

Takutai Moana Pānui

22 October 2025

Customary marine title Bill passes 3rd reading

The Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Bill passed its third reading in Parliament last night.

The Bill clarifies the wording of the customary marine title (CMT) test by:

- defining and clarifying the terms 'exclusive use and occupation' and 'substantial interruption' in section 58 and strengthens the requirement for physical evidence of exclusive use.
- clarifying the burden of proof for applicants in the Court pathway to show they have *exclusively* used and occupied the areas they claim from 1840 to the present day *without substantial interruption*.
- clarifying how other parts of the Act (the preamble, purpose, and Treaty of Waitangi sections) affect the test to allow section 58 to operate more in line with its literal wording.
- overriding previous reasoning of the Courts on the CMT test and overturning decisions awarding CMT made after 25 July 2024.

The Bill is expected to become law by the end of this month.

Impact on CMT applications

Existing CMT decisions made up to 24 July 2024 will continue to be recognised. (See rows 4,5 and 6, Impact of amendments table, page 2).

The clarified test applies to any court decisions made since the Government announced its policy on 25 July 2024.

Seven cases will need to be re-heard: four where decisions have been issued by courts with three to come where there have been hearings but no judgments. (See rows 2 and 3, Impact of amendments table, page 2). The Government considers this necessary to ensure as much consistency between applicants as possible.

While the timing of re-hearings is up to the High Court, the Government has ensured there is additional funding of up to \$15 million to contribute to re-hearing costs. This will be available from 1 July 2026 to 2028/29 inclusive.

Financial assistance scheme settings for 2026/27, including re-hearing costs, will be announced in due course.

Any budgeted costs under the financial assistance scheme that have been approved for a scheduled hearing in this financial year can still be accessed as normal.

If you have detailed pātai about things like funding for applicants or updating any CMT evidence you've already prepared, Te Tari Whakatau will be holding webinars in mid-November to help answer them. We'll let you know details of these sessions in the next few weeks or so.

What's not changing

- The rights you are entitled to when you have CMT
- The test for protected customary rights
- The rights of affected iwi, hapū and whānau to take part in conservation processes under sections 47-50

- The Act's protection for public recreational use, navigation, access, and fishing in CMT areas.

If you have any other pātai, please contact our team at takutaimoana@whakatau.govt.nz

For more information, read [Takutai Moana amendments questions and answers](#).

Impact of amendments

		Applications/ High court Case	Location	Impact of amendment
1	Undetermined	All undetermined applications	Various	These applicant groups are impacted.
		Rongomaiwahine	Hawke's Bay	Applications will be determined under the provisions of amended test in the new Amendment Act.
		Area 1 (D'Urville Island)	Top of the South Island	
		Te Whānau a Apanui	Bay of Plenty	
2	Impacted (CMT awards made)	Wairarapa (1b)	Wairarapa	As the judgment has been or will be released from 25 July 2024, the Bill requires these cases to be re-heard under the amended test (in the new Amendment Act). Any decision to award CMT will be overturned.
		Inner Aotea Harbour	Aotea Harbour	
		Kāpiti-Manawatu (1a)	Kāpiti-Manawatu	
		Ruapuke Island	Foveaux Strait	
3	Impacted (CMT judgments pending)	Whangārei Coast	Tai Tokerau	
		Whangārei Harbour	Tai Tokerau	
		Re Ngā Pōtiki (2)	Tauranga	
4	Decided and under appeal	Re Edwards	Eastern Bay of Plenty	No impact
		Re Ngāti Pāhauwera	Hawke's Bay	Appeals will continue under the pre-amendment law (applying Supreme Court's December 2024 and August 2025 judgments).
		Tokomaru Bay 1 & 2	Tokomaru Bay	
		Wairarapa (1a)	Wairarapa	
5	Decided	Re Tipene	Titi Island	No impact, because these were decided before 25 July 2024.
		Ngā hapū o Ngāti Porou Tranche 1 & 2	Tai Rāwhiti	
		Re Clarkson	Wairarapa	
		Re Ngā Pōtiki (1)	Tauranga	
6	Undetermined	Ngā hapū o Ngāti Porou future tranches	Tai Rāwhiti	No impact (will be decided under the pre-amendment law, applying Supreme Court's December 2024 and August 2025 judgments).