

MEDIA STATEMENT

13 August 2024

In response to media queries on the advertisement published in the NZ Herald recently from Hobson's Pledge, we provided the following clarification on the information we have publicly available on the Marine and Coastal Area (Takutai Moana) Act 2011 (the Act).

The common marine and coastal area

The Act sets out a framework to protect the interests of all New Zealanders in the marine and coastal area, while enabling the legal recognition of Māori customary rights. It established a special category of land that defines the area between the high tide line and 12 nautical miles out to sea as the 'common marine and coastal area'. This area is protected from any type of ownership and has a 'no ownership' status. No person or group, or the Crown owns, or can own, the common marine and coastal areas, which excludes all privately owned coastal areas, conservation areas, national parks, reserves and the bed of Te Whanga Lagoon on the Chatham Islands.

Public access

The 2011 legislation also provides for ongoing public access, fishing, and navigation. There is one exception to this, that is if a wāhi tapu, an area with cultural and historical significance to applicant groups, is recognised as part of a customary marine title area and requires additional protections.

Recognition of customary interests and rights

Whānau, hapū and iwi have a long standing and strong association with the marine and coastal areas of Aotearoa New Zealand. For customary interests to be recognised, applications for Customary Marine Title (CMT) and Protected Customary Rights (PCR) were required to be filed by the deadline of 3 April 2017 under the Marine and Coastal Area (Takutai Moana) 2011 Act and by 30 May 2021 under Ngā Rohe o Ngā Hapū o Ngāti Porou Act 2019.

Applications for legal recognition of customary rights can be made through Crown engagement or the High Court and can be made for either CMT or PCRs in a specified area.

The Act provides CMT holders authority for permissions related to resource management, while retaining significant third-party rights for existing infrastructure, and actions such as emergency activities and scientific research. CMT holders have the right to refuse new, or renewals of, resource consents for a range of activities. But there are exceptions to this, including existing and new regionally or nationally significant infrastructure, emergency activities, and scientific research. For significant new infrastructure projects, the Crown has the final say if the CMT holder disagrees.

Other rights include providing permissions for conservation activity, the ability to apply for wāhi tapu areas, involvement in coastal planning, prima facie ownership of newly found taonga tūturu, ownership of non-Crown minerals (excluding gold, silver, uranium and petroleum), and the right to create a planning document for the management of the CMT area that must be taken into account by a range of public bodies – similar to what any group can do under the Resource Management Act.

CMT holders (these can be whānau, hapū or iwi) also have the right to be notified and consulted about mammal watching permits and Coastal Policy Statements.

Maps

Applications to legally recognise Māori customary interests are shown in the map used in the Hobson's Pledge advertisement in the New Zealand Herald, which is publicly available on our Te Kete Kōrero a Te Takutai Moana Information Hub. It appears to be derived from this map: [High Court Application Areas | Te Kete Kōrero a Te Takutai Moana open data portal \(arcgis.com\)](https://arcgis.com). The map represents the applications filed for determination by the High Court, not any final determinations. There are currently five cases before the High Court. To date, 34 CMTs have been awarded to applicants, and of those, 19 have been finalised through the legal process and are in place.

ENDS

Editor's note

The Act refers to the common marine and coastal area, the area between the high tide line and 12 nautical miles out to sea. This area is still sometimes inaccurately referred to as the foreshore and seabed, which is not defined or used in the Act.