



# Registration guideline for the Marine and Coastal Area (Takutai Moana) Act 2011

LINZG20726

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## Terms and definitions

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### General

- (a) For the purposes of this guideline, the terms and definitions in the Marine and Coastal Area (Takutai Moana) Act 2011 (Act) apply, unless stated otherwise.
  - (b) The phrase 'common marine and coastal area' is a term defined in the Act that, in summary, means the marine and coastal area, being the area from the line of mean high water springs (MHWS) out to New Zealand's territorial limits, other than:
    - (i) 'specified freehold land' located in that area (being 'private' land - fee-simple land under the LTA or Deeds Registration Act 1908 not owned by the Crown or a local authority, and Maori freehold land or Maori reservations), and
    - (ii) reserves, conservation areas and national parks, and the bed of Te Whaanga Lagoon in the Chatham Islands.
  - (c) The terms 'common marine and coastal area', 'specified freehold land', and 'marine and coastal area' are fully defined in s 9 of the Act.
  - (d) Any reference to a section in this guideline is a reference to that section of the Act.
  - (e) Any reference to a rule in this guideline is a reference to that rule in the LINZS65003 - Rules for Cadastral Survey 2010.
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<b>Term/abbreviation</b>	<b>Definition</b>
Act	Marine and Coastal Area (Takutai Moana) Act 2011
CFR	computer freehold register
CIR	computer interest register
CR	computer register (includes a CFR and CIR)
LINZ	Land Information New Zealand
LTA	Land Transfer Act 1952
MHWM	mean high-water mark
MHWS	mean high-water springs
Minister	Minister of Conservation
RGL	Registrar-General of Land
RMA	Resource Management Act 1991
Rules	<i>LINZS65003 - Rules for Cadastral Survey 2010</i>
Survey plan	Cadastral survey dataset as provided for by <i>LINZS65003 - Rules for Cadastral Survey 2010</i>

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## Foreword

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### Introduction

- (a) The Marine and Coastal Area (Takutai Moana) Act 2011 (the Act) came into force on 1 April 2011.
  - (b) From the commencement of the Act neither the Crown, nor any other person, owns or is capable of owning the area defined as the common marine and coastal area (s 11(2)).
  - (c) The Crown and every local authority were divested of every title they held as owner of any part of the common marine and coastal area (s 11(3)).
  - (d) However, current registered interests and notations in the common marine and coastal area were not extinguished (s 21(2)), and relevant proprietary interests may be renewed or extended (s 21(6)).
  - (e) The Act provides for:
    - (i) computer freehold registers (CFRs) comprising land wholly or partly in the common marine and coastal area to be cancelled (ss 22(1) and 23(2)),
    - (ii) computer interest registers (CIRs) to be issued for registered interests or notifications affecting the common marine and coastal area from cancelled CFRs (ss 22(2) and 23(2)),
    - (iii) vesting and issue of computer registers (CRs) for interests in land reclaimed from the common marine and coastal area (ss 39 and 40).
  - (f) The Resource Management Act 1991 (RMA), as amended by the Act, provides for land within the coastal marine area to be shown on survey plans of subdivision and to become part of the common marine and coastal area on deposit (ss 237A and 239 of the RMA).
  - (g) These provisions of the Act and of the RMA replace similar provisions of the Foreshore and Seabed Act 2004 which is repealed.
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### Purpose

This guideline has been issued by the Registrar-General of Land (RGL) to ensure that in accordance with requirements of the Act and of the RMA:

- (a) CFRs for land in the common marine and coastal area are cancelled,
  - (b) land in the coastal marine area becomes common marine and coastal area on subdivision, and
  - (c) CRs are issued for reclamations.
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## Foreword, continued

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- Scope**
- (a) This document contains guidance on the requirements of the Act and the RMA for:
    - (i) cancelling CFRs that wholly or partly comprise land in the common marine and coastal area, and issuing replacement CFRs for adjacent land and CIRs for interests and notifications affecting the common marine and coastal area,
    - (ii) recording that land has become part of the common marine and coastal area on deposit of survey plans of subdivision,
    - (iii) issuing CRs for reclaimed land formed from the common marine and coastal area and dealing with those CRs.
  - (b) This guideline does not cover the requirements for accretion claims. These are provided for in *LINZS20005 - Title adjustments arising from water boundary changes* and *LINZG20711 - Guideline for accretion claims*.
  - (c) This guideline does not cover applications for, and vesting of interests in marine and coastal reclaimed land. These are provided for in *LINZS15004 - Interim standard for dealing with coastal reclaimed land*.
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**Intended use of guideline** This guideline is intended to be used by employees of Land Information New Zealand (LINZ) exercising registration functions under the Land Transfer Act 1952 (LTA).

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- References** The following are necessary for the application of this guideline:
- Marine and Coastal Area (Takutai Moana) Act 2011
  - Land Transfer Act 1952
  - Resource Management Act 1991
  - LINZ 2013, *LINZS65003: Rules for Cadastral Survey 2010*, Office of the Surveyor-General, LINZ, Wellington
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**Brief history of guideline** This is a new guideline.

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# 1 Cancellation of a CFR comprising land that is wholly within the common marine and coastal area (s 22)

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**Introduction and background** This part of the guideline provides guidance for cancelling CFRs that comprise land wholly within the common marine and coastal area, when requested by the Minister of Conservation (Minister) under s 22(1).

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**Request from the Minister of Conservation under s 22(1)**

- (a) There is no prescribed form for the Minister's request.
- (b) The request should be in writing and lodged as a document in accordance with usual registration practice.
- (c) At the request of the Minister, the RGL is required to cancel the CFR for land wholly in the common marine and coastal area (s 22(1)).

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**Memorial to cancel CFR** A suitable memorial to record a cancellation is as follows:

[instrument number] Cancelled under section 22(1) of the Marine and Coastal Area (Takutai Moana) Act 2011 [date and time]

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**Notation to record issue of a CIR** A suitable notation on the cancelled CFR to record the issue of a CIR (see below) is as follows:

[CIR identifier] issued for [description and identifier of the interest or notification] under section 22(2) of the Marine and Coastal Area (Takutai Moana) Act 2011 [date and time]

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## Cancellation of a CFR comprising land that is wholly within the common marine and coastal area (s 22), continued

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### **Issue CIRs**

- (a) On cancelling the CFR, the RGL is required to:
    - (i) issue a CIR for each current registered interest or current registered notification (that is not already held in a CIR) that the cancelled CFR was subject to (s 22(2)(a)), and
    - (ii) record on each CIR (or any affected existing CIR) that the land to which the registered interest or notification relates is located in the common marine and coastal area (s 22(2)(b)).
  - (b) The terms 'current registered interest' and 'current registered notification' are not defined in the Act, but may be treated as broad enough to cover any unexpired interest or notification recorded against a CFR cancelled under s 22(1).
- 

### **Memorial on CIR under s 22(2)(b)**

- (a) A suitable memorial to comply with s 22(2)(b) is as follows:

The within land to which [description and identifier of the interest or notification] relates is located in the common marine and coastal area
  - (b) If a current registered interest or notification is already held in a CIR, a memorial may be added to the existing CIR complying with s 22(2)(b).
- 

### **Renewal or extension of interests in CIRs**

- (a) A proprietary interest as defined in s 21(1), such as a lease or easement of land in the common marine and coastal area, continues to have effect (s 21(2)).
  - (b) Such a proprietary interest that was granted by a person other than the Crown is deemed to have been granted by the Crown (s 21(3)) and the Minister may execute relevant instruments required to be executed by the grantor (s 21(4)).
  - (c) The Crown may grant a renewal or extension of a proprietary interest if it contains a right of renewal or extension (s 21(6)).
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## Cancellation of a CFR comprising land that is wholly within the common marine and coastal area (s 22), continued

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### **Cancellation of CIR**

- (a) The Minister may require the RGL to cancel the CIR for an interest or notification which has expired or is extinguished or is otherwise determined under s 22(3).
  - (b) There is no prescribed form for the Minister's request.
  - (c) The request should be in writing and lodged as a document in accordance with usual registration practice.
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### **Memorial to cancel CIR**

A suitable memorial to record a cancellation is as follows:

[instrument number] Cancelled under section 22(3) of the Marine and Coastal Area (Takutai Moana) Act 2011 [date and time]

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### **Fees**

No fee is payable for a request to:

- (a) cancel a CFR under s 22(1),
  - (b) issue a new CIR under s 22(2)(a), or
  - (c) cancel a CIR under s 22(3).
-

## 2 Cancellation of a CFR comprising land that is partly in the common marine and coastal area (s 23)

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### Introduction and background

This part of the guideline provides guidance for:

- (a) cancelling a CFR that comprises land that is partly from the common marine and coastal area and partly adjacent land above the line of MHWS,
  - (b) issuing a CFR for the adjacent land, and
  - (c) issuing CIRs for registered interests or notations that relate to the common marine and coastal area.
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### Application for a CFR for adjacent land

- (a) The Minister or the owner of the adjacent land may apply to the RGL for the issue of a CFR for the adjacent land under s 23(1).
  - (b) There is no prescribed form for the application.
  - (c) The application may be in the usual form of an order for title or in any other written form, and should be lodged in accordance with usual registration practice.
  - (d) The owner of the adjacent land will be the Crown or local authority that has been divested of title to the land that is part of the common marine and coastal area.
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### Survey plan requirements

- (a) If the adjacent land is not defined by survey separately from the land in the common marine and coastal area, the RGL may require the deposit of a survey plan (s 23(3)).
- (b) A survey plan which will be suitable for deposit:
  - (i) defines the adjacent land above the line of MHWS, and
  - (ii) complies with *LINZS65003 - Rules for Cadastral Survey 2010* (the Rules),

**Note:** The land in the common marine and coastal area, that is the residual portion of the land in the CFR, may be depicted in the plan diagrams. It should be labelled as 'common marine and coastal area' or where applicable 'erosion, common marine and coastal area', or similar. The parcel must not have an appellation (r 5.5.1(c)) and is not required to show an area (r 5.3(a)(i)).

- (c) The survey plan defining the adjacent land does not require subdivision approval under Part 10 of the RMA, unless the adjacent land is being subdivided (s 23(4)).
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## Cancellation of a CFR comprising land that is partly in the common marine and coastal area (s 23), continued

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**Cancel CFR** On receipt of the application, the RGL is required to cancel the CFR (s 23(2)(a)).

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**Memorial for cancelling and issuing a new CFR** A suitable memorial to record the cancellation and issue of a new CFR (see below) is as follows:

[instrument number] Cancelled and CFR [CFR identifier] issued for [legal description of adjacent land above the line of mean high water springs, in terms of new deposited plan as appropriate] under section 23(2) of the Marine and Coastal Area (Takutai Moana) Act 2011 [date and time]

Part of the within land (shown on DP [ ]) is part of the common marine and coastal area under the Marine and Coastal Area (Takutai Moana) Act 2011

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**Notation to record issue of a CIR** A suitable notation on the cancelled CFR to record the issue of a new CIR (see below) is as follows:

[CIR identifier] issued for [description and identifier of the interest or notification] under section 23(2) of the Marine and Coastal Area (Takutai Moana) Act 2011 [date and time]

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**Issue CFR for adjacent land**

- (a) The RGL is required to:
  - (i) issue a CFR for the adjacent land in the name of the owner (s 23(2)(b)), and
  - (ii) note any current registered interest or current registered notification that relates to the adjacent land on that CFR in the order in which it appears on the cancelled CFR (s 23(2)(c)).
- (b) The registered proprietor will be the same as the cancelled CFR, subject to any statutory vesting or change of name notified in the application.

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## Cancellation of a CFR comprising land that is partly in the common marine and coastal area (s 23), continued

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### Issue CIRs

- (a) The RGL is required to:
  - (i) issue a CIR for each current registered interest or current registered notification (that is not already held in a CIR) that relates to land within the common marine and coastal area that was part of the cancelled CFR (s 23(2)(d)), and
  - (ii) record on the new CIR (or any existing affected CIR) that the land to which the registered interest or notification relates is located in the common marine and coastal area
- (b) The legal description for the CIR will be in terms of the description from the cancelled CFR, that is, not in terms of the new survey plan defining the adjacent land.
- (c) The terms 'current registered interest' and 'current registered notification' are not defined in the Act, but may be treated as broad enough to cover any unexpired interest or notification recorded against a CFR cancelled under s 23(1).

**Note:** The Act does not explicitly require a memorial that the land is located in the common marine and coastal area on CIRs issued under s 23(2)(d). However, it is implicit that the same memorial should be recorded as for CIRs issued under s 22(2).

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### Memorial on CIR

A suitable memorial to enter on a CIR is as follows:

The within land to which [description and identifier of the interest or notification] relates is part of the common marine and coastal area

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### Renewal or extension of proprietary interests

- (a) A proprietary interest as defined in s 21(1), such as a lease or easement of land in the common marine and coastal area, continues to have effect (s 21(2)).
  - (b) Such a proprietary interest that was granted by a person other than the Crown is deemed to have been granted by the Crown, (s 21(3)) and the Minister may execute relevant instruments required to be executed by the grantor (s 21(4)).
  - (c) The Crown may grant a renewal or extension of a proprietary interest if it contains a right of renewal or extension (s 21(6)).
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## Cancellation of a CFR comprising land that is partly in the common marine and coastal area (s 23), continued

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### **Cancellation of CIR**

- (a) The requirement in s 22(3) for the RGL to cancel the CIR when an interest or notification has expired, is extinguished, or determined does not apply to CIRs issued under s 23(2)(d).
  - (b) If such an interest or notification has expired, is extinguished, or is otherwise determined, the requirements for the RGL to cancel the CIR will be the same as for the interest or notification that is registered against the adjacent land, that is an instrument or request:
    - (i) executed by the grantee or registered proprietor of the notification or interest where relevant, and
    - (ii) executed by the grantor, which will be the Minister on behalf of the Crown under s 21(4).
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### **Fees**

- (a) A new title fee is payable for a new CFR for adjacent land under s 23(1).
  - (b) No fee is payable for a request to:
    - (i) cancel a CFR under s 23(1) or to cancel a CIR under s 22(3), or
    - (ii) issue any new CIR under s 23(2)(d).
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### 3 Subdivisions (s 237A of the RMA)

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- Introduction and background**
- (a) This part of the guideline provides guidance for depositing survey plans and registering subdivisions of allotments when part of the allotment subdivided is within the coastal marine area.
  - (b) When any part of an allotment being subdivided is within the coastal marine area, s 237A(1)(b) of the RMA requires the survey plan of subdivision to show the land that is within the coastal marine area as part of the common marine and coastal area.
  - (c) When the RGL deposits the survey plan, that land becomes part of the common marine and coastal area (s 239(1)(d) of the RMA) and is subject to s 11.

**Note:** Subdivision survey plans that show an area as vesting in the Crown under s 237A(1)(b) of the RMA prior to amendment by the Act can be deposited in accordance with those provisions.

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- Applicable plans**
- (a) This part of the guideline relates to any survey plan of subdivision of land which is partly in the coastal marine area, including:
    - (i) land with a title boundary at the line of the mean high-water mark (MHWM), where the current lines of MHWM and the mean high-water spring (MHWS) are different,
    - (ii) land with a fixed right-line title boundary below the current line of MHWS (that is, the land below the line of MHWS is in the coastal marine area), and
    - (iii) the bed of a river that is part of the coastal marine area (as defined in the RMA).
  - (b) This part of the guideline does not apply if:
    - (i) the land being subdivided has a title boundary at MHWM,
    - (ii) the surveyor has determined that the title boundary and the current position of MHWS are coincident, and
    - (iii) the survey plan shows an annotation 'MHWM/MHWS' (or similar) on the boundary.

**Note:** The annotation is sufficient to show there is no land between the lines of MHWM and MHWS in the coastal marine area.

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## Subdivisions (s 237A of the RMA), continued

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### Applicable plan suitable for deposit

- (a) An applicable survey plan is suitable for deposit if the plan diagrams depict the part of the allotment being subdivided in the coastal marine area:
- (i) as a lot, with a lot number and area in accordance with the Rules (rr 9.6.3 and 10.4.2(d)), and
  - (ii) labelled 'common marine and coastal area' (s 237A(1)(b) of the RMA and r 10.1(g)).
- (b) An applicable survey plan that does not show any part of the allotment being subdivided in the coastal marine area as part of the common marine and coastal area is not suitable for deposit.
- 

### Encumbrances and other registered interests

Section 239 of the RMA does not provide that land becomes part of the common marine and coastal area free from encumbrances and other interests, and does not suggest that they can continue. Therefore a discharge, withdrawal, revocation or surrender of every registered interest in the land shown as part of the common marine and coastal area will be necessary before the survey plan can deposit.

#### Notes

- Consent of the registered proprietor of an encumbrance or other registered interest is not sufficient, because there is no provision for this in the Act.
  - Consent of the registered proprietor of the subdivided land is not necessary. It will be assumed that the survey plan showing areas labeled 'common marine and coastal area' and documents to deposit it have been prepared and lodged at the registered proprietor's instruction.
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### Registration

An applicable survey plan may be deposited when:

- (a) every registered proprietor of an encumbrance or other registered interest provides a discharge, withdrawal, revocation or surrender as to the land shown as part of the common marine and coastal area, and
  - (b) a request for CR(s) is lodged for the land above the line of MHWS, along with any other instruments required under the RMA, LTA, and any other relevant enactments.
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## Subdivisions (s 237A of the RMA), continued

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### Memorial

A suitable memorial to record land becoming part of the common marine and coastal area is as follows:

Lot [ ] DP [ ] has become part of the common marine and coastal area under sections 237A(1)(b) and 239(1)(d) of the Resource Management Act 1991 [date and time]

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# Reclamations (ss 39 and 43)

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## Introduction and background

- (a) This part of the guideline provides guidance for issuing CRs for land reclaimed from the sea.
- (b) The requirements for the RGL to issue a CR for reclaimed land formed from the common marine and coastal area as a result of a lawful reclamation are:
  - (i) a survey plan for deposit approved by a regional council in terms of s 245 of the RMA (s 246 of the RMA), and
  - (ii) a Gazette notice by the Minister vesting a fee-simple estate or a lesser interest in the reclaimed land.
- (c) An interest in reclaimed land can be vested in a customary marine title group under s 43 or anyone else under s 39.
- (d) A fee-simple estate vested in anyone other than a customary marine title group will be subject to restrictions on disposal by transfer.
- (e) A fee-simple estate vested in a customary marine title group, and a leasehold interest or other lesser interest vested in anyone, is not subject to restrictions on disposal by transfer.
- (f) A lease or other lesser interest in reclaimed land may be renewed or changed to a fee simple estate.
- (g) This guidance does not cover:
  - (i) vesting of reclaimed land by unlawful reclamations (s 30(4) or declared to be Crown land subject to the Land Act 1948 (s 32),
  - (ii) vesting of reclaimed land by the Minister under the RMA from applications made and determined by that Minister before the Act came into force. The provisions and processes for those vestings were virtually identical, except that the Minister could only vest leasehold or other interests and not fee simple estates while the Foreshore and Seabed Act 2004 was in force,
  - (iii) vesting of the land reclaimed from riverbed or lakebed under s 355(1) of the RMA. The requirements are essentially the same except that:
    - (A) the reclaimed land will not be subject to subpart 3 Part 2 of the Act; therefore not subject to the restriction on disposal, and
    - (B) the consent authority for the purposes of ss 245 and 246 of the RMA will be the relevant territorial authority, that is, a city or district council, not a regional council; or

applying for or granting an interest in reclaimed land. Those processes are covered by *LINZS15004 – Interim standard for dealing with coastal reclaimed land*.

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## Reclamations, continued

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This section contains the following topics:

<b>Topics</b>	<b>See page</b>
Reclamation plans	19
Gazette notice	23
Fee-simple CFR	24
Leasehold or lesser interest CIR	26

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## 4 Reclamation plans

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- Introduction**
- (a) Reclamation must be shown on a survey plan prepared in accordance with the Rules for deposit under the LTA (ss 245 and 246 of the RMA).
  - (b) The RMA provisions for consent, approval and plans of reclamations, though similar in some respects, are separate and distinct from RMA provisions for subdivisions.
- 

- Regional council approval**
- The relevant regional council as the consenting authority may approve a survey plan of reclamation by:
- (a) affixing its common seal to the survey plan, or a copy of it, and
  - (b) having its chief executive sign and date a certificate under s 245(5)(b) of the RMA stating that:
    - (i) the reclamation conforms with the resource consent and the relevant provisions of any regional plan, and
    - (ii) in respect of any condition of the resource consent that has not been complied with, a bond has been given under s 108(2)(b) of the RMA or a covenant has been entered into under s 108(2)(d) of the RMA.

**Notes:**

- Examples of suitable formats for s 245(5)(b) certificates are suggested below. However, any certificate that conforms to the requirements at (i) and (ii) above is acceptable.
  - Auckland Council carrying out the functions of a regional council may approve a survey plan of a reclamation by its chief executive officer signing the survey plan (or a copy of it).
- 

- Requirements for deposit**
- (a) A survey plan of a reclamation cannot be deposited under the LTA unless:
    - (i) within the preceding three years the relevant consent authority has approved the plan of survey under s 245 of the RMA (s 246(2)(a) of the RMA), and
    - (ii) a copy of the certificate issued under s 245(5)(b) of the RMA is lodged with the RGL (s 246(2)(b) of the RMA).
  - (b) Suggested formats for certificates under s 245(5)(b) of the RMA are set out below.
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## Reclamation plans, continued

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**Example certificate under s 245(5)(b) of the RMA – no conditions**

Under section 245(5)(b) of the Resource Management Act 1991, I certify that the reclamation conforms with the resource consent and the relevant provisions of the Regional Plan (no conditions imposed). [dd month yyyy]

[Signature]

Chief Executive/Authorised Officer of the [name of regional council]

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**Example certificate under s 245(5)(b) of the RMA – all conditions complied with**

Under section 245(5)(b) of the Resource Management Act 1991, I certify that the reclamation conforms with the resource consent and the relevant provisions of the Regional Plan, and all the conditions of the resource consent have been complied with. [dd month yyyy].

[Signature]

Chief Executive/Authorised Officer of the [name of regional council]

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**Example certificate under s 245(5)(b) of the RMA – some or no conditions complied with**

Under section 245(5)(b) of the Resource Management Act 1991, I certify that the reclamation conforms with the resource consent and the relevant provisions of the Regional Plan. Some/none of the conditions of the resource consent have been complied with and a bond has been given under section 108(2)(b) of the Resource Management Act 1991 and/or a covenant has been entered into under section 108(2)(d) of the Resource Management Act 1991 in respect of those conditions that have not been complied with. [dd month yyyy].

[Signature]

Chief Executive/Authorised Officer of the [name of regional council]

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## Reclamation plans, continued

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### Registration of bond

- (a) A regional council may require an applicant for reclamation to provide a bond as a condition of its resource consent under s 108(2)(b) of the RMA.
  - (b) The bond is an instrument creating an interest in land and may be registered against the CR issued for the reclaimed land (s 109(1) of the RMA). However, registration is not mandatory for the survey plan to deposit.
  - (c) Upon lodgement of a notice that a registered bond has been varied, cancelled, or has expired, the RGL is required to make an appropriate entry on the affected CR (s 109(2) of the RMA).
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### Registration of covenant

- (a) A regional council may require an applicant for reclamation to enter into a covenant as a condition of its resource consent under s 108(2)(d) of the RMA.
  - (b) The covenant is an instrument creating an interest in land and may be registered against the CR issued for the reclaimed land (s 109(1) of the RMA). However, registration is not mandatory for the survey plan to deposit.
  - (c) Upon lodgement of a notice that a registered covenant has been varied, cancelled, or has expired, the RGL is required to make an appropriate entry on the affected CR (s 109(2) of the RMA).
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### Esplanade reserves

- (a) A resource consent for a reclamation may include a condition requiring an esplanade reserve to be set aside (s 108(2)(g) of the RMA).
- (b) On the deposit of a survey plan of a reclamation, the land shown as esplanade reserve is deemed to be set apart and vested in the Crown as local purpose reserve (s 246(3) of the RMA).
- (c) A suitable notation on such a survey plan (r 10.1(g)) is as follows:

*Local Purpose (Esplanade) Reserve set apart and vested in the Crown*

**Note:** A memorial of the esplanade reserve is not appropriate because there will be no existing CR for the reclaimed land.

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## Reclamation plans, continued

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- Esplanade strips**
- (a) A resource consent for a reclamation may include a condition requiring an esplanade strip to be created (s 108(2)(g) of the RMA).
  - (b) The survey plan of the reclamation may show the required esplanade strip, but registration is not mandatory for the survey plan to deposit.
  - (c) An esplanade strip as a condition of a reclamation consent may be created by registration of an instrument under s 235 of the RMA once a CR has issued for the reclamation (see below).
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## 5 Gazette notice

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### Introduction

A *Gazette* notice vesting reclaimed land in someone other than the Crown is necessary before a CR can be issued. There is no requirement or authority in the Act to issue a CR for reclaimed land to the Crown.

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### Gazette notice requirements

- (a) The Minister of Lands may vest an interest in reclaimed land in an applicant by Gazette notice (ss 39(1) or 43(5)).
  - (b) The Gazette notice is required to:
    - (i) state the name of the applicant,
    - (ii) describe the position and extent of the reclaimed land - the description should be in terms of the plan under ss 245 and 246 of the RMA,
    - (iii) describe the interest vested,
    - (iv) describe any encumbrances or restrictions imposed on the interest.
  - (c) The Minister of Lands sends the Gazette notice to the RGL with a request for a CR to be issued:
    - (i) where the interest is a fee simple estate, or
    - (ii) if the Minister of Lands considers it appropriate where the interest is a lease or other lesser interest (ss 39(2)(d) and 43(6)(d)).
  - (d) The request to issue a CR may be in the usual form of an order for title or in any other written form.
  - (e) The restrictions imposed on the interest will include the restriction on disposition in s 44 where the interest is an estate in fee simple and is vested in an applicant other than a customary marine title group.
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### Required actions for the RGL

- (a) On receipt of a Gazette notice and request to issue a CR, the RGL is required to:
  - (i) register the Gazette notice (ss 39(2)(e) and 43(6)(e)), and
  - (ii) issue a CR for the interest vested by the Gazette notice (ss 39(3)(a) and 43(7)), recording any encumbrances or restrictions imposed on the interest in the Gazette notice and by the Act.
- (b) The plan of the reclamation can then be deposited and any bond, covenant or esplanade strip registered against the CR issued for the reclaimed land.

## 6 Fee-simple CFR

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**Introduction** The following guidance relates to CFRs issued for fee-simple estates in reclaimed land vested by *Gazette* notices under s 39.

It does not apply to CFRs issued to customary marine title groups under s 43, except as specifically mentioned.

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**Recording a restriction on disposal of reclaimed land**

Under s 39(3)(b), the RGL must record on the CFR:

- (a) that the land is reclaimed land subject to subpart 3 of Part 2 of the Act, and
  - (b) that the disposition of the freehold interest in the land is restricted by that subpart.
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**Notation of restriction on disposal**

An acceptable notation to record the restriction on disposal is as follows:

The within land is reclaimed land subject to subpart 3 of part 2 of the Marine and Coastal Area (Takutai Moana) Act 2011 and the disposition of the freehold interest in the within land is restricted by that subpart.

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**Restriction on disposal**

- (a) Under s 44(3), a transfer of reclaimed land in a CFR that is subject to the above s 39(3)(b) notation may be registered if it is accompanied by a certificate from the Minister of Lands under s 44(3) (s 44(5)).
  - (b) The Minister of Lands' certificate will state that the transfer is:
    - (i) permitted by s 44(2), or
    - (ii) in accordance with s 45.
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**Transfer is permitted by s 44(2)**

If the Minister of Lands' certificate states that the transfer is permitted by s 44(2) then the s 39(3)(b) notation remains on the CFR after the transfer is registered.

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**Transfer is in accordance with s 45**

If the Minister of Lands' certificate states that the transfer is in accordance with s 45 of the Act then the RGL is required to remove the s 39(3)(b) notation on registration of the transfer (s 45(6)).

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## Fee-simple CFR, continued

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**S 11 Crown Minerals Act 1991 and Part IVA Conservation Act 1987**

- (a) The vesting of a fee-simple estate in reclaimed land under s 39 of the Act will be subject to the Crown Minerals Act 1991. The following memorial is suitable for recording on the CFR:

Subject to section 11 of the Crown Minerals Act 1991

- (b) Nothing in s 24 of the Conservation Act 1987 applies to the vesting of reclaimed land under ss 39 or 43 (s 24(7C) of the Conservation Act 1987). Accordingly a memorial of Part IVA Conservation Act 1987 should not be entered on a CFR for reclaimed land.
- 

**CFRs for customary marine title groups**

A CFR issued to a customary marine title group under s 43:

- (a) does not require a notation under s 39(3)(b), and  
(b) is not subject to s 11 of the Crown Minerals Act 1991.
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## 7 Leasehold or lesser interest CIR

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**Introduction** The following guidance relates to CIRs issued for leasehold or other lesser interest in reclaimed land vested by Gazette notices under s 39 or s 43.

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**Registration of lease or other lesser interest**

- (a) A Gazette notice vesting a leasehold or lesser interest in reclaimed land is all that is necessary to register the interest. The Act does not require or authorise the separate registration of a lease or other instrument creating the interest.
- (b) The Gazette notice should describe the essential elements of the interest eg the start date and term of a lease, and refer to the creating document eg a deed of lease. Further terms and conditions of the interest may be set out in the Gazette notice, or the creating document may accompany and be registered as part of the Gazette notice.
- (c) The CIR for the leasehold or other interest will be issued in the name of the lessee or other grantee, and will include an image of the Gazette notice and any accompanying creating document that describes the interest.

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**Recording that land is reclaimed land** The RGL is required to record on a CIR issued under s 39(3)(a) that the land is reclaimed land subject to subpart 3 of part 2 of the Act (s 39(3)(b)(i)).

An acceptable notation is as follows:

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

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## Leasehold or lesser interest CIR, continued

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### **Section 11 Crown Minerals Act 1991 and Part IVA Conservation Act 1987**

- (a) The vesting of a leasehold or other lesser interest in reclaimed land under s 39 will be subject to s 11 of the Crown Minerals Act 1991. The following memorial is suitable for recording on the CIR:

Subject to section 11 of the Crown Minerals Act 1991

- (b) Nothing in s 24 of the Conservation Act 1987 applies to the vesting of reclaimed land under s 39 or s 43 (s 24(7C) of the Conservation Act 1987). Accordingly a memorial of Part IVA Conservation Act 1987 should not be entered on a CFR for reclaimed land.
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### **CIRs for customary marine title groups**

A CIR issued to a customary marine title group under s 43:

- (a) does not require notations under s 39(3)(b), and
- (b) is not subject to s 11 of the Crown Minerals Act 1991 (s 83).
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### **Renewal of interests**

- (a) Leasehold or lesser interests in reclaimed land can be renewed by the Minister of Lands (s 40(1)).
- (b) The interests will be renewed and vested by *Gazette* notice, which may be registered in the same manner as the original vesting *Gazette* notice, with appropriate modifications.
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