

Purpose

The purpose of this handout is to provide background information and an overview of the mātaitai reserve application process and answers to frequently asked questions.

Background

Under Section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 there is an obligation on the Crown to develop regulations that recognise and provide for customary food gathering by Māori and the special relationship between Tangata Whenua and places of spiritual and cultural importance.

Customary food gathering refers to the traditional rights confirmed by the Treaty of Waitangi 1840 and the Settlement Act 1992 for authorised take of fisheries resources to the extent that they are consistent with tikanga Māori (customs) and are neither commercial in any way nor for pecuniary gain or trade.

The Crown's obligation to develop regulations resulted in the enactment of the Fisheries (Kaimoana Customary Fishing) Regulations 1998, which apply to waters around the North Island and the Chatham Islands, and the Fisheries (South Island Customary Fishing) Regulations 1999, which apply to waters around the South Island and Stewart Island. These regulations enable Tangata Whenua to manage customary fishing by defining their rohe moana (boundaries) and nominating Tangata Kaitiaki/Tiaki (under the Kaimoana Regulations) and Tangata Tiaki/Kaitiaki (under the South Island Regulations). The Tangata Kaitiaki/Tiaki and Tangata Tiaki/Kaitiaki manage the fisheries resources in particular areas and issue customary fishing authorisations.

Mātaitai reserves can be established over traditional fishing grounds to help ensure fisheries resources are available for customary food gathering purposes. Mātaitai reserves also provide for the expression of customary management practices.

Application process

The Kaimoana and South Island Regulations outline the mātaitai reserve application process. The Ministry of Fisheries is responsible for co-ordinating the application process, which requires two consultation phases. The Ministry publicly notifies both consultation phases in a newspaper circulated in the vicinity of the proposed mātaitai reserve.

The first consultation phase calls for written submissions from the local community. Local community is defined as those who own land in the proximity of a proposed mātaitai reserve, or have a place of residence in the proximity of a proposed mātaitai reserve and have been in occupation for a cumulative period of no less than 3 months in the 3 consecutive years immediately preceding the date of the application for that mātaitai reserve. The first consultation phase also includes a public meeting with the local community, which occurs after written submissions have been received.

The second consultation phase calls for written submissions from those who have a fishing interest in any of the stocks in the area specified in the application and whose ability to take fisheries resources may be affected by establishing the proposed mātaitai reserve.

The Ministry assesses the application against the legal requirements outlined in the Kaimoana and South Island Regulations, which include an assessment of the effects on the local community and recreational and commercial fishing interests. In addition, the Ministry assesses whether or not the application meets other requirements, such as the area being a traditional fishing ground and the applicant having a special relationship with that area.

Throughout the application process there are opportunities for the applicant to make amendments to the application and for the Minister of Fisheries and applicant to agree on suitable conditions for the application.

The Ministry is responsible for formulating advice to the Minister on the application. Should the Minister approve an application, the decision would be publicly notified in a newspaper circulating in the vicinity of the mātaitai reserve.

Frequently asked Questions:

Q. Who can apply for a mātaimai reserve?

A. Only the Tangata Kaitiaki/Tiaki and Tiaki/Kaitiaki established under the Kaimoana and South Island Regulations or those who nominated them can apply for a mātaimai reserve.

Q. What changes occur when a mātaimai reserve is established?

A. In most cases, the only change that occurs initially is that commercial fishing must cease within the boundaries of the mātaimai reserve.

Q. Does a mātaimai reserve affect access to the beach or the area within the mātaimai reserve?

A. No, the establishment of a mātaimai reserve does not change the public's ability to access the beach or the marine environment, and it does not change any existing restrictions on access to private land.

Q. Will I be excluded from recreational fishing, or will I need an authorisation to go fishing?

A. No, recreational fishers must comply with the Fisheries (Amateur Fishing) Regulations 1986 when fishing within the mātaimai reserve until such time as the Minister of Fisheries approves any recommended bylaws that change the recreational fishing requirements.

Q. What powers do the Tangata Kaitiaki/Tiaki and Tiaki/Kaitiaki have to manage a mātaimai reserve?

A. The Kaimoana and South Island Regulations provide Tangata Kaitiaki/Tiaki and Tiaki/Kaitiaki the power to recommend to the Minister bylaws that restrict or prohibit recreational fishing where it is necessary for the sustainable management of the fisheries resources in the mātaimai reserve. The Minister of Fisheries may or may not approve any changes to the management of a mātaimai reserve after considering the views put forward during public consultation. Tangata Kaitiaki/Tiaki and Tangata Tiaki/Kaitiaki also have the power to recommend a regulation to the Minister of Fisheries that reinstates commercial fishing of specified species by quantity or time period with the mātaimai reserve.

Q. What are bylaws?

A. With respect to mātaimai reserves, bylaws are rules to manage fisheries resources, which can apply to species, quantity, size, fishing method, area or any other matters the Tangata Kaitiaki/Tiaki and Tiaki/Kaitiaki consider necessary for the sustainable utilisation of the fisheries resources within mātaimai reserves. Bylaws made under the Kaimoana and South Island Regulations apply generally to all people fishing within a particular mātaimai reserve, and so they cannot be used to exclude non-Māori.

Q. Can I be involved in the management of a mātaimai reserve?

A. The Kaimoana and South Island Regulations do not preclude the Tangata Kaitiaki/Tiaki and Tiaki/Kaitiaki for mātaimai reserves from forming management committees with representation by local communities.

Q. Who monitors the fish stocks within the mātaimai reserve?

A. The area within a mātaimai reserve remains part of the relevant fisheries management area or quota management area for fisheries management purposes. The status of the stocks in the area will, therefore, continue to be monitored by the Ministry of Fisheries, although Tangata Kaitiaki/Tiaki and Tiaki/Kaitiaki may have a role in monitoring local populations.

Q. Where can I obtain further information?

A: You can obtain further information about mātaimai reserves by contacting the Spatial Allocations Manager, Ministry of Fisheries, P O Box 1020, Wellington (04) 819 4621. You can also visit the Ministry's website: www.fish.govt.nz