

# Greater Christchurch Regeneration Act 2016 – Registration Matters

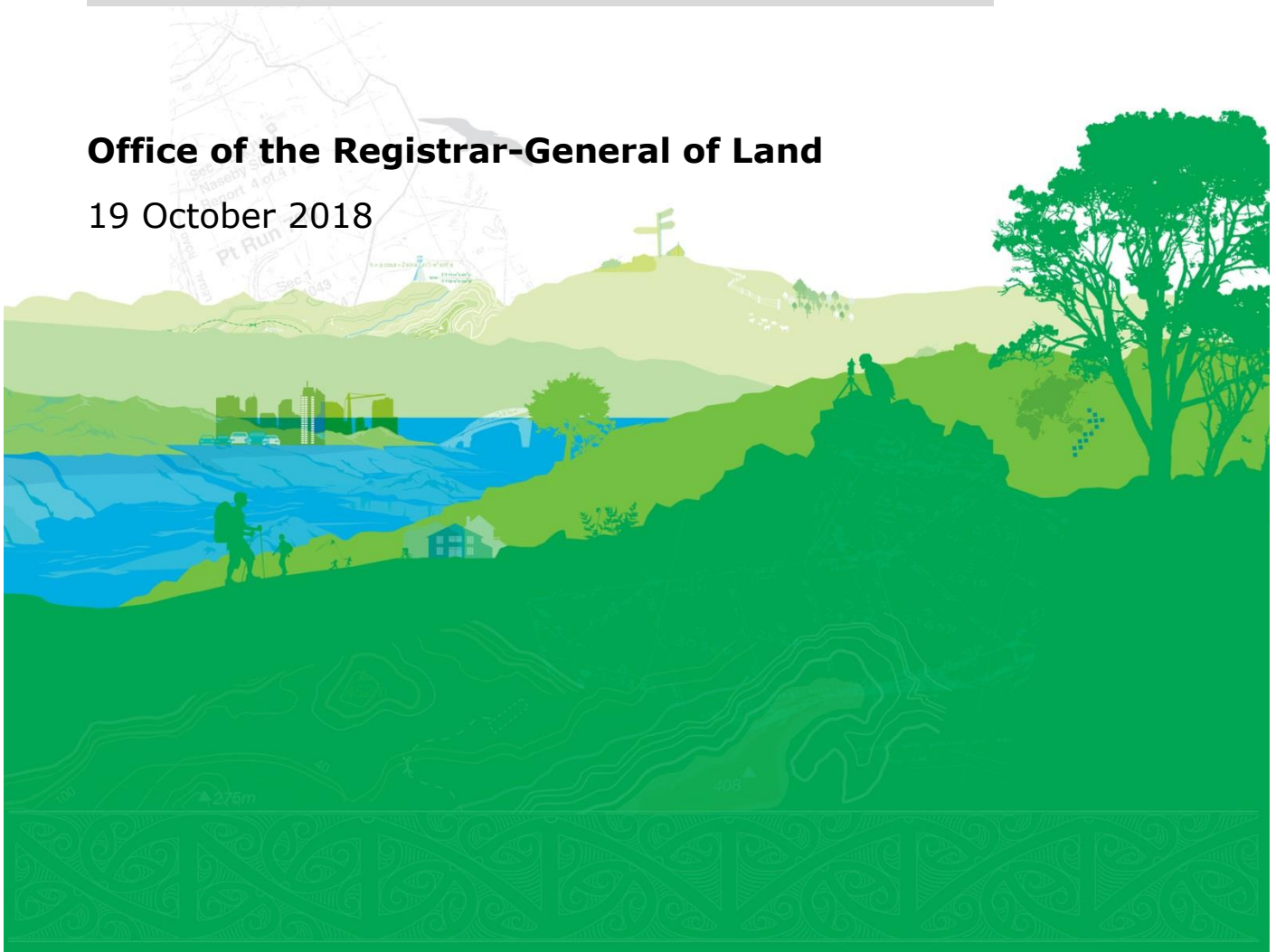
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Amendment Act 2020 changes

**Office of the Registrar-General of Land**

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## Introduction

The Greater Christchurch Regeneration Act 2016 (the Act) repealed the Canterbury Earthquake Recovery Act 2011 (CERA11). The Act focuses on regeneration of *Greater Christchurch*, and reflects a shift from emergency response, as reflected in the provisions of the Act which authorise certain land dealings outside usual restrictions.

The Greater Christchurch Regeneration Act 2016 (the Act) is amended by the Greater Christchurch Regeneration Amendment Act 2020 (the Amendment Act).

Some provisions of the Act will now not be repealed on the close of 30 June 2021, but are extended until the close of 30 June 2023, (or an earlier date may be set by Order in Council). They will be limited to apply only to a new definition of the land in the Ōtākaro Avon River Corridor.

Amongst other things, the extended land powers enable Toitū Te Whenua Land Information New Zealand, to meet obligations made with respect to title amalgamation work in the Ōtākaro Avon River Corridor.

The effect of those changes on the guidance are reflected by the notes in grey throughout.

Key objectives of the land registration system include:

- Only legally valid types of transactions are submitted; and
- No transactions are entered where a stop (e.g. caveat, charging order) on registration exists.

The types of transactions authorised by the Act include:

- Acquisitions of land by the Crown (by agreement, or if not, compulsory acquisition); and
- The subsequent holding, mortgaging, leasing, amalgamation, and disposal of that land by the Crown on the conditions set out in the Act.

This guideline is to support those objectives in light of such transactions authorised by the Act.

The Act also disestablished the Canterbury Earthquake Recovery Authority and created a joint Council-Crown entity called Regenerate Christchurch (RC). RC continues in existence until **30 June 2021**, upon which it is disestablished in accordance with s121 of the Act.

Land Information New Zealand (LINZ) is responsible for administering those parts of the Act that deal with land and other property, and compensation under the Act.<sup>1</sup>

This guidance sets out the requirements covering:

- a) Legal instruments received by LINZ acquiring and dealing with land; and

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<sup>1</sup> ss 74-117 of the Act. The Department of the Prime Minister and Cabinet administer the remainder of the Act.

- b) Deposited plans, and new Records of title (RT); and
- c) Registration of the Crown's acquisition of, dealings with, and charges against, land under the Act (which includes land acquired under CERA11); and
- d) Requirements relating to adjoining owners for plans affected by the Act or the Rules.

## Purpose of this guideline

This guideline is to assist individual and LINZ staff in relation to registering dealings under the Act or depositing relevant plans.

## References

Updated to include the reference to the Amendment Act, and to reflect the change to the Cadastral Survey Rules 2021.

- Greater Christchurch Regeneration Act 2016
- Greater Christchurch Regeneration Amendment Act 2020
- Land Transfer Act 2017
- Resource Management Act 1991
- ~~Cadastral Survey Rules 2010~~<sup>2</sup>
- Cadastral Survey Rules 2021

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<sup>2</sup> ~~Rules for Cadastral Survey 2010~~

## Interpretation

References in this guideline to sections, parts, subparts and regulations refer to the Greater Christchurch Regeneration Act 2016 unless otherwise stated.

Terms used in this guideline that are defined in the Greater Christchurch Regeneration Act 2016 have the meaning given to them in that Act, unless otherwise stated.

## Terms and Definitions

Updated to include the term and definition for Ōtākaro Avon River Corridor.

CE LINZ	Chief Executive of Land Information New Zealand
Chief Executive	As defined in s4 of the LT Act means the authorized Minister and Chief Executive of the Department of State, respectively, responsible for the administration of that provision <sup>3</sup>
CERA11	Canterbury Earthquake Recovery Act 2011
CMA	Crown Minerals Act 1991
Deeds index	Paper copies of indexes of Deeds for land now held by Archives New Zealand
Deposited plan	A plan deposited under s224 of the Act
Gazette	The official newspaper of the New Zealand Government
Greater Christchurch	means the area described in clause 1 of Schedule 2 of the Act, as defined by s4 of the Act
LT Act	Land Transfer Act 2017
Minister	As defined in s4 of the LT Act, means the authorized Minister and Chief Executive of the Department of State, respectively, responsible for the administration of that provision <sup>4</sup>

<sup>3</sup> By letters dated 11 April 2016, the Prime Minister authorised: - the Hon Gerry Brownlee to succeed to the new portfolio "Minister supporting Greater Christchurch Regeneration" with responsibility for administering all the provisions of the Act; and - Land Information New Zealand (LINZ) as responsible for the administration of Part 2 Subpart 2 (Dealing with land and other property) (ss74-109) and Part 2 Subpart 3 (Compensation under this Act) (ss110-117); and - the Department of the Prime Minister and Cabinet to be the department responsible for the remainder of the Act.

<sup>4</sup> See footnote 1.

ONCT	Order for a Record of Title
Ōtākaro Avon River Corridor (OARC)	As described in Schedule 3A of the Act.
Qualified RT	as defined in s5 of the LT Act means a record of title that records a qualification to the title under s17
Regenerate Christchurch (RC)	means the entity established by s121 of the Act
Registered charge	is a land charge registered under Subpart 5 of Part 3 of the Land Transfer Act 2017
RT	Record of Title
RMA	Resource Management Act 1991
SG	Surveyor-General

# 1 Acquisition, dealings and disposal

## 1.1 Overview

Unless otherwise shown as repealed, the Crown's powers described below continue in relation to land within the Ōtākaro Avon River Corridor until the earlier of 30 June 2023 or a date set by Order in Council.

The CE LINZ may, in the name of the Crown, purchase or otherwise acquire land in Greater Christchurch; and to hold, mortgage and lease land acquired by the Crown under the Act and CERA11.<sup>5</sup>

If reasonable endeavors to reach agreement to acquire land have been unsuccessful, compulsory acquisition is authorized.<sup>6</sup>

**REPEALED FROM 1/7/2021**

Subject to the CE LINZ confirming offer back requirements have been complied with the Minister is authorised, by notice in the Gazette, to declare land to be held or set apart for different purposes.<sup>7</sup>

The CE LINZ may subdivide and re-subdivide, improve, and develop land acquired by the Crown under the Act (including land amalgamated under s 94). Nothing in section 11 or Part 10 of the RMA applies to any subdivisions by the CE LINZ.

The Minister may amalgamate land acquired by the Crown under the Act or under the CERA11. Nothing in section 11 of the Act or anything in the RMA applies to an amalgamation under section 94 of the Act.<sup>8</sup>

The CE LINZ may, subject to certain requirements<sup>9</sup>, also dispose of land held by the Crown under either the Act or CERA.<sup>10</sup>

## 1.2 Acquiring land

The Crown's powers to acquire land continue to apply only in relation to land within the Ōtākaro Avon River Corridor. These powers continue until the earlier of 30 June 2023 or a date set by Order in Council.

RT's will continue to exist for land acquired or taken under the Act. The usual practice of cancelling a RT and creating a new RT for a Gazette notice or Proclamation will not apply. Where necessary, RT should be created for land acquired under the Act without fee.

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91(1) of the Act. Note that a lease over 35 years (including rights of renewal) is a "disposal" (s107(6)).

<sup>6</sup> ss 102-106 of the Act.

<sup>7</sup> s 92 of the Act.

<sup>8</sup> ss 94 to 101 of the Act. CERA11 was repealed on 19 April 2016.

<sup>9</sup> For example, s7 Ngāi Tahu rights, public works offerback obligations (s108-9, 92), disposals subject to Part 4A of Conservation Act 1987, and sections 10 and 11 of Crown Minerals Act 1991.

<sup>10</sup> ss 107-109 of the Act.

### 1.2.1 Acquisition by Agreement – transfer to Her Majesty the Queen

Transfer instruments under s 91(1) to the Crown in respect of land in Greater Christchurch will be authorised by or on behalf of the registered owner as transferor in the usual manner.

Caveats and other stops will prevent registration, and the land will continue to be subject to existing easements and other encumbrances until they are discharged or otherwise extinguished.

#### **LINZ Process:**

- a) Check the transfer is executed by the CE LINZ in the name of the Crown;<sup>11</sup>
- b) Record the name of the Crown as transferee on the RT (or LINZ indices if Deeds land) as:  
  
‘Her Majesty the Queen under section 91(1) of the Greater Christchurch Regeneration Act 2016’
- c) Do not include any purpose statement.

**Fees:** Usual registration fees apply.

### 1.2.2 Caveat by Crown as purchaser

The Crown may lodge caveats received for unregistered agreements to purchase or otherwise acquire land under s 91(1).

#### **LINZ Process:**

- a) Check the caveat is authorized by CE LINZ on behalf of the Crown as caveator.
- b) When entering a caveat by the Crown as purchaser under s91(1) of the Act, the RT must record the caveator as ‘Her Majesty the Queen under section 91(1) of the Greater Christchurch Regeneration Act 2016’

**Fees:** Usual registration fees apply.

### 1.2.3 Withdrawal of Caveat by the Crown as purchaser

A withdrawal of a Caveat against a property (in Greater Christchurch), must be authorized by CE LINZ on behalf of HMQ as caveator.

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<sup>11</sup> Section 91 of the Act



## 1.3 Compulsory acquisitions

From 1 July 2021 the Crown cannot commence compulsory acquisitions or publish Notices of Intention to take land.

The following guidance applies to Notices of Intention published prior to 1 July 2021.

### 1.3.1 Notice of Intention

As part of the process that authorizes the Minister to acquire land compulsorily, the Minister must first lodge with the RGL a "Notice of Intention to take land in the name of the Crown" being a copy of the Gazette Notice (GN) described in s103(1) (Notice of Intention).

This GN must include a general description of the land required to be taken and the purpose for which it is to be used.

If the land is subsequently taken, a proclamation will then be lodged.<sup>12</sup> Until that time, the Notice of Intention gives notice of the Crown's intent to acquire the land, but does not prevent transfers or other dealings.

### 1.3.2 Notice of Intention timeframes

A Notice of intention ceases to have effect:

- Three years after the date the notice is published in the *Gazette* unless, on or before that period expires, a Proclamation taking the land has been published or the Minister has by further written notice served on the owner and others with a registered interest, confirmed the intention to take.<sup>13</sup>

or

- If the Minister has confirmed the intention to take, and a Proclamation taking the land has not been published in the *Gazette* within two years of the confirmation.<sup>14</sup>

LINZ does not monitor compliance with the above timeframes, however, regardless of whether or not they are met, a Notice of Intention can only be removed by a Notice of Withdrawal<sup>15</sup>.

**LINZ Process:** Upon receipt of a Notice of Intention, being a GN under s103(3):

- a) Check that it has been signed by the Minister for Land Information (or a person with a statutory delegation to sign on the Minister's behalf); and
- b) Register it against the land described in it; and
- c) Record the following memorial on either the current view of the RT or, LINZ indices (if Deeds land)

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<sup>12</sup> Refer s1.1.3.4 below

<sup>13</sup> Section 103(6) of the Act

<sup>14</sup> Section 103(7)

<sup>15</sup> See 1.1.3.3 below

'[instrument number] Notice of Intention to take land under section 103 of the Greater Christchurch Regeneration Act 2016 [date and time]'

**Fees:** No registration fees apply

### 1.3.3 Withdrawal of Notice of Intention

Any Notice of Intention may be withdrawn by the Minister, as to all or to part, by a Notice to Withdraw.<sup>16</sup> A Notice to Withdraw has no set form, but it should refer to s103 of the Act and contain sufficient description of the land to identify it.

As noted in 1.3.2, LINZ does not monitor compliance which Notice of Intention timeframes, however, regardless of whether or not they have lapsed, a Notice of Intention can only be withdrawn by a Notice of Withdrawal.

**LINZ Process:** Upon receipt of a s103(4) Notice to Withdraw (relating to a s103(1) Notice of intention to Take Land):

- a) Check that it has been signed by the Minister for Land Information (or a person with a statutory delegation to sign on the Minister's behalf); and
- b) Register it against the RT for the land; and
- c) Record the following memorial on the RT's historic view:

'[instrument number] Withdrawal of Notice of Intention to take land under section 103 of the Greater Christchurch Regeneration Act 2016 [Notice of Intention Number] [include "as to part" where applicable] [date and time]'; and
- d) Remove the memorial of the Notice of Intention to Take Land from the current view of the RT if the withdrawal relates to all of the land.

**Fees:** No registration fees apply.

### 1.3.4 Compulsory Acquisition – Proclamation taking land (including one following a Confirmation)

As noted in 1.3.1, a Notice of Intention to Take Land ceases to have effect three years after its publication date in the Gazette unless, on or before then the Minister has published in the Gazette a Proclamation taking the land, or has confirmed in writing the intention to take the land, both in accordance with s103(6) of the Act.

The land specified in such a Proclamation vests the fee simple in the Crown free of all mortgages, charges, claims, estates, or interests on the 14<sup>th</sup> day after the date of publication, unless otherwise provided.<sup>17</sup>

A Proclamation should not be registered unless a Notice of Intention has previously been registered.<sup>18</sup>

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<sup>16</sup> Section 103(4) of the Act

<sup>17</sup> Section 104(6) of the Act

<sup>18</sup> In accordance with sections 103(3) and 104(3) of the Act

**LINZ Process:** Upon receipt of a Proclamation by gazette notice taking land under s104 of the Act.<sup>19, 20</sup>

- a) Check a Notice of Intention has previously been registered.<sup>21</sup>
- b) Remove the Notice of Intention memorial (the Proclamation memorial in (d), and the reference to s104 in (e), both below, will be sufficient explanation for the memorial's cancellation).
- c) If the Proclamation affects:
  - i) all of the land in a RT, the registration will result in a change of ownership and the RT should not be cancelled;<sup>22</sup>
  - ii) part of the land in a RT, then issue new RTs for the land taken and the remaining land, without fee. If necessary, a plan showing land taken, must be prepared.<sup>23</sup>
- d) Record a memorial that follows the wording of the Proclamation (including referring to "the Crown" if that is in the Proclamation) on the historic view of the RT, or deeds index;
- e) Ensure the name of the Crown as Registered Owner on the RT (or, for deeds land, in LINZ indices) as:
 

'Her Majesty the Queen under section 104 of the Greater Christchurch Regeneration Act 2016';
- f) Caveats and other stop notices will not prevent registration of the Proclamation, and their memorials should be cancelled along with other estate or interests except statutory restrictions for example, s 98 Ngāi Tahu Claims Settlement Act 1998, and s27B State-Owned Enterprises Act 1986, which continue to apply.
- g) Do not include any purpose statement;
- h) If it is necessary to enter the Proclamation in the deeds index in accordance with s105(2), issue a RT for the land taken without fee;
- i) If it affects a subdivision, s11 and Part 10 RMA do not apply (s93);
- j) It is not necessary to check whether these dealings have been authorized by enactments other than the Act (for example, the PWA).

**Fees:** no registration fees apply.

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<sup>19</sup> Proclamations made under s 105 of the Act

<sup>20</sup> With the repeal of ss 103-105 of the Act at 30 June 2021, no new Notices of Intention should be received after this date. Any existing notices will be dealt with according to the process set out in 1.3. of this Guideline.

<sup>21</sup> Sections 103(3) and 104(3) of the Act

<sup>22</sup> Section 105(5) of the Act

<sup>23</sup> Section 104(2) of the Act

## 1.4 Other dealings

The Crown's powers to mortgage, lease, and carry out other dealings that are not disposals continue to apply only in relation to land within the Ōtākaro Avon River Corridor. These powers continue until the earlier of 30 June 2023 or a date set by Order in Council.

Mortgages, leases, and other dealings that are not disposals can be registered in the usual way.

Instruments will be authorised by the CE LINZ for HMQ as Registered Owner.

Section 107(6) states that the granting of a lease that is or could be more than 35 years (including rights of renewal) is a disposal for the purposes of ss107-109. See 1.5.

### 1.4.1 Subdivision

The CE LINZ can subdivide or re-subdivide land acquired by the Crown under the Act (including land amalgamated under s94). The CE LINZ may do so without territorial authority approval under s223 RMA, and requirements of s11 or Part 10 RMA do not apply (s93).

A plan of subdivision or related documentation may include a recital that the subdivision is exempt from the RMA under s93, but this is not essential.

Fees: usual registration fees apply.

### 1.4.2 Amalgamation

The Minister may amalgamate all or part of any land acquired under the Act or CERA11 with land owned by the Crown or a council (if they consent to it vesting in the Crown), and nothing in the RMA applies.<sup>24</sup>

On the date specified in a Gazette Notice under s98 (Notice of Intention to Amalgamate Land) the land is amalgamated and any restrictions or other matters referred to in the notice (s98(b)(i) or (ii)) are extinguished.

Council consent to any amalgamation of Crown and council land will occur before (and to enable issue of) the Gazette Notice. Accordingly, there should be no need to look beyond the Gazette Notice.

**LINZ Process:** Upon receipt of a Gazette Notice under s96 (Notice of Intention to Vest Land in Crown) or Notice of Intention to Amalgamate Land under s98, effect is to be given to the Gazette Notice(s) by:

- a) Cancelling a RT or RTs (where necessary);
- b) Issuing one or more RT (where necessary) recording the Crown as Registered Owner as follows:

‘Her Majesty the Queen under section 101 of the Greater Christchurch Regeneration Act 2016’; and

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<sup>24</sup> Section 94 of the Act

- c) Remove any estate, interest, status, restriction, charge or other encumbrance referred to in the Gazette Notice.<sup>25</sup>
- d) The above, is subject to survey (if necessary).

**Fees:** Usual registration fees apply.

### 1.4.3 Declarations

Subject to the CE LINZ confirming that offer back requirements have been complied with in accordance with sections 107-109, the Minister is authorised, by notice in the Gazette, to declare land to be held for different purposes or status.<sup>26</sup>

There are 3 types of possible declarations by the Minister concerning land:

- a) land held under the Act or the CERA11 to be:
  - i) set apart for a Government work in terms of the PWA (s92(1)); or
  - ii) subject to the Land Act 1958 (s92(2)); or
- b) land held for a public work under the PWA to be held under this Act (s92(4));

#### **LINZ Process:**

- c) Gazette notices made under s92 of the Act can be registered in the same manner as any Gazette notice.
- d) The memorial must follow the wording of the Gazette notice, including referring to "the Crown" in the memorial if applicable. It should also reference the appropriate subsection under which the declaration is made.
- e) The name of the Crown, as new owner of the land, must be recorded on the RT and in Deeds Index (if Deeds land) as  
 'Her Majesty the Queen under [insert s92(1) or s92(2) or s92(4) as appropriate] of the Greater Christchurch Regeneration Act 2016'.
- f) Do not include any purpose statement on the RT.
- g) If there is no RT for the land or if the Gazette notice affects part of the land in an existing RT, a RT must be issued for the land declared to be held under the Act, without fee.
- h) It is not necessary to check whether these dealings have been authorised by enactments other than the Act (for example, the PWA).
- i) Land declared under s92 continues to be subject to offer back obligations described in the Act if CE LINZ wishes to dispose of the land, as explained in 1.5. It is the CE LINZ's responsibility to comply with those obligations, with the description of the Registered Owner aiding identification of relevant land.

**Fees:** no registration fees apply.

<sup>25</sup> Sections 99 and 101 of the Act

<sup>26</sup> Section 92 of the Act

## 1.5 Disposal

The Crown's powers of disposal continue only in relation to land within the Ōtākaro Avon River Corridor. These powers continue until the earlier of 30 June 2023 or a date set by Order in Council.

The Crown may also transfer land held under either the Act or CERA to Ōtākaro Limited under section 142. This power continues until the close of 30 June 2022 and applies to all land in Greater Christchurch.

The CE LINZ may dispose of land, held by the Crown under either the Act or CERA.<sup>27</sup>

For the purposes of this guideline, 'disposal' refers to a transfer by HMQ under the Act to a different owner and includes the grant of a lease of land for a term of 35 years or more, including renewal.<sup>28</sup>

Prior to disposal, the CE LINZ is first subject to:

- a) The Minister's approval<sup>29</sup>; and
- b) The Ngāi Tahu Claims Settlement Act 1998<sup>30</sup>; and
- c) Public Works Act 1981 (PWA) requirements to offer back land, where land disposed of in accordance with s107 of the Act<sup>31</sup>; and
- d) The offer back requirements for compulsorily acquired land as set out in s109 of the Act.

As a Crown disposal of land, the disposal is subject to Part 4A of the Conservation Act 1987 and s11 of the Crown Minerals Act 1991.

Memorials will be automatically generated and will and need only refer to s11 of the CMA. Our prior practice of also including s10 of the CMA is not required. Section 10 applies whether or not the land has been alienated from the Crown, and so as with transfers from private ownership, transfers from the Crown do not need to expressly refer to s10.<sup>32</sup>

### 1.5.1 Transfers

Transfer instruments will be authorised by the CE LINZ for HMQ as transferor.

A transfer instrument for disposal of land held under ss91(1) or 104 may include a recital or other information, but this is not essential.<sup>33</sup>

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<sup>27</sup> ss 107-109 of the Act.

<sup>28</sup> Section 107(6) of the Act

<sup>29</sup> s107(1) of the Act

<sup>30</sup> Ss 7 and 107(5) of the Act.

<sup>31</sup> s108 and 109 of the Act. To the extent defined in s108 and 109 of the Act. Nothing in section 40-42 of the PWA applies to the disposal of land.

<sup>32</sup> Previous memorials in relation to the CMA referred to both ss 10 and 11.

<sup>33</sup> It is the CE LINZ's responsibility to comply with any offer back obligations.

A transfer instrument should be accompanied by a s99 Ngāi Tahu Claims Settlement Act 1998 certificate if the RT is subject to a certificate under s98 of that Act.

**LINZ PROCESS:** Upon receipt of a transfer instrument:

- a) Check the transfer instrument is accompanied by a s99 Ngāi Tahu Claims Settlement Act 1998 certificate (where required); and
- b) Process the transfer in the usual manner.

**Fees:** usual registration fees apply.

## 2 Statutory land charges

From 1 July 2021 the Crown's powers to undertake demolition works in ss77-85 of the Act are repealed, including s79(3) which made recoverable costs a charge on the land. The following guidance continues to apply to existing charges.

If the CE LINZ is required to carry out demolition work to a building as described in s83(1) or (3), the CE LINZ is entitled to recover the costs. These costs become a charge on the land on which the work was carried out, under s79(3) of the Act and are registered under the authority of Subpart 5 of Part 3 of the LT Act.

### 2.1 Registration of a charge

**Action:** Upon receipt of a notice of charge<sup>34</sup> under s79(3)(c) of the Act:

- Check the 'notice of statutory land charge' is in the form prescribed under the LT Act;
- Check the form specifies the amount of the charge (it may also include addition words referring to "all further costs" or similar);
- Register the charge by recording the following memorial:

**NO CHARGES CREATED FROM 1/7/2021**

"[instrument number] statutory land charge pursuant to section 79 of the Greater Christchurch Regeneration Act 2016 [date and time]'.

**Fees:** usual registration fees apply.

### 2.2 Release of a registered charge

Where a registered charge has been wholly or partially satisfied, the RGL may, on receipt of a certificate of release, release the charge in relation to all or part of the land<sup>35</sup>.

**Action:** Upon receipt of certificate:

- Check it is in the appropriate form<sup>36</sup>.
- Check that all fields in the form have been completed, including being signed by person or body for whose benefit the charge was created.
- On the appropriate RT record the following notation:

"[instrument number] Statutory land charge pursuant to section 79 of the Greater Christchurch Regeneration Act 2016 [date and time] is released [wholly or partially]"

**Fees:** usual registration fees apply.

<sup>34</sup> s118 LT Act.

<sup>35</sup> s118 LT Act.

<sup>36</sup> s118 LT Act.



### 3 New surveys – Qualified titles

From 1 July 2021 the Chief Executive's powers under s74 of the Act, to approve cadastral survey datasets, or direct the Surveyor-General to approve plans (as defined in s69(3) of the Cadastral Survey Act 2002), is repealed.

Therefore, the guidance below on the Chief Executive's power to direct the Registrar-General of Land to seek consent of adjoining owners, only continues if there is a legal requirement to notify adjoining owners of a deposit of a cadastral survey dataset under s224 of the Land Transfer Act 2017.

Those powers continue until the earlier of 30 June 2023 or a date set by Order in Council.

When surveying land in areas affected by the Canterbury earthquakes, it may be difficult to comply with the Rules. For example, survey marks and physical boundary evidence to which the new survey definition must usually relate, may have moved, disappeared or access to them may be obstructed.

Sections 74(1) and 75(1) of the Act authorise the CE LINZ to:

- a) Approve a Cadastral Survey Dataset (CSD) under s9(a) of the Cadastral Survey Act 2002; or
- b) Direct the Surveyor-General (SG) to approve a CSD.

**REPEALED FROM 1/7/2021**

These actions may occur even if the CSD does not comply with the Standards, and may occur even if the CSD does not comply with any other rules the SG would otherwise apply under the enactment that applies to the CSD.<sup>38</sup>

Approval of a CSD by the CE LINZ or on direction of the CE LINZ, is deemed to be approval as to survey to allow the plan to be deposited under s224 of the LTA.<sup>39</sup>

The SG will arrange with the CE LINZ for a relevant CSD to clearly indicate it is approved in accordance with s74.

#### 3.1 Adjoining owner consent

The provisions relating to adjoining owner consent under s75 continue to apply only in relation to land within the Ōtākaro Avon River Corridor. These provisions continue until the earlier of 30 June 2023 or a date set by Order in Council.

If:

- a) The CE LINZ (or the SG on direction) approves a CSD (s74(1) and 75(1)), or
- b) in any other case where there is a legal requirement to notify adjoining owners that a plan will be deposited under s224 of the LTA

<sup>37</sup> Section 74 repealed, effective on close of 30 June 2021, ref s 151 Greater Christchurch Regeneration Amendment Act 2020.

<sup>38</sup> s74(2) and (3).

<sup>39</sup> s74(4) and (5).

the CE LINZ can direct the RGL to seek the consent of adjoining landowners to a new survey definition s75(2).

This means a plan that is approved under direction of the CE LINZ (s74)<sup>40</sup> can only be deposited in accordance with s75. For other plans, where there is a legal requirement to give notice to adjoining owners (such as plans to remove limitations as to parcels) s75 provides an alternative procedure of seeking the consent of the adjoining owners.

If adjoining owners consent, the plan can be deposited and a new RT issued as usual (s75(3)). The consent can be in the usual manner of consenting to deposit of a plan, namely either signing a copy of the plan or by written consent referring to the plan number.

If they do not consent, or fail to response within 10 working days (or time specified by the CE LINZ) the CE LINZ may direct the RGL to issue a qualified RT as described in s17(1)(a) of the LTA (s75 (4)), which will preserve the rights of adjoining owners.

### **3.1.1 Direction to RGL to seek adjoining owner consent**

A direction will be in writing and may be included as part of the CSD or adjoin the Order for new CT (ORT) for the new RT that accompanies the deposit of the plan.

**LINZ Process:** Upon receipt by the RGL of a direction from the CE LINZ to seek adjoining owner consent in one of the scenarios set out in s75:

- a) Deliver written notice (Request for Consent of Adjoining Owner) to each adjoining landowner to their property address. A recommended form of notice and consent are attached at Schedules 1 and 2.
- b) Ensure the date for response is set at 12 working days, which allows for the Act's 10 working day timeframe for a response (s75(4)) plus two working days for delivery.
- c) If any adjoining landowner does not respond by the date specified in the Request for Consent of Adjoining Owner, or refuses to consent to the new survey definition:
  - i) send a notice to the CE LINZ (CE Notice) advising of that inaction (a recommended form of notice is set out at Schedule 3); and
  - ii) ensure copies of the Request for Consent of Adjoining Owner and any landowner's refusals (if applicable) are attached.

The CE LINZ Notice can be sent by post or electronic communication, depending on whether the CE LINZ's direction to the RGL to seek consent of adjoining owners was included as part of the CSD or accompanied an ONCT.

- d) The CE LINZ may:
  - i) withdraw the ONCT (if applicable);
  - ii) allow the adjoining landowner a further period to respond (s75(4)); or
  - iii) direct the RGL to issue a new RT limited as to parcels on deposit of the CSD.

<sup>40</sup> Note new ss75(4) to (7) GCRA arising from Consequential amendments in the Act

**Fees:** usual notice fees apply.

## 3.2 Issuing qualified records of title

If an adjoining owner fails to respond within the date specified in the notice (or any further period allowed by the CE LINZ), or fails to consent, as noted above, the CE LINZ may direct the RGL to issue a new RT qualified as to the matters in s17(1)(a) of the LT Act on deposit of the CSD or Survey plan.

Whilst the RT remains qualified, the LT provisions for lodging caveats under s207 and challenging such caveats apply (ss75(5) and 76(2)).<sup>41</sup>

Disputes about the survey definition and caveats must be heard and determined in accordance with the Act (s76 and Subpart 4 (Appeal rights)). The RGL must remove the qualification as to title when directed to by the CE LINZ or in accordance with a determination by a court under subpart 4 of the Act (s75).

### 3.2.1 Issue of qualified title

The usual provisions in Part 2 subpart 1 of the LT Act for qualified RT's apply other than the process to remove the limitations – which is dealt with in accordance with s75.

**LINZ Process:** Upon receipt by the RGL, by:

- a) post; or
- b) electronic communication, or
- c) lodged as an ONCT (if the CE LINZ has not already lodged an ONCT to deposit the plan)

of a written direction (which refers to s75) to issue an RT qualified as to the matters in s17(1)(a) of the LT Act from the CE LINZ:

- d) Create a RT in accordance with the direction;
- e) Include the following notation on the RT:

‘This Record of Title is qualified as to the matters in s17(1)(a) of the Land Transfer Act 2017 in accordance with a direction under section 75 of the Greater Christchurch Regeneration Act 2016’; and

- f) the direction must be linked to the OCNT so that it is searchable.

### 3.2.2 Removing qualification

The CE LINZ may direct the RGL to disapply the application of s207 LTA - s75(5). If so, the RGL must remove the qualification as to title from the relevant RT. Any existing s207 caveats can be removed at the same time (including historic caveats lodged under s s205(4) LTA 1952).

**LINZ Process:** Upon receipt from the CE LINZ (by post or electronic communication) by the RGL of a written direction (which refers to s75(6) of the Act) to disapply the

application of s207 LTA in respect of a RT qualified as to the matters in s17(1)(a) of the LT Act under s75(4) of the Act:

- a) Record the following notation on the historic view of the RT:

‘The qualification is removed from this Record of Title in accordance with a direction under section 75(6) of the Greater Christchurch Regeneration Act 2016’;
- b) any existing s 207 LTA caveat must be removed;<sup>42</sup>
- c) the notations ‘Limited as to Parcels’ or “qualified as to the matters in s17(1)(a) of the Land Transfer Act 2017” must be removed.

### 3.3 Road stopping

The provisions under s87(3) – (6) of the Principal Act relating to the stopping of roads continue only in relation to land within the Ōtākaro Avon River Corridor. These provisions continue until the earlier of 30 June 2023 or a date set by Order in Council.

The CE LINZ may, by giving notice in the Gazette and in a newspaper circulating in Greater Christchurch, stop any road or part of a road in Greater Christchurch.<sup>43</sup>

The road stopping has effect as if the road had been stopped in accordance with s342 and Schedule 10 of the Local Government Act 1974, and as if the CE LINZ were a council within the meaning of that section.<sup>44</sup>

Nothing in s345 of the Local Government Act 1974 (Disposal of land not required for Road) applies to the disposal of the stopped road.<sup>45</sup>

Nothing in the Act, or in s342 and Schedule 10 of the Local Government Act 1974, suggests that stopping of a road changes the ownership of the road. Road stopped under s87 continues to be vested in the owner of the road until it is acquired by the Crown under the Act, or otherwise dealt with by the owner.

**LINZ Process:** Upon receipt by the RGL of a request from the CE LINZ for issue a RT for the stopped road in the name of the owner, issue a RT in the name of the owner provided the application includes:

- a) a copy of the public notice and/or other relevant documentation in terms of s87(3) is included; and
- b) refers to a plan of survey that defines the area of stopped road, which has been approved in terms of the Rules.

**Fees:** Usual registration fees apply.

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<sup>42</sup> Note caveats previously lodged under s205(4) of the LTA 1952

<sup>43</sup> s87(3)

<sup>44</sup> s87(4)

<sup>45</sup> S87(6)(b)

## Schedule 1: Request for consent of adjoining owner

(Date)

(Name of adjoining owner)

(Address)

### Greater Christchurch Regeneration Act 2016 – Section 75(2): Request for consent to new survey definition

Dealing: (dealing number)

Plan: (CSD number)

Record of Title: (RT reference)

Owner: (applicant's name)

This notice is to advise you that land next to your property has been surveyed and the Chief Executive of LINZ (Chief Executive) has directed the Registrar-General of Land (RGL) to seek your consent to the new survey definition before the RGL issues a new record(s) of title for the land.

To satisfy yourself that the land surveyed does not encroach on your property you may inspect the **attached** plan and any pegs or other boundary marks that have been placed at the site by the surveyor. (You may need to engage a licensed cadastral surveyor to assist you.)

If you agree with the new survey definition, **please complete the attached consent form** and return it to the address below or by email to [customersupport@linz.govt.nz](mailto:customersupport@linz.govt.nz). The RGL will then deposit the plan and issue a record(s) of title to the owner.

If you do not respond **by the close of [insert date – ensure it is 12 working days after date of notice]** or if you refuse to consent, the chief executive may direct the RGL to deposit the plan and issue a new qualified record(s), which will enable you to lodge a caveat under s207 of the LTA to protect your interests.

Disputes over survey definitions and against caveats under s207 of the LTA will be heard and determined by the courts in accordance with s119 of the Greater Christchurch Regeneration Act 2016.

Please contact Customer Support (0800 665 463) if you have any queries regarding this notice.

Group Manager - Titles  
for Registrar-General of Land  
[LINZ office address]



## Schedule 3: CE LINZ Notice

(Date)

(CE LINZ)

(Address – postal or email)

### **Greater Christchurch Regeneration Act 2016 – Section 75(2): Request for consent to new survey definition**

Dealing: (dealing number)

Plan: (CSD number)

Computer Register: (RT reference)

Owner: (applicant's name)

Consent of the adjoining landowners to the new survey definition on the cadastral survey dataset LT (CSD number) was sought on (date). (Name(s) of landowner(s)) has failed to respond/has refused to consent, and the deposit of LT (CSD number) and issue of a new RT cannot proceed pending further direction or action by the chief executive under s75(4) of the Greater Christchurch Regeneration Act 2016.

We attach copies of the Adjoining Owner Notices and any landowner's refusals (if applicable).

Please contact Customer Support (0800 665 463) if you have any queries regarding this notice.

Group Manager - Titles  
for Registrar-General of Land  
[LINZ office address]