

**Standard of survey for a customary marine title
abutting the Tamaitemioka and Pohowaitai
Islands**

Office of the Surveyor-General

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Terms and definitions

1. For the purposes of this document:

Customary marine title or CMT	As defined in s9 of the Marine and Coastal Area (Takutai Moana) Act 2011, means part of the common marine and coastal area where a customary marine title has been recognised by an order of the Court or an Act of Parliament.
Common marine and coastal area	As defined in s 9 of the Marine and Coastal Area (Takutai Moana) Act 2011.
CSD	Cadastral survey dataset
MHWM	Mean High Water Mark.
MHWS	Mean High Water Springs
Survey plan	Defined in s 4 of the Cadastral Survey Act 2002 as a cadastral survey dataset
Rule	A rule in the Rules for Cadastral Survey 2010 (see New Zealand Legislation website).
Specified freehold land	As defined in s 9 of the Marine and Coastal Area (Takutai Moana) Act 2011
Water boundary	As defined in r 2 of the Rules for Cadastral Survey 2010. Examples include MHWM and MHWS.

Diagrams in document

2. The diagrams in this document are for illustrative purposes and are not drawn to scale. Each diagram in isolation does not illustrate all of the requirements set out in this document or in the Rules for Cadastral Survey 2010.

Introduction

3. Maurice Perwick, a licensed cadastral surveyor of the survey company Eliot Sinclair & Partners Limited, has inquired of the Surveyor-General as to the standard of survey for a proposed customary marine title (CMT) area abutting the Tamaitemioka and Pohowaitai Islands (south west of Stewart Island).
4. The proposed CMT area is described in draft High Court order CIV 2011-485-806.
5. Section 109(4) Marine and Coastal Area (Takutai Moana) Act 2011 (the Act) states:

Every customary marine title order must include—

- (a) a survey plan that sets out the extent of the customary marine title area, to a standard of survey determined for the purpose by the Surveyor-General; and*
- (b).....*

6. The purpose of this document is to advise of the standards of survey for this proposed CMT area.

Assumptions

7. The standard of survey set out in this document is with the assumption:
 - where the CMT area boundary is a water boundary, it will be subject to the movability provisions specified in s 13 of the Marine and Coastal Area (Takutai Moana) Act 2011 and will therefore will be ambulatory in nature.

This standard must be reviewed if there is any departure from this assumption.

Cadastral and title background

8. An analysis of the existing cadastre and title records indicates the following:
 - Pohowaitai Island is Maori freehold land by virtue of MLCO 8966975.1. Tamaitemioka Island is Maori freehold land by virtue of MLCO 8484261.2. Both are defined on survey plan SO 10461 with their seaward water boundaries as MHWM. Because the islands are specified freehold land the land is not impacted by the Marine and Coastal Area (Takutai Moana) Act 2011.
 - Wedge Island is Crown land subject to the Land Act 1948. The island is defined on survey plan SO 10461 with its seaward water boundary as MHWM. On commencement of the Marine and Coastal Area (Takutai Moana) Act 2011, the parts of Wedge Island between MHWM and MHWS became part of the common marine and coastal area.
 - The water boundaries defined on survey plan SO 10461 (MHWM) have been derived from aerial photography used for topographical mappings. Their accuracy class is class D.

Standard of Survey for the CMT area

Cadastral Rules to apply

9. The standard of survey for the CMT area is to be a cadastral survey in terms of the Rules for Cadastral Survey 2010 but with the exemptions and alternative requirements set out below. These exemptions and alternative requirements are approved under s47(5) of the Cadastral Survey Act 2002.
10. The cadastral survey must be carried out by a licensed cadastral surveyor who must prepare a cadastral survey dataset and who must comply with Part 5 of the Cadastral Survey Act 2002 and any requirements made under it.

Customary marine title area to be non-primary parcels

11. The CMT area must be defined by two non-primary parcels. One parcel will have an outer boundary defined by the existing MHW water boundaries of Tamaitemioka and Pohowaitai Islands and the new circumference boundary scribed by the 200 m radius line and an inner boundary of the MWHM of Wedge Island (in Figure 1 below this is shown as Area A). The other parcel will be for the portion of Wedge Island between MHW and MHS (shown as Area B).

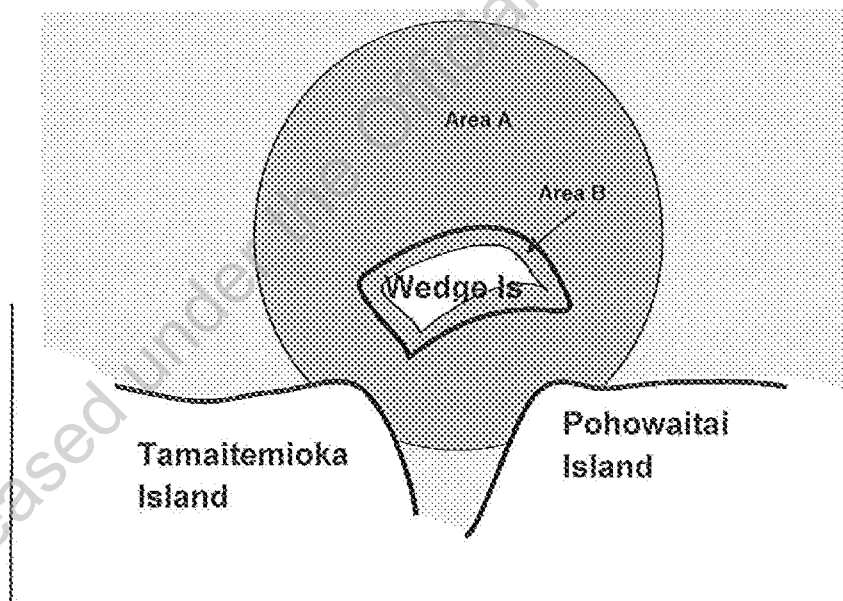


Figure 1

Class of survey

12. The existing water boundaries that define the islands are class D. This has a direct impact on the class of boundaries for the CMT area. In applying rule 3.2 (accuracy class of boundaries), the accuracy class of boundaries must be B or D as follows:

- The majority of the new circumference boundary must be class B but where this boundary intersects or is in common with the existing island water boundaries, the boundary must be class D. This means boundary points on the circumference boundary will need to be created to separate the class B portions from the class D portions (in Figure 2 below these points are shown as G & H and J & K).
- Where the CMT area boundaries coincide with the existing water boundaries of Pohowaitai, Tamaitemioka and Wedge Island (MHWM), they must be class D.
- Where the new CMT area boundary is MHWS 'within' Wedge island, it must be class D.

13. The provision of new class D boundaries is an exemption to rule 3.2.5(b) and an alternative requirement to rule 3.2.4.

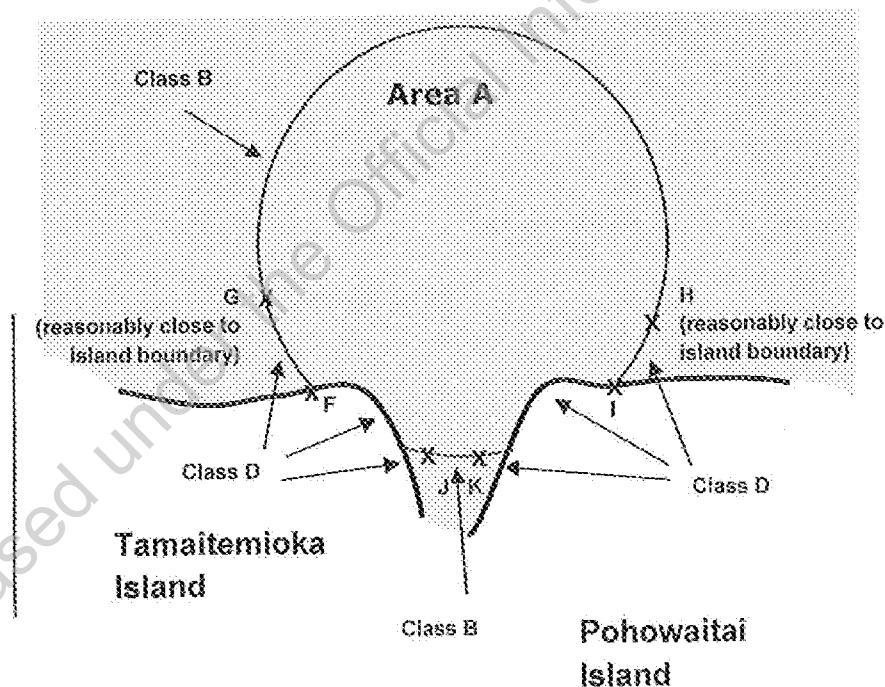


Figure 2

14. For Wedge Island:

- the relationship between the existing MHWM boundary and new MHWS boundary need not be determined accurately however MHWS is to be defined so that it appears in the

CSD diagrams as approximating a water boundary inland from MHWM. It may be computed as a parallel irregular line offset from MHWM but be a sufficient distance apart so as to enable a separate non-primary parcel to be clearly identified (see Figure 3 below).

- The CSD will need to include captured non-boundary vectors to ensure the two boundaries remain sufficiently separated but these must not be shown on the Diagram of Survey or Diagram of Parcels.

The above is an exemption from rule 6.1 (Duty of surveyor when defining a boundary by survey).

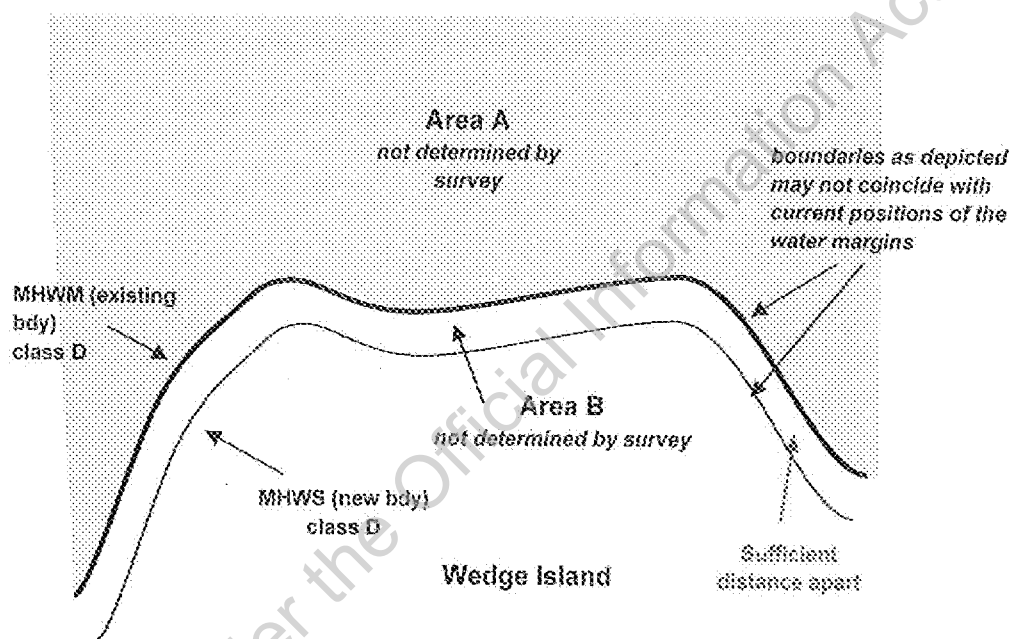


Figure 3

15. On the Diagram of Survey and the Diagram of Parcels for both parcels:

- MHWS and MHWM must be annotated 'boundary as depicted may not coincide with the current position of the water margin'.
- there is an annotation 'Not determined by survey'.

Referencing and locating the CMT area boundaries

16. The CMT area parcel boundaries must be accuracy referenced on the ground and in the cadastre so that they are capable of being relocated at any time by a future surveyor. The following exemptions and variations to the rules are designed to ensure the CMT boundaries can be relocated by referencing them to the existing 'Trig' mark called 19041 (geodetic code A0B6).

17. This survey is exempt from Rules 17.1(d)(iii) and (iv) therefore the survey need not include witness marks or PRMs. This is with the proviso the following alternative requirements are applied:

- Mark A0B6 is included in the survey as an adopted non-boundary mark.
- The spatial relationship between A0B6 and the 200m radius centre point and the class B portions of new circumference boundary comply with the tolerances for boundary witnessing for class B specified in table 3 of rule 3.6 (0.20 m). This will mean sufficient boundary points and vectors are included in the CSD to enable the relationship between the circumference boundary, the centre point and A0B6 to be ascertained and verified in accordance with rule 8.1(d).

Figure 4 below illustrates conceptually what the vectors might look like.

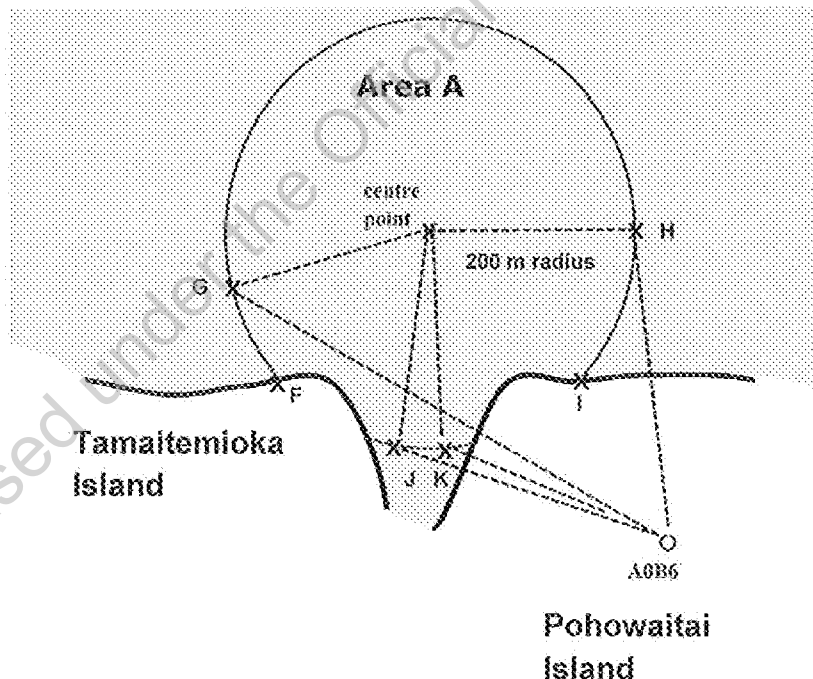


Figure 4

18. Additional non-boundary vectors will be necessary for the end points of the water boundaries where the circumference boundary intersects/coincides with the island boundaries (shown as points F and I in Figures 4 and 5). Similar class D non-boundary vectors will be required to locate the boundaries on Wedge Island.

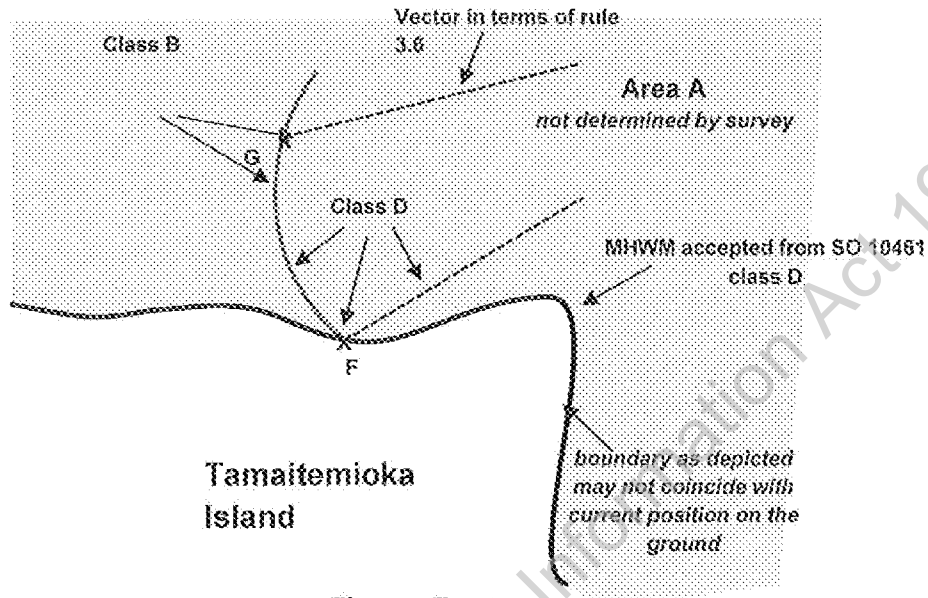


Figure 5

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CSD type, survey purpose and parcel intent

19. LINZ Survey and Title Operations advise that:

- (a) a survey type of 'Survey Office' (SO), and a dataset type of 'Survey' is to be selected;
- (b) the survey purpose is to be 'legalisation' and the parcel intent "Customary Marine Title"; and
- (c) the topology class is to be 'secondary (non-primary)'.

Survey reporting

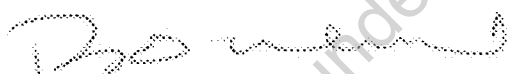
20. Where the provisions of this prescription have been used, the CSD survey report must refer to this prescription.

Capturing the CSD into Landonline

21. LINZ Survey and Title Operations also advise that prior to Christmas they will update Landonline to better reflect the boundaries for Tamaitemioka, Pohowaitai and Wedge Islands from SO 10461. For any questions on this or how to capture the CSD into Landonline, contact should be made with Roger Dennison (rdennison@linz.govt.nz) referring to LINZ reference 1494234.

Queries about this standard of survey

22. Because of the unusual nature of CMTs, this standard of survey is reasonably complex. Any enquiries about this standard may be directed to the undersigned at rnewland@linz.govt.nz.



Rod Newland
Assistant Surveyor-General (Survey Standards)

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