



Fresh or seawater areas (was special land)

Applies to all applications received on or after 24 November 2021

What are fresh or seawater areas?

Fresh or seawater areas are any part of the relevant land that is marine or coastal area, the bed of a lake, or the bed of a river, and a reference to a fresh or seawater area is a reference to the whole or any part of that area.

[Overseas Investment Amendment Bill \(No 3\)](#)

'Marine and coastal area', 'lake', and 'river' are defined in section 6 of the Overseas Investment Act 2005.

[Overseas Investment Act 2005 - section 6](#)

What do I need to do if I'm buying land that includes fresh or seawater areas (FSA)?

For applications under the benefit to New Zealand pathway or the forestry pathway – if you are applying for a consent to buy sensitive land and the land is or includes a fresh or seawater area, you must notify the Crown. The Crown has the right to acquire the fresh or seawater interest unless a decision is made not to. This applies when the land or pastoral lease is acquired but doesn't apply if the consent relates to a lease or security in a company with an FSA interest.

Your notification is included in your application for consent. In addition to notifying that the land you wish to acquire contains is or includes a fresh or seawater interest, you must provide the following details in the sensitive land certificate:

- Legal description of the land; record(s) of title, size, location, and transaction history of the parcel of the relevant land which includes FSA.
- Description of extent and type of FSA, include any available plans or aerial photographs of each fresh and seawater area.
- Details of any existing structures, and any third-party interests in those structures or in that parcel of land.
- Any biosecurity issues that are specified in a relevant regional pest management plan in force under the Biosecurity Act 1993.
- Any Treaty of Waitangi claim (as defined in section 2 of the Treaty of Waitangi Act 1975), whether historical or other, made about all or any of that parcel of land.
- Whether the parcel of land contains an area or areas subject to any, or all, of the following:
 - Conservation Act 1987
 - Heritage New Zealand Pouhere Taonga Act 2014
 - Marine and Coastal Area (Takutai Moana) Act 2011
 - Reserves Act 1977.

[Sensitive land certificate](#)

What happens once my application for consent is granted?

A record of the Crown's right to acquire the FSA must be placed on the title at settlement. This is completed by your lawyer lodging a water areas acquisition notice for registration with the Registrar-General of Land at LINZ upon settlement. The acquisition notice records the Crown's right to acquire the land and the Crown may acquire the land at any point within the subsequent 10 years.

Once the notice is registered FSA owners and any registered third parties are asked to indicate whether they intend to claim compensation from the Crown.

The Crown has 12 months to assess the land and to provide an initial decision regarding its intention to acquire it. There will be occasions when the Crown decides it will not acquire the land or that more time is needed for an assessment. All decisions will be notified in writing.

How is compensation decided?

There is provision to claim compensation for material losses due to the Crown's acquisition of the FSA. These are losses that stem primarily from any decrease in enjoyment or use of the FSA or surrounding land.

- For FSA owners' - compensation will be decided with a formula based on the rateable value of the land in the vicinity of the FSA and a 'loss factor' to reflect the FSA owner's loss.
- For third parties - a negotiation process will be used to determine compensation.

Disputes about compensation can be initiated by either party and will be managed through mediation. The mediation costs will be shared equally between all participating parties.

What happens after the Crown decides to acquire the FSA?

In some instances, the land will be surveyed before being vested in the Crown with new titles issued for both the FSA and the remaining land.

If a survey is required, the Crown is responsible for meeting the cost of any survey required to issue titles.