

# Reclaimed Land

A guide for eligible applicants applying for an interest in reclaimed land under the Marine and Coastal Area Act 2011

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## Introduction

This guide explains how you – as an eligible applicant - can apply for an interest in reclaimed land under the Marine and Coastal Area (Takutai Moana) Act 2011 (the Act).

The Act provides a new regime for the granting of interests in reclaimed land formed from the common marine and coastal area. The Act gives Toitū Te Whenua Land Information New Zealand new responsibilities in relation to the granting of an interest in reclaimed land.

## Background

Reclaimed land is permanent land formed from land that was formerly below the line of mean high-water springs and because of a reclamation - is now located above this line. It doesn't include land that arises as a result of natural processes such as accretion, or structures such as breakwaters or sea walls.

Land may be reclaimed for several purposes including port company developments, airport runway extensions, marinas and other land uses.

## Eligibility to apply for an interest in reclaimed land

Under the Act, only certain parties (eligible applicants) can apply for an interest in reclaimed land. An eligible applicant can be one of the following:

- The developer of the reclaimed land, which is the person who holds the resource consent for the reclamation – in other words, the land that has been, is being, or will be formed by the reclamation.
- A network utility operator may apply for an interest in reclaimed land where they require a lesser interest. For example, they may apply for an easement in an area of reclaimed land for their network utility operation.
- Any person if the reclaimed land has been subject to the Act for more than 10 years (from 1 April 2021 onwards), no interest has been granted in the reclaimed land and there is no current application awaiting the Minister for Land Information's (the Minister) determination<sup>1</sup>. You will need to contact our Crown

<sup>1</sup> Decision making is delegated to LINZ staff.

Property team before applying to discuss the specific requirements. Email [crownproperty@linz.govt.nz](mailto:crownproperty@linz.govt.nz)

## What interest can I apply for?

You can apply for either a freehold interest or a lesser interest in reclaimed land. A freehold interest means an estate in fee simple but doesn't include a stratum estate created under the Unit Titles Act 1972 or the Unit Titles Act 2010. A lesser interest includes a lease, licence, easement or other right or title to occupy or use the land.

## Can I be assured of getting a freehold interest?

Under the Act, certain parties who apply for an interest in reclaimed land must be granted a freehold interest, unless:

- they do not want a freehold interest; or
- the Minister determines that good reason exists not to grant a freehold interest.

These parties are:

- a port company (as defined in s2(1) of the Port Companies Act 1988)  
<https://www.legislation.govt.nz/act/public/1988/0091/latest/DLM131688.html>;
- a port operator (as defined in Part 3A of the Maritime Transport Act 1994)  
<https://www.legislation.govt.nz/act/public/1994/0104/latest/DLM334660.html>
- the companies that operate either the Auckland or Wellington International Airports (or their subsidiaries) as defined in section 2 of Auckland Airport Act 1987 and section 2 of the Wellington Airport Act 1990  
<https://www.legislation.govt.nz/act/public/1987/0195/latest/DLM125376.html>  
<https://www.legislation.govt.nz/act/public/1990/0056/latest/DLM211891.html>

## The application process

### Before you start

To be eligible to apply you must obtain all necessary resource consents for the reclamation from the relevant local authority. In determining whether to grant a resource consent, the local authority will consider the environmental effects of the reclamation.

You can apply at any time after you have all the necessary resource consents for the reclamation. This may be prior to commencing construction, or after the reclamation has been completed.

If you are not the developer and the reclaimed land has been subject to the Act for more than 10 years, please contact our Crown Property team before applying to discuss the specific requirements.

## Application and determination stage

The Minister (or their delegate) will determine whether to grant you an interest in the reclaimed land – this is referred to as ‘making a determination’. If their determination is to grant you an interest in the reclaimed land, this will take effect after the reclamation has been completed and the requirements of section 245 of the Resource Management Act 1991 have been met. This includes completing a survey of the reclaimed land.

## Post-reclamation stage

Once the reclamation has been completed and surveyed, you can then apply to have the interest in the reclaimed land vested in you.

The Minister will determine how much you need to pay the Crown for the interest in reclaimed land. The amount you are required to pay is called the ‘consideration’. This may include payment for any freehold interest, rent or other charge. LINZ will obtain an independent valuation of the Crown’s interest in the land, which will inform the Minister’s determination.

If the Minister is satisfied with your application, and you have met any conditions imposed, the interest in the reclaimed land will be vested in you.

## If your development has changed since determination

If your development or circumstances change, you can apply to the Minister for a variation to the determination. Please contact us as soon as you become aware of the need to make a variation. This variation is separate to any Resource Management Act 1991 requirements that may apply.

## Information required for your application

**Note:** we recommend you look at section 36(2) to ensure your application contains the information required by the Minister.

### Section 36(2)

<https://www.legislation.govt.nz/act/public/2011/0003/latest/DLM3213335.html>

## Applicant details

- **Applicant name** – this should be an individual or company name, which is the name of the entity that the interest will be vested in.
- **Physical address**
- **Postal address**
- **Phone (day, mobile)**
- **Email address**
- **Incorporation and shareholder information** – if you are applying for an interest in reclaimed land for a company, please provide details of registration. A copy of the certificate of incorporation must be provided.
- **Name of contact person for application**
- **Details of agent/consultant** (if different from the contact person above) – please note if an agent/consultant is working for the applicant, you must also provide confirmation of the authority for that person to act on your behalf.

## Details of the land

- **Legal description** – if applicable
- **Estimated area**
- **Location**
- **Current and future use** – please provide details of the existing and potential activities that are/may be undertaken on the reclaimed land
- **Date of construction** – if the reclamation has been completed
- **Summary of any historic land uses**
- **Inventory of any structures on the land**, including ownership
- **Zoning from the District Plan** – proposed or existing.
- **Contamination** – confirmation that there is no known contamination associated with the land.
- **Plans and photographs** – the following must be attached to the application:
  - Cadastral survey dataset (if available) or an illustrative plan depicting the area of reclaimed land;
  - aerial photographs showing the area before, and after (if the reclamation has been completed);

- a planning map from the relevant territorial authority;
- a plan identifying the ownership of all land adjoining the completed/proposed reclamation; and
- a Quickmap (or similar) search.

## Details of the application

- **Confirmation that the land is subject to the Marine and Coastal Area Act 2011**
- **Eligibility** – please provide evidence that you are eligible in terms of section 35 of the Act to apply for an interest in reclaimed land.
- **Interest required** – identify the interest that you are seeking in the reclaimed land, including advice about the purpose for the interest and why this is the minimum interest necessary to achieve your purposes.
- **Other Arrangements** –
  - detail any proposed sub-leasing or mortgagee arrangements, where applicable (for example do you propose to lease/sub-lease parts of the land to others, or obtain a mortgage over the land if an interest is granted?);
  - confirm any other known expressions of interest in the land, or other proposals for use of the land.

## Details of potential values and interests in the reclaimed land

Note: some of the following information may be included in the resource consent application or decision for the reclaimed land. If so (and the information has not changed since consent was granted), a cross-reference to the relevant document is sufficient.

- **Public interest in the reclaimed land** - identify any public interest in the reclaimed land.
- **Extent of public benefit** - identify any public benefit from the construction and use of the reclaimed land.
- **Historical claims under the Treaty of Waitangi Act 1975, or any pending applications under Part 4 of the Act, over the land** – written advice from the Te Arawhiti as to whether there are any claims over the reclaimed land or any applications for customary marine title in the area.
- **Cultural Values to tangata whenua** - written report from an authorised representative of the tangata whenua on any cultural values on the completed/proposed reclaimed land and the surrounding area. Information to help you to identify the appropriate iwi to approach is provided on Te Puni Kōkiri’s website. Please note that there may be more than one iwi with an interest in the area.

- **Natural or historic values**
  - detail any natural values on the land, including any indigenous vegetation, ecosystems, fauna, the margins of waterways, coastal environment or wetlands;
  - written advice from the NZ Historic Places Trust advising whether there are any historic features including historic sites, wahi tapu and archaeological sites on the reclaimed land.
- **Potential public access, amenity and recreational values**
  - detail any potential recreational use for the land;
  - detail any amenity values associated with the land;
  - advise whether members of the public will have access over the land, in order to gain access to, from and along the coastal marine area; and
  - detail any proposed limitations on public access over the land, and the reasons for these limitations.
- **Use as potential redress** – provide written advice from the Te Arawhiti on whether this land has been identified as potential redress by an iwi, if known, as part of a proposed Treaty Settlement.

## Resource Consent

If you are an eligible applicant who is the developer of the reclaimed land, please provide details of the resource consent for the reclamation and other approvals, including:

- the resource consent application.
- the resource consent decision and conditions granted, including advice if there are any changes to those conditions.
- a copy of the district plan map.

## Costs of reclamation

If you are an eligible applicant who is the developer of the reclaimed land, please provide a **breakdown of all costs** - this should provide either:

- all costs incurred in building the reclamation - if the reclamation has been completed - including the dates those costs were incurred.
- a budget for a proposed reclamation.

## Additional information required where reclamations have yet to be completed

**Please provide a detailed description of the proposed reclamation** (i.e. the building plan, earthworks, timelines, improvements and structures and the nature of the ownership).

### Application Fee

You must pay the applicable fee before we can start processing your application. The fees are outlined in the table below:

## Marine and Coastal Area (Takutai Moana) Reclamation Fees Regulations 2012.

Fee description	Fee amount
Application for interest in reclaimed land by an eligible applicant	\$3,100 and a valuation services fee calculated in accordance with regulation 10 of the Marine and Coastal Area (Takutai Moana) Reclamation Fees Regulations 2012.
Application for variation of the Minister for Land Information's (or their delegate's) determination	\$570
Vesting of interest in reclaimed land	\$2,840 in the case of a freehold interest, or \$2,140 in the case of a lesser interest
Application for renewal of interests less than freehold	\$1,360
Application for interest in reclaimed land by customary marine title group	\$2,245 and a valuation services fee calculated in accordance with regulation 10 of the Marine and Coastal Area (Takutai Moana) Reclamation Fees Regulations 2012.  When vesting an interest in a customary marine title group, the group must pay a fee of:

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	\$2,840 in the case of a freehold interest, or \$2,140 in the case of a lesser interest
Request for certificate under section 44(3) of Act that any subsequent disposal of a freehold interest granted by the Minister is in accordance with the Act.	\$280

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## Send your application to:

The Group Manager  
Crown Property  
Land Information New Zealand  
P O Box 5501  
Wellington 6145.  
or email: [crownproperty@linz.govt.nz](mailto:crownproperty@linz.govt.nz)

## Legislation

Marine and Coastal Area (Takutai Moana) Act 2011

<https://www.legislation.govt.nz/act/public/2011/0003/latest/DLM3213131.html>

Resource Management Act 1991

<https://legislation.govt.nz/act/public/1991/0069/latest/DLM230265.html>