(i) insufficient information has been provided; or

(ii) the proposed infrastructure does not meet all or any of the requirements and criteria set out in clause 3.

5 For the avoidance of doubt, a decision under clause 4(a) is not a substantive decision of the Minister in favour of the classification of the proposed infrastructure as a deemed accommodated activity. It is merely a decision that there is sufficient information for the Minister to consider the matter further with the relevant customary marine title group.

6 After making a decision under clause 4(a) that there is sufficient information (or after receiving further information under clause 4(b)), the Minister must, before determining the application,—

(a) provide to the customary marine title group a copy of the application and any further information received from the applicant; and

(b) invite the customary marine title group to identify appropriate compensation for the removal of its RMA permission right or conservation permission right and any other affected right associated with the customary marine title for the proposed infrastructure, in the event that it does not wish to agree to the construction of the proposed infrastructure going ahead; and

(c) negotiate in good faith with the customary marine title group in an attempt to compensate for the waiver of its permission rights with respect to the application.

Schedule 2 clause 6(b): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

7 This clause applies if, after a period of 3 months,—

(a) the customary marine title group fails to respond to any invitation issued under clause 6; or

(b) the customary marine title group refuses to negotiate with the Minister; or

(c) the Minister and the group do not agree to waive the permission rights.

8 If clause 7 applies, the Minister must consider the application and any material provided by the customary marine title group and any other relevant information and make a decision on—

(a) whether to waive the customary marine title group's permission rights; and

(b) whether there are any other affected rights associated with the customary marine title; and

(c) what compensation to provide; and

(d) whether to classify the matter as a deemed accommodated activity under section 64.

9 In making his or her decision under clause 8, the Minister must consider whether the matters set out in clause 3 have been adequately addressed and, without limiting his or her consideration, the Minister may not agree to waive the permission rights if the Minister is satisfied that the information provided under clause 3(d) and (e) does not justify waiver.

10 If the customary marine title group agrees to waive the permission rights, or a decision is made by the Minister under clause 8 to waive the permission rights, then the proposed infrastructure will become a deemed accommodated activity, except that—

(a) the waiver of the RMA permission right will operate only for the particular resource consents applied for with respect to the proposed infrastructure (and only as far as the proposed infrastructure is defined in the *Gazette* notice set out in clause 11); and

(b) the waiver of the permission rights will not otherwise take away the legal effect of the customary marine title order or agreement, except as the customary marine title group expressly agrees otherwise or the Minister decides otherwise; and

(c) the waiver of the permission rights will only apply to the activity that is the subject of an application under clause 3 and, unless expressly provided otherwise, it will not prevent the customary marine title group from exercising its permission rights under a customary marine title order or agreement within the same area for any other resource consent application not included in the *Gazette* notice published under clause 11; and

(d) the customary marine title order or agreement will still be a relevant matter for the consent authority when considering the resource consents

necessary for the deemed accommodated activity under the Resource Management Act 1991.

Schedule 2 clause 10(a): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Schedule 2 clause 10(d): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

11 If a proposed infrastructure becomes a deemed accommodated activity under clause 10, the Minister must cause a notice to be published in the *Gazette* giving—

(a) a description of the deemed accommodated activity, including a detailed description of the proposed infrastructure and all resource consents that will be applied for as part of the proposed infrastructure; and

(b) a description of the customary marine title area and rights that are affected; and

(c) a description of the purpose for which the infrastructure is to be used.

12 The Minister must serve a copy of the *Gazette* notice on the customary marine title group and the relevant regional council.

Part 2
New minerals-related activities

13 Definitions

In this Part,—

activity means any activity—

(a) that is necessary for, or reasonably related to, prospecting, exploration, mining operations, or mining under either or both of the following:

(i) a privilege in respect of petroleum:

(ii) a privilege to which section 84(1) applies; and

(b) that is to commence in a customary marine title area after the effective date; and

(c) for which a resource consent is to be sought

activity agreement means an agreement of the kind described in clause 15 between the title holder and the permit holder

permit holder means the person seeking the resource consent for the activity.

14 Permit holder may request title holder to negotiate activity agreement

(1) A permit holder may serve a notice on the relevant customary marine title group stating that the permit holder intends to negotiate an activity agreement with the group.

(2) A notice served under subclause (1) must specify—

(a) the area affected by the proposed activity; and

(b) the purpose for which resource consent is to be sought; and

(c) the proposed programme of work for the activity, including the type and duration of work to be carried out and the likely adverse effect on the customary marine title area and on the customary marine title group; and

(d) the compensation and safeguards against any likely adverse effects proposed; and

(e) the type of privilege held by the permit holder.

15 Contents of activity agreement

(1) An activity agreement may make provision for the following matters:

(a) the periods during which the permit holder is to undertake the activity in the customary marine title area:

(b) the parts of the customary marine title area on or in which the permit holder may undertake the activity:

(c) the kinds of activity that may be undertaken in the customary marine title area:

(d) the conditions to be observed by the permit holder in undertaking the activity in the customary marine title area:

(e) the action to be taken by the permit holder in order to protect the environment:

(f) the compensation to be paid to the customary marine title group as a consequence of the permit holder undertaking the activity in the customary marine title area:

(g) the manner of resolving any dispute arising in connection with the activity agreement:

(h) any other matters that the parties to the arrangement may agree to include in the activity agreement.

(2) In considering whether to agree to an activity agreement, the customary marine title group may have regard to any matters it considers relevant.

16 Requests for appointment of arbitrator

(1) The permit holder may serve a written notice on the customary marine title group requesting the group to agree to the appointment of an arbitrator if—

(a) the permit holder and the group are unable to agree on an activity agreement; and

(b) a period of at least 60 days has expired since the day on which notice was served under clause 14(1).

(2) The customary marine title group and the permit holder may agree to the appointment of any person as arbitrator.

17 Appointment of arbitrator in default of agreement

(1) The permit holder or the customary marine title group may apply to the chief executive of the department responsible for the administration of the Crown Minerals Act 1991 for the appointment of an arbitrator if—

(a) the customary marine title group and the permit holder are unable to agree on the appointment of an arbitrator; and

(b) a period of at least 30 days has expired since the day on which notice was served under clause 16(1).

(2) Every application must be accompanied by any prescribed fee.

(3) On receipt of an application the chief executive must as soon as practicable appoint an arbitrator.

18 Arbitration

(1) If an arbitrator is appointed under clause 16(2) or 17(3), the arbitrator must conduct an arbitration in accordance with the Arbitration Act 1996, and the provisions of that Act (other than those relating to the appointment of arbitrators) apply to the arbitration as if—

(a) this clause were an arbitration agreement; and

(b) the matters specified in paragraphs (a) to (g) of clause 15(1) were matters in dispute that the customary marine title group and the permit holder had agreed to submit to arbitration.

(2) The arbitrator's award must determine the basis on which the activity is to proceed, on reasonable conditions.

Schedule 3
Enactments consequentially amended

s 128

Part 1
Acts amended

Conservation Act 1987 (1987 No 65)

Section 2(1): insert in their appropriate alphabetical order:

> **common marine and coastal area** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011
>
> **customary marine title area** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011
>
> **planning document** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

Section 7(1) and (1A): omit "or foreshore" in each place it appears.

Section 17H: add:

> (5) When reviewing any part of a conservation management strategy, the Director-General must take into account the matters set out in any planning documents lodged with the Director-General under section 90 of the Marine and Coastal Area (Takutai Moana) Act 2011 that are relevant to the strategy.

Section 17I: add:

> (5) When amending any part of a conservation management strategy, the Director-General must take into account the matters set out in any planning documents lodged with the Director-General under section 90 of the Marine and Coastal Area (Takutai Moana) Act 2011 that are relevant to the strategy.

Section 24(7C): add "or under section 39 or 43 of the Marine and Coastal Area (Takutai Moana) Act 2011" after "1991".

Section 26ZS(1)(ab): repeal and substitute:

> (ab) the Marine and Coastal Area (Takutai Moana) Act 2011:

Section 39(7): omit "all foreshore and seabed" and substitute "any marine and coastal area".

Crown Minerals Act 1991 (1991 No 70)

Section 2(1): definition of **access arrangement**: repeal and substitute:

> **access arrangement** and **arrangement** means an arrangement to permit access to land—
>
> (a) entered into by way of arrangement or determined by an arbiter in accordance with this Act; and

Crown Minerals Act 1991 (1991 No 70)—*continued*

(b) between a person desiring to carry out mineral-related activities and either—

(i) the owner (and occupier, if any) of the land; or

(ii) in the case of land in the common marine and coastal area that is not a customary marine title area, the appropriate Minister

Section 2(1): definition of **public foreshore and seabed**: repeal.

Section 2(1): insert in their appropriate alphabetical order:

coastal marine area has the meaning given in section 2(1) of the Resource Management Act 1991

common marine and coastal area has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

customary marine title agreement has the meaning given to **agreement** in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

customary marine title group has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

customary marine title order has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

Section 2(2): insert "or land in the common marine and coastal area" after "Crown land".

Section 2(2)(b): omit "Crown land is public foreshore and seabed" and substitute "land is part of the common marine and coastal area".

Section 25(1A): repeal and substitute:

(1A) The Minister may not grant an exploration permit or a mining permit under this section in respect of minerals that are privately owned, except in the case of minerals owned by customary marine title groups,—

(a) as provided for by section 83(2) of the Marine and Coastal Area (Takutai Moana) Act 2011; and

(b) subject to section 84 of that Act.

Section 32(7): add "except in the case of minerals owned by customary marine title groups, as provided for in section 83(2) of the Marine and Coastal Area (Takutai Moana) Act 2011 and subject to section 84 of that Act".

Section 49(3): omit "the owner and occupier" and substitute "each owner and occupier, and any customary marine title group".

Section 49(3): omit "every owner and every occupier of the land" and substitute "each person or group whose consent is required".

Section 49(4): insert "or customary marine title group" after "occupier".

Section 50: add:

Crown Minerals Act 1991 (1991 No 70)—*continued*

(2) This section does not apply in the case of entry onto land that is in the common marine and coastal area.

Section 53: add:

(3) Subsection (2) does not apply if the permit relates to land in the common marine and coastal area, but if the permit relates to land described in Schedule 4, the permit holder may exercise the permit only—

(a) in respect of land that is not subject to a customary marine title order or agreement; and

(b) in accordance with an access agreement agreed in writing between the permit holder and the appropriate Minister.

Section 54: add:

(3) Subsection (2) does not apply if the permit relates to land in the common marine and coastal area, but if the permit relates to land described in Schedule 4, the permit holder may exercise the permit only—

(a) in respect of land that is not subject to a customary marine title order or agreement; and

(b) in accordance with an access agreement agreed in writing between the permit holder and the appropriate Minister.

Section 55: add:

(3) Land within the common marine and coastal area is deemed, for the purpose of subsection (2), not to be within any of the classes of land described in that subsection.

Heading to section 61: add "**and land in common marine and coastal area**".

Section 61(1): add "or the common marine and coastal area".

Section 61(1A): insert "or land of the common marine and coastal area" after "1977)".

Fisheries Act 1996 (1996 No 88)

Section 2(1): insert the following definitions in their appropriate alphabetical order:

customary marine title group has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

planning document has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

protected customary right has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

protected customary rights order and **agreement** have the meanings given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

Section 11(2)(c): repeal and substitute:

Fisheries Act 1996 (1996 No 88)—*continued*

(c) sections 7 and 8 of the Hauraki Gulf Marine Park Act 2000 (for the Hauraki Gulf as defined in that Act); and

(d) a planning document lodged with the Minister of Fisheries by a customary marine title group under section 91 of the Marine and Coastal Area (Takutai Moana) Act 2011—

Heading to section 89B: omit "**customary rights orders**" and substitute "**protected customary rights**".

Section 89B(a): omit "customary rights order under the Foreshore and Seabed Act 2004" and substitute "protected customary rights order or an agreement".

Section 89B(b): omit "customary rights order" and substitute "protected customary rights order or an agreement".

Section 186ZB: repeal and substitute:

186ZB Subpart does not apply to fish farming under protected customary rights order or agreement

This subpart does not apply to fish farming undertaken in accordance with a protected customary rights order or an agreement.

Forest and Rural Fires Act 1977 (1977 No 52)

Definition of **fire safety margin** in section 2(1): omit "(other than land administered by the Minister of Conservation pursuant to section 9A of the Foreshore and Seabed Endowment Revesting Act 1991)" and substitute "other than the common marine and coastal area or any reclaimed land that is subject to subpart 3 of Part 2 of the Marine and Coastal Area (Takutai Moana) Act 2011 (as defined in section 29(1) of that Act)".

Paragraph (a)(v) and (va) of the definition of **state area** in section 2(1): repeal and substitute:

(v) the common marine and coastal area (as defined in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011; and

(va) reclaimed land vested in the Crown under section 30 or 31 of that Act; and

Hauraki Gulf Marine Park Act 2000 (2000 No 1)

Section 33(2)(c): omit "foreshore and seabed that is land owned by the Crown" and substitute "the common marine and coastal area".

Heading to section 38: omit "**Crown-owned**".

Heading to section 39: omit "**Crown-owned land**" and substitute "**land with protected status**".

Schedule 1: omit "Foreshore and Seabed Act 2004".

Schedule 1: insert in its appropriate alphabetical order: "Marine and Coastal Area (Takutai Moana) Act 2011".

Historic Places Act 1993 (1993 No 38)

Section 2: insert in their appropriate alphabetical order:

> **customary marine title area** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011
>
> **planning document** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

Section 14: insert after subsection (3A):

(3B) The Trust must comply with section 89 of the Marine and Coastal Area (Takutai Moana) Act 2011.

Section 20: insert after subsection (6A):

(6B) In determining an appeal in respect of a decision made under section 14(1)(a) or (b) that relates to a customary marine title area, the Court must have particular regard to any planning documents lodged with the New Zealand Historic Places Trust under section 89 of the Marine and Coastal Area (Takutai Moana) Act 2011 that are relevant to an archaeological site within the customary marine title area.

Local Government Act 1974 (1974 No 66)

Section 345(1A): repeal and substitute:

(1A) To avoid doubt, this section does not apply to the common marine and coastal area within the meaning of the Marine and Coastal Area (Takutai Moana) Act 2011.

Local Government (Rating) Act 2002 (2002 No 6)

Section 5: insert in their appropriate alphabetical order:

> **common marine and coastal area** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011
>
> **customary marine title area** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011
>
> **structure** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

Schedule 1: Part 1: clause 2(b) and (c): repeal.

Schedule 1: Part 1: insert after clause 22:

23 The common marine and coastal area, including any customary marine title area, within the meaning of the Marine and Coastal Area (Takutai Moana) Act 2011.

24 The bed of Te Whaanga Lagoon in the Chatham Islands.

25 Structures that are—

Local Government (Rating) Act 2002 (2002 No 6)—*continued*

(a) fixed to, or under, or over any part of the common marine and coastal area; and

(b) owned, or deemed to be owned, by the Crown under section 18 or 19 of the Marine and Coastal Area (Takutai Moana) Act 2011.

New Zealand Railways Corporation Act 1981 (1981 No 119)

Section 2(1): insert in its appropriate alphabetical order:

> **common marine and coastal area** has the same meaning as in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

Paragraph (a) of the definition of **railway** in section 2(1): insert "or forming part of the common marine and coastal area" after "the Reserves Act 1977".

Section 24: insert after paragraph (a):

(ab) occupy, use, or manage any railway that is located in the common marine and coastal area:

Section 117(1): insert "or of the common marine and coastal area" after "a public reserve".

Protected Objects Act 1975 (1975 No 41)

New section 11A: insert after section 11:

11A Taonga tūturu found in customary marine title area

If taonga tūturu are found in a part of the common marine and coastal area for which a customary marine title order has been awarded under the Marine and Coastal Area (Takutai Moana) Act 2011, section 82 of that Act applies to that finding instead of section 11 of this Act, except to the extent that section 11 is expressly applied by section 82 of that Act.

Public Works Act 1981 (1981 No 35)

Section 2: insert in its appropriate alphabetical order:

> **common marine and coastal area** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

Definition of **Government work** in section 2: omit "public foreshore and seabed" and substitute "common marine and coastal area".

Definition of **public foreshore and seabed** in section 2: repeal.

Section 52(1)(b): omit "public foreshore and seabed" and substitute "common marine and coastal area".

Section 52(3)(b): omit "public foreshore and seabed" and substitute "common marine and coastal area".

Section 165(1): insert: "or any land situated in the common marine and coastal area" after "Crown land or public reserve".

Resource Management Act 1991 (1991 No 69)

Definitions of **access rights**, **board**, **customary rights order**, **foreshore and seabed reserve**, **holder**, **management plan**, **public foreshore and seabed**, and **recognised customary activity** in section 2(1): repeal.

Section 2(1): insert in their appropriate alphabetical order:

> **accommodated activity** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011
>
> **agreement** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011
>
> **common marine and coastal area** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011
>
> **customary marine title area** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011
>
> **customary marine title group** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011
>
> **customary marine title order** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011
>
> **marine and coastal area** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011
>
> **planning document** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011
>
> **protected customary right** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011
>
> **protected customary rights area** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011
>
> **protected customary rights group** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011
>
> **protected customary rights order** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011
>
> **RMA permission right** means the right provided for a customary marine title group by sections 66 and 68 of the Marine and Coastal Area (Takutai Moana) Act 2011

Definition of **affected order holder** in section 2AA(2): repeal.

Definition of **limited notification** in section 2AA(2): omit "or affected order holder".

Section 6(g): repeal and substitute:

> (g) the protection of protected customary rights.

Section 12(2): repeal and substitute:

Resource Management Act 1991 (1991 No 69)—*continued*

(2) No person may, unless expressly allowed by a national environmental standard, a rule in a regional coastal plan or in any proposed regional coastal plan for the same region, or a resource consent,—

(a) occupy any part of the common marine and coastal area; or

(b) remove any sand, shingle, shell, or other natural material from that area.

Section 12A(1): repeal and substitute:

(1) No person may occupy a coastal marine area for the purpose of an aquaculture activity—

(a) except in an aquaculture management area provided for in a regional coastal plan; or

(b) if that part of the coastal marine area is in the common marine and coastal area, unless expressly authorised by a coastal permit.

Heading above section 17A: repeal.

Section 17A: repeal.

Section 17B: repeal.

Section 28(e): repeal.

Section 28A(1)(c): omit "recognised customary activity" and substitute "protected customary right".

Section 29(1)(p): repeal.

Section 30(1)(d)(ii): repeal and substitute:

(ii) the occupation of space in, and the extraction of sand, shingle, shell, or other natural material from, the coastal marine area, to the extent that it is within the common marine and coastal area:

Section 33(2): omit "board of a foreshore and seabed reserve,".

Section 35(2)(e): repeal and substitute:

(e) in the case of a regional council, the exercise of a protected customary right in its region, including any controls imposed on the exercise of that right under Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011—

Section 35(5)(jb): repeal and substitute:

(jb) in the case of a regional council, records of every protected customary rights order or agreement relating to a part of the common marine and coastal area within its region; and

Section 37B(d): repeal.

Section 38(3)(c): repeal.

Section 58(d): omit "in land of the Crown".

Resource Management Act 1991 (1991 No 69)—*continued*

Section 58(gb): omit "recognised customary activities" and substitute "protected customary rights".

Section 61(2A): repeal and substitute:

(2A) When a regional council is preparing or changing a regional policy statement, it must deal with the following documents, if they are lodged with the council, in the manner specified, to the extent that their content has a bearing on the resource management issues of the region:

(a) the council must take into account any relevant planning document recognised by an iwi authority; and

(b) in relation to a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, the council must, in accordance with section 93 of that Act,—

(i) recognise and provide for the matters in that document, to the extent that they relate to the relevant customary marine title area; and

(ii) take into account the matters in that document, to the extent that they relate to a part of the common marine and coastal area outside the customary marine title area of the relevant group.

Section 62(1)(b): repeal and substitute:

(b) the resource management issues of significance to iwi authorities in the region; and

Section 64A(1): omit "coastal marine area (relating to land of the Crown in the coastal marine area or land in the coastal marine area vested in the regional council)" and substitute "common marine and coastal area".

Section 64A(4A): repeal and substitute:

(4A) A coastal occupation charge must not be imposed on a protected customary rights group or customary marine title group exercising a right under Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011.

Section 66(2)(b): omit "in land of the Crown".

Section 66(2A): repeal and substitute:

(2A) When a regional council is preparing or changing a regional plan, it must deal with the following documents, if they are lodged with the council, in the manner specified, to the extent that their content has a bearing on the resource management issues of the region:

(a) the council must take into account any relevant planning document recognised by an iwi authority; and

(b) in relation to a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, the council must, in accordance with section 93 of that Act,—

Resource Management Act 1991 (1991 No 69)—*continued*

(i) recognise and provide for the matters in that document, to the extent that they relate to the relevant customary marine title area; and

(ii) take into account the matters in that document, to the extent that they relate to a part of the common marine and coastal area outside the customary marine title area of the relevant group.

Section 74(2A): repeal and substitute:

(2A) A territorial authority, when preparing or changing a district plan, must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district.

Section 79A: repeal.

Section 79B: repeal.

Section 82A: repeal.

Heading above section 85A: omit "*recognised customary activities*" and substitute "*protected customary rights*".

Section 85A: omit "a significant adverse effect on a recognised customary activity carried out under section 17A(2)" and substitute "an adverse effect that is more than minor on a protected customary right carried out under Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011".

Section 85B(1): omit "If the holder of a customary rights order" and substitute "If a protected customary rights group".

Section 85B(2)(a): repeal and substitute:

(a) the effects of the proposed activity on the exercise of a protected customary right; and

Section 85B(2)(b): omit "recognised customary activity" and substitute "protected customary right".

Section 85B(2)(d): omit "recognised customary activity" and substitute "exercise of a protected customary right".

Section 85B(2)(e): omit "recognised customary activity" and substitute "protected customary right".

Section 87A(2)(a): repeal and substitute:

(a) the consent authority must grant a resource consent except if—

(i) section 106 applies; or

(ii) section 55(2) of the Marine and Coastal Area (Takutai Moana) Act 2011 applies; and

Section 95B(1): omit "or affected order holders" and substitute "an affected protected customary rights group or affected customary marine title group".

Resource Management Act 1991 (1991 No 69)—*continued*

Section 95B(3): omit "any affected order holder" and substitute "an affected protected customary rights group or affected customary title group".

Section 95B: add:

(4) In subsections (1) and (3), the requirements relating to an affected customary marine title group apply only in the case of applications for accommodated activities.

Section 95F: repeal and substitute:

95F Status of protected customary rights group

A consent authority must decide that a protected customary rights group is an affected protected customary rights group, in relation to an activity in the protected customary rights area relevant to that group, if—

(a) the activity may have adverse effects on a protected customary right carried out in accordance with the requirements of Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011; and

(b) the protected customary rights group has not given written approval for the activity or has withdrawn approval for the activity in a written notice received by the consent authority before the authority has made a decision under this section.

New section 95G: insert after section 95F:

95G Status of customary marine title group

A consent authority must decide that a customary marine title group is an affected customary marine title group, in relation to an accommodated activity in the customary marine title area relevant to that group, if—

(a) the activity may have adverse effects on the exercise of the rights applying to a customary marine title group under subpart 3 of Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011; and

(b) the customary marine title group has not given written approval for the activity in a written notice received by the consent authority before the authority has made a decision under this section.

Section 104: insert after subsection (2A):

(2B) When considering a resource consent application for an activity in an area within the scope of a planning document, a consent authority must have regard to any resource management matters set out in that planning document.

(2C) Subsection (2B) applies until such time as the regional council, in the case of a consent authority that is a regional council, has completed its obligations in relation to its regional planning documents under section 93 of the Marine and Coastal Area (Takutai Moana) Act 2011.

Section 104(3)(c)(iv): repeal and substitute:

Resource Management Act 1991 (1991 No 69)—*continued*

(iv) wāhi tapu conditions included in a customary marine title order or agreement:

(v) section 55(2) of the Marine and Coastal Area (Takutai Moana) Act 2011:

Sections 107A to 107D: repeal.

Section 108(2)(h): omit "coastal marine area (relating to land of the Crown in the coastal marine area or land in the coastal marine area vested in the regional council)" and substitute "common marine and coastal area".

Section 116: add:

(6) If a resource consent is granted for an activity in a part of the common marine and coastal area where a customary marine title order or agreement is in effect, section 68(1) of the Marine and Coastal Area (Takutai Moana) Act 2011 applies.

Section 122(5)(c): omit "which is land of the Crown or land vested in a regional council".

Section 152(1): omit "The Governor-General may, by Order in Council, on the advice of the Minister, in respect of any specified part of the coastal marine area, direct that a consent authority shall not grant a coastal permit in respect of any land of the Crown in that specified part which would authorise the holder of the permit (if granted) to—" and substitute "The Governor-General may, by Order in Council, on the advice of the Minister, direct that a consent authority must not grant a coastal permit, in respect of a specified part of the marine and coastal area (other than in respect of any specified freehold land) that would, if granted, authorise the permit holder—".

Section 152(4): repeal and substitute:

(4) The Minister shall not advise the making of an Order in Council under subsection (1) or (2) unless the Minister considers that there is, or is likely to be, in respect of any area to which it is proposed that the Order in Council relate, competing demands for the use of that area for all or any of the activities referred to in subsection (1).

Section 156: omit "in respect of any land of the Crown".

Section 165H: omit "vested in the Crown or a regional council in a coastal marine area" and substitute "in the common marine and coastal area".

Heading to section 237A: omit and substitute "**Vesting of land in common marine and coastal area or bed of lake or river**".

Section 237A(1)(b): repeal and substitute:

(b) show any part of the allotment that is in the coastal marine area as part of the common marine and coastal area.

Section 237A(2): omit "or subsection (1)(b)".

Section 237G: repeal and substitute:

Resource Management Act 1991 (1991 No 69)—*continued*

237G Compensation

(1) This section applies if—

(a) the bed of a river or lake—

(i) is vested in the Crown in accordance with section 237A(1)(a); and

(ii) adjoins, or would adjoin if it were not for an esplanade reserve, any allotment of 4 hectares or more when land is subdivided; or

(b) land that is within the coastal marine area—

(i) becomes part of the common marine and coastal area in accordance with section 237A(1)(b); and

(ii) adjoins, or would adjoin if it were not for an esplanade reserve, any allotment of 4 hectares or more created when land is subdivided.

(2) In the case of land referred to in subsection (1)(a), the Crown or territorial authority, as the case may be, must pay compensation to the registered proprietor of that land, unless the registered proprietor agrees otherwise.

(3) In the case of land referred to in subsection (1)(b), the Crown must pay compensation to the registered proprietor of that land, unless the registered proprietor agrees otherwise.

Section 239(1)(c): repeal and substitute:

(c) any land or any part of the bed of a river (not being part of the coastal marine area) or lake, shown on the survey plan as land to be vested in the territorial authority or the Crown, shall vest in the territorial authority or the Crown, as the case may be, free from all interests in land, including any encumbrances (without the necessity of an instrument of release or discharge or otherwise); and

(d) to avoid doubt, any land shown on the survey plan as land in the coastal marine area becomes part of the marine and coastal area.

Section 239(3): repeal and substitute:

(3) Any land vested in the Crown vests under the Land Act 1948 unless this Act provides otherwise.

Heading to section 293A: repeal and substitute "**Determinations on recognition orders and agreements made under Marine and Coastal Area (Takutai Moana) Act 2011**".

Section 309(4): omit "recognised customary activity carried out in accordance with section 17A(2)" and substitute "protected customary right".

Section 309(5): omit "337" and substitute "331", and omit "recognised customary activity" and substitute "protected customary right".

Section 332(1)(c): omit "; or".

Resource Management Act 1991 (1991 No 69)—*continued*

Section 332(1)(d): repeal.

Section 333(1A): repeal.

Section 354(3): repeal and substitute:

(3) Any person may use or occupy any part of the common marine and coastal area without obtaining consent, unless consent must be obtained under—

(a) this Act; or

(b) any other enactment; or

(c) any instrument or order made under an enactment.

Section 355(1): repeal.

Section 355(3): omit: "Without limiting section 355AA, the relevant Minister" and substitute "The Minister of Lands".

Section 355(3): insert "that forms part of a riverbed or lakebed that is not within the coastal marine area and" after "reclaimed land".

Section 355(6): repeal and substitute:

(6) For the purposes of this section, references to land that forms part of a riverbed or lakebed include land which was part of that bed before it was reclaimed.

Section 355AA: repeal.

Section 355AB: repeal.

Section 360(1)(c): repeal and substitute:

(c) prescribing the amount, methods for calculating the amount, and circumstances and manner in which holders of resource consents are liable to pay for—

(i) the occupation of the coastal marine area, to the extent that it is within the common marine and coastal area; and

(ii) the occupation of the bed of any river or lake that is land of the Crown; and

(iii) the extraction of any sand, shingle, shell, and other natural materials from an area described in subparagraph (i) or (ii); and

(iv) the use of geothermal energy:

Schedule 1: clause 2(2)(c): repeal and substitute:

(c) any customary marine title group in the region.

Schedule 1: clause 3(1)(e): repeal and substitute:

(e) any customary marine title group in the area.

Schedule 1: clause 5(4)(f): omit "; and".

Schedule 1: clause 5(4)(g): repeal.

Schedule 1: clause 20(4)(f): omit "; and".

Resource Management Act 1991 (1991 No 69)—*continued*

Schedule 1: clause 20(4)(g): repeal.

Schedule 4: clause 1A: repeal and substitute:

1A Matters to be included in assessment of effects on environment

An assessment of effects on the environment for the purposes of section 88 must include, in a case where the activity for which a resource consent is sought will, or is likely to, have adverse effects that are more than minor on the exercise of a protected customary right, a description of possible alternative locations or methods for the exercise of the proposed activity (unless written approval for the proposed activity is given by the protected customary rights group).

Schedule 12: repeal.

Te Ture Whenua Maori Act 1993 (1993 No 4)

Section 4: insert in its appropriate alphabetical order:

common marine and coastal area has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

Section 4: paragraph (b) of the definition of **land**: omit "public foreshore and seabed" and substitute "common marine and coastal area".

Section 43(7): repeal.

Section 72(1): omit "(other than proceedings under the Foreshore and Seabed Act 2004)".

Section 98(3)(c): repeal.

Section 98(3A): repeal.

Part 2
Regulations amended

Commodity Levies (Mussel, Oyster, and Salmon) Order 2007 (SR 2007/212)

Clause 3: insert in its appropriate alphabetical order:

customary marine title has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

Clause 16(g)(ii): revoke and substitute:

(ii) claims made under section 94 of the Marine and Coastal Area (Takutai Moana) Act 2011 for recognition of a protected customary right or customary marine title; and

Marine Mammals Protection Regulations 1992 (SR 1992/322)

Regulation 2: insert in its appropriate alphabetical order:

Marine Mammals Protection Regulations 1992 (SR 1992/322)—*continued*

customary marine title area has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

Regulation 6: add:

(2) Section 76 of the Marine and Coastal Area (Takutai Moana) Act 2011 applies to any application under these regulations for a permit to watch marine mammals within a customary marine title area.

Resource Management (Forms, Fees, and Procedure) Regulations 2003 (SR 2003/153)

Regulation 10(2)(h): omit "the holder of a customary rights order who" and substitute "a protected customary rights group that".

Regulation 10(2): insert after paragraph (h):

(ha) a customary marine title group that, in the opinion of the consent authority, may be adversely affected by the grant of a resource consent for an accommodated activity:

Notes

1 General

This is a consolidation of the Marine and Coastal Area (Takutai Moana) Act 2011 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Emergency Management Act 2026 (2026 No 53): section 235

Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025 (2025 No 58)

Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68): section 6

Natural and Built Environment Act 2023 (2023 No 46): section 805(3)

Civil Aviation Act 2023 (2023 No 10): section 486

Secondary Legislation Act 2021 (2021 No 7): section 3

Public Service Act 2020 (2020 No 40): section 135

Privacy Act 2020 (2020 No 31): section 217

Land Transfer Act 2017 (2017 No 30): section 250

Fire and Emergency New Zealand Act 2017 (2017 No 17): section 197

Resource Legislation Amendment Act 2017 (2017 No 15): section 123

Senior Courts Act 2016 (2016 No 48): section 183(b), (c)

Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26): section 107

Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102): section 126

Maritime Transport Amendment Act 2013 (2013 No 84): section 90

Crown Minerals Amendment Act 2013 (2013 No 14): section 65

Criminal Procedure Act 2011 (2011 No 81): section 413

Wellington, New Zealand:
Published under the authority of the New Zealand Government—2026