



MĀORI RESERVATIONS

TETURE WHENUA MĀORI ACT 1993

Te Kooti Whenua Māori



Māori Land Court

Disclaimer

While every effort has been made to ensure the accuracy of this publication, it has been written, edited, published, and made available strictly on the basis that its authors, editors, and publishers are excluded from any liability for anything done or omitted to be done by any person in reliance, whether wholly or partially, on the contents of this publication. Readers faced with specific circumstances should refer to the full text of the Act or Acts concerned and/or seek appropriate expert advice, and they should not rely solely on the text of this publication.

Published by the Ministry of Justice, SX11203,
Wellington 6140, New Zealand.

Copyright © Ministry of Justice and Te Puni Kōkiri 2002.
Copyright © Ministry of Justice 2009. All rights reserved.

Ministry of Justice: Copyright statement

Publications produced by the Ministry of Justice are subject to Crown copyright protection unless otherwise indicated. The Crown copyright protected material may be reproduced free of charge in any format or media without requiring specific permission. This is subject to the material being reproduced accurately and not being used in a misleading context. Where the material is being published or issued to others, the source and copyright status must be acknowledged.

The permission to reproduce Crown copyright protected material does not extend to any material that is identified as being the copyright of a third party. Authorisation to reproduce such material must be obtained from the copyright holders concerned.

Note: Ministry of Justice 'publications' comprise those documents produced by the Ministry in its business as usual capacity. It does not include documents or judgments produced by judicial/court officers.

February 2010



MINISTRY OF
JUSTICE
Tābu o te Ture

New Zealand Government

The Māori Land Court (Te Kooti Whenua Māori) is the New Zealand court that hears matters relating to Māori land. The special bond between Māori people and the land is recognised by the Māori Land Court, and the records held by this Court form an invaluable part of the whakapapa of all Māori. The Māori Land Court operates under the provisions of Te Ture Whenua Māori Act 1993 (referred to as 'the Act' throughout this booklet).

Māori Reservations is one of a series of Māori Land Court booklets designed to help Māori – and anyone else with an interest – to gain a fuller understanding of current Māori land matters. It is a comprehensive guide to Māori reservations and the regulations governing them, designed to inform and assist people who want to establish a reservation, trustees of reservations, and people who want to use reservations for events or activities.

The regulations referred to in this booklet are contained in the Māori Reservations Regulations 1994. Every trustee of a Māori reservation should obtain a copy of, and become familiar with, the Regulations. Copies are available from any Māori Land Court office (see page 9 for your nearest office).

Note that Māori reservations are different to Māori reserves. Māori reserves are lands administered by the Māori Trustee under the Māori Reserved Land Act 1955. The information in this booklet does not apply to Māori reserves.

Māori reservation land

Any Māori freehold land or any general land¹ may be set aside as a Māori reservation. Crown² land with historical, spiritual, or emotional significance to Māori can also be set aside. Land that is perpetually leased (that is, land that is leased with an unlimited number of renewals), with the lessee's consent, can also be set aside. It is possible to establish a Māori reservation over one part of a block.

Purposes of a reservation

A reservation can be established for any of the following purposes:

- a village site
- a marae
- a sports ground
- a catchment area or other source of water supply
- a place of cultural, historical, or scenic interest
- a conservation purpose (in conjunction with whenua rāhui)
- a bathing place
- a building site
- a church site
- a landing place
- a spring
- a fishing ground
- an urupā/burial ground
- a well
- a timber reserve
- wāhi tapu
- papa kāinga
- kaumātua flats

- kōhanga reo
- pā site
- reserve contributions³
- a recreational ground
- a meeting place or
- for any other specified purpose.

A Māori reservation can be established and used for any combination of these purposes. For example, part of the reservation can be set aside as a sports ground and the rest for marae purposes (some marae have an area set aside as urupā).

People who benefit from a reservation

The people who benefit from the reservation are usually named as members of a hapū⁴ or several hapū, or they can be any group of Māori. In some circumstances, Māori reservations can also be set aside for wider groups of people that can include the residents of a local community or even the people of New Zealand.

Establishing a Māori reservation

Applying to the Māori Land Court

An application must be made to the Māori Land Court to establish a Māori reservation. The process to do this is different from other Māori Land Court application processes.

Landowners and other interested parties, if appropriate, should hold a meeting to decide to set aside land as a Māori reservation. The people who will benefit from the reservation should be identified at the same time. Accurate minutes of the meeting should be taken. The meeting must be properly advertised in a main newspaper circulating in the district where the land is located. The

advertisement should identify the land and state the purpose for the meeting.

The completed application, with the meeting's minutes and the application fee, should be sent to the Māori Land Court.

Recommendations

The Māori Land Court will conduct a hearing about the application. The Court cannot make Court orders⁵ to set the land aside as a Māori reservation. It can only recommend to the Chief Executive of Te Puni Kōkiri that the Māori reservation be established.

Gazette notice

The Chief Executive of Te Puni Kōkiri creates a Māori reservation by issuing a gazette notice in the New Zealand Gazette. Once gazetted, the Māori reservation is formally established. The Court is then able to issue orders appointing trustees⁶ to administer the reservation.

If a mortgage, or any other charge, exists over the land, the land cannot be set aside for a reservation until the mortgage or charge has been cleared.

Trustees

The Court may appoint trustees to administer a reservation.

Nominations

Anyone can be nominated as a trustee. The minimum number of trustees for a reservation is two people (unless the trustee is a body corporate⁷, such as a Māori trust board or a Māori incorporation).

A trustee does not have to be an owner in the land. The Court, though, needs to be satisfied that the trustee is a "worthy appointee." It is unlikely to appoint someone who is:

- bankrupt
- imprisoned
- convicted of a crime involving dishonesty
- under mental disability⁸
- a minor⁹
- known to the Court to have been guilty of misconduct in the administration of a trust
- involved with a corporation that is in liquidation or no longer in business.

Trustees must consent to their nomination and have the support of the beneficiaries¹⁰. They cannot be finally appointed until a gazette notice has been issued formally establishing the Māori reservation.

Footnotes

- 1 In broad terms, land that is not Māori land and is not Crown land (see next item).
- 2 The Crown refers to the Queen, who is the head of state of New Zealand. Crown-owned land is, in effect, state-owned land.
- 3 An area of land reserved for a special purpose when land is subdivided.
- 4 A subtribe or kin group that is linked by a common ancestor.

- 5 A document prepared and signed by a court, to give effect to a decision of a judge of that court.
- 6 A person bound to deal with property on behalf of the owners or beneficiaries. The trustee becomes the legal owner when the order appointing him/her as trustee for the land is registered against the title. The beneficiaries are called the beneficial owners.

- 7 A legal entity such as a company, incorporation, or Māori trust board.
- 8 In its legal use, this means physical or mental disablement that, in the opinion of the Court, results in a person lacking, wholly or partly, the competence to manage his/her affairs in relation to his/her property.
- 9 A person who has not yet reached the age of 20 and has not legally married.
- 10 Person(s) who benefit from a trust.

Term of office

A trustee remains in office unless he or she is removed by order of the Court.

A trustee may resign sooner if he or she wishes, or may be removed by the Māori Land Court if it considers this to be necessary after hearing relevant evidence. Usually, an application for a trustee's removal is filed by the trustees or the beneficiaries. In terms of Regulation 3(h), any trustee removed by the Court should not later be reappointed as a trustee for the same reservation (removal by Court is a disciplinary matter).

The powers of the trustees

The trustees are responsible for the administration of the Māori reservation and for complying with the Māori Reservations Regulations 1994. The trustees of a reservation may:

- authorise and/or issue permits of lawful activities on the reservation
- apply to the Māori Land Court for directions about the administration of the reservation and the powers and obligations of the trustees
- call meetings of interested persons about the administration of the reservation
- appoint and employ, on behalf of the trustees, any advisers that may enable the better administration of the reservation
- sign documents that comply with the Act.

Delegating responsibilities

Trustees of a Māori reservation are totally prohibited from delegating any of their responsibilities. A trustee may not appoint a proxy¹¹ or a Power of Attorney to act for them.

Quorum

The total number of trustees is the number appointed by the Māori Land Court. Note, though, that this total includes absent trustees, deceased trustees and resigning trustees who have not been replaced, or where the number of trustees has not been reduced by the Court. Where there are more than three trustees, a quorum¹² is at least half of this total. Where there are only two trustees, both are required for the purpose of establishing a quorum.

Signing documents

Trustees may sign documents by a majority (more than half of all the trustees currently appointed by the Court) if the trustees have passed a resolution authorising the document. However, if the document needs to be registered against the Land Information New Zealand (LINZ) title¹³ to the land, then every trustee must sign it.

There are limitations imposed on the trustees in section 338. Trustees:

- may not mortgage or sell the land
- may grant a lease or occupation licence for up to 14 years, although longer leases for health or education can be arranged
- must seek the Court's consent to any lease or occupation licence.

Marae and Māori committees

The relationships between marae and Māori committees with the trustees of a reservation vary within each area.

The trustees are the legal entity responsible for administering the reservation. They can choose to work with committees, and the relationship between the trustees and the committees should be written into the

marae charter¹⁴. Everyone involved needs to understand the relationship and the protocols set down in terms of the kawa of the marae concerned.

Charters

A charter is needed only if the reservation is a marae. The reservation trustees, in agreement with the beneficiaries, are required to draw up a charter for the reservation (if the beneficiaries are the people of New Zealand, then the beneficial owners¹⁵ of the land and the trustees will decide on the charter).

The charter may include the following:

- the name of the marae
- a general description of the marae reservation
- a list of iwi¹⁶, hapū, or whānau who are the beneficiaries of the marae reservation
- the process for nominating and selecting marae trustees
- how trustees are accountable to the beneficiaries
- the process to resolve any conflict between trustees and beneficiaries
- a recognition of the committees associated with the marae

- the appointment of one or more committees by the trustees to carry out administrative functions for the marae
- the procedure for altering, keeping, and inspecting the charter
- anything else the beneficiaries require (subject to the Act and Regulations).

If in agreement, the trustees and the beneficiaries may exclude any of, or add to, these items in their charters if they wish.

Using a reservation for an activity

Activities requiring the trustees' written authority

Before the following activities can take place, prior written authority of the trustees is required:

- the use of any building on the reservation
- the promotion or holding of a hui, meeting, or other large gathering of people
- the promotion or holding of a sports event, competition, or concert
- other activities or events as decided by the trustees.

The trustees' prior written consent is not needed for tangihanga.

11 The authority given by an owner of an interest in land to another person to vote on their behalf.

12 The minimum number of members that must be present at a meeting to make proceedings valid.

13 The legal ownership of property and the legal evidence of a person's ownership rights.

14 A set of principles that form the constitution of an organisation.

15 The owner of a beneficial interest in land. Where land is vested in trustees, the trustees own the land as legal owners on behalf of the beneficiaries. The beneficiaries hold their individual shares in the land as beneficial owners.

16 The traditional Māori tribal hierarchy and social order made up of hapū (kin groups) and whānau (family groups), having a founding ancestor and territorial (tribal) boundaries.

Applying to the trustees

Anyone who wants to promote or run an activity on a reservation must write to the trustees stating:

- the full name and address of the applicant
- the activity
- the area of land and the buildings that are to be used for the activity
- the proposed date, time, and duration of the activity
- the number of people that are likely to attend the activity
- the arrangements that the applicant proposes for admission to and control of the activity.

Consideration of an application

On receiving an application, the trustees can request further information. The trustees cannot adequately consider the application until they have received all the information they need.

The trustees will need to meet to consider the application as soon as practicable. The trustees may:

- adjourn¹⁷ their consideration of the application (as long as it is dealt with before the activity takes place)
- approve the application
- approve the application, subject to any conditions that the trustees think fit
- decline the application.

The trustees are not required to give reasons for their decision on an application unless they have been required to do so by an order of the Māori Land Court.

Annual general meetings

The trustees are required to hold an annual general meeting. However, if annual general meetings will not be practical or possible (for example, for a small family urupā), the Māori Land Court can be asked to approve less frequent meetings, such as one meeting every two, three, or five years.

Attendees

Any beneficiary¹⁸ or other person for whose benefit the reservation has been created may attend the meeting. The meeting will be chaired by a trustee or a person nominated by the trustees.

Notice

The meeting must be properly advertised in a newspaper circulating in the district where the reservation is located. The advertisement should identify the land, the beneficiary group(s) and the agenda items along with the meeting details. At least 21 days notice must be given for an annual general meeting and 14 days for any other meeting.

Purposes of the meeting

The main purposes of the meeting are to inform the beneficiaries of the trustees' administration of the reservation, to keep the trustees accountable, and to ensure that communication flows between the trustees and beneficiaries.

At an annual general meeting, the trustees will:

- outline their administration of the reservation, including any matters undertaken by the trustees in the past twelve months, and present the financial accounts

- report their proposal for the administration of the reservation during the next twelve-month period
- give the persons attending the meeting an opportunity to express their views about the administration of the reservation
- discuss any other relevant matters and distribute reports or other material.
- a statement that any public gathering on the reservation cannot take place without the authorisation of the trustees
- particulars of any activities or events that require the authority of the trustees
- a statement about application requirements to use the reservation, including the address to send the application to.

Administration of reservations

Records and accounts

The trustees are required to:

- keep and maintain accurate and up-to-date records and accounts of the reservation
- maintain a bank account for the reservation and ensure that the bank account is operated by at least two signatories
- at any time, give the Māori Land Court all records, accounts books, and vouchers in possession or control of the trustees for examination by the Court
- keep a minute book of trustees' meetings and resolutions.

Reservation notice

The trustees may, but are not bound to, display a permanent notice on the reservation that includes:

- the name of the reservation
- the name and address of each trustee
- a statement that the trustees are responsible for the administration of the reservation

Limitations on trustees

The Act has some specific limitations on the trustees in administering Māori reservations. These are:

- The land cannot be sold, gifted, exchanged, or mortgaged.
- The trustees can only grant leases or occupation licences of the land for up to 14 years including any terms of renewal. They can grant leases or licences for more than seven years, with several rights of renewal, if the purpose is for either education or health. This means that if the purpose is for education or health, the lease (including renewals) could exceed 14 years.
- Any lease or licence exceeding three years needs the Māori Land Court's consent.
- Any revenue from the lease or licence must be used as directed by the Māori Land Court.

Please note that section 150A of the Act (as amended by section 24 of Te Ture Whenua Māori Amendment Act No. 16 2002) requires any lease for longer than 52 years to have the consent of at least half the beneficial owners of the land and the approval of the Māori Land Court.

17 To postpone a court sitting, or any meeting, to another date and/or location.

18 Person(s) who benefit from a trust.

Changes to a reservation after it has been gazetted

After a Māori reservation has been gazetted, it can:

- be cancelled, in full or part
- have its purpose varied
- have additional land included
- have the beneficiaries varied.

To make these changes, an application must be made to the Māori Land Court and a further gazette notice will be required.

Payment of rates

Any Māori reservation set aside for the purpose of marae, meeting place, or urupā/ burial ground with an area not greater than two hectares or any reservation set aside for the common use and benefit of the people of New Zealand qualifies for exemption from payment of rates (this exemption is granted by Local Government (Rating) Act 2002). Māori reservations may be subject to a targeted rate set by the local body for the provision of water supply, sewage disposal or refuse collection services.

Local bodies have discretionary power to reduce rates. If the trustees want a reduction in rates, they should talk with the local body.

Investigating the administration of a reservation

A beneficiary, that is, a person whom the reservation is intended to benefit, can apply to the Māori Land Court to conduct an inquiry into the administration of the reservation. The Māori Land Court encourages parties to make every attempt to resolve their concerns on the marae or amongst themselves first. The Court should be asked to intervene only when negotiations amongst the parties fail.

The application must contain the details of why the inquiry by the Māori Land Court is sought. The Court may determine who pays any costs associated with the inquiry. The applicant must also give a copy of the application to each trustee. The applicant must file evidence to support his/her allegations.

More information

For more information about Māori reservations please write to, phone, fax, email, or visit a Māori Land Court office. Staff will be pleased to assist you and discuss any matters with you.

www.maorilandcourt.govt.nz

Māori Land Court offices

Taitokerau District

Registry Office
L2, Manaia House, Rathbone Street
WHANGĀREI 0110
DX Box AX10086, WHANGĀREI
T (09) 983 9940
F (09) 983 9941
E mlctaitokerau@justice.govt.nz

Auckland Information Office

65B Main Highway, Ellerslie
AUCKLAND 1051
DX Box EX10912, AUCKLAND
T (09) 279 5850
F (09) 279 5852
E mlctamakimakaurau@justice.govt.nz

Waikato-Maniapoto District

Registry Office
L2, BNZ Centre, 354 Victoria Street
HAMILTON 3204
DX Box GX10101, HAMILTON
T (07) 957 7880
F (07) 957 7881
E mlcwaikato@justice.govt.nz

Waiariki District

Registry Office
Hauora House, 1143 Haupapa Street
ROTORUA 3204
DX Box JX10529, ROTORUA
T (07) 921 7402
F (07) 921 7412
E mlcwaiariki@justice.govt.nz

Aotea District

Registry Office
Ingestre Chambers, 74 Ingestre Street
WHANGANUI 4500
DX Box PX10207, WHANGANUI
T (06) 349 0770
F (06) 349 0771
E mlcaotea@justice.govt.nz

Tākitimu District

Registry Office
L2 Heretaunga House
Cnr Lyndon and Warren Street
HASTINGS 4122
DX Box MX10024, HASTINGS
T (06) 974 7630
F (06) 974 7631
E mlctakitimu@justice.govt.nz

Tairāwhiti District

Registry Office
Ngā Wai e Rua Building
Cnr Reads Quay and Lowe Street
GISBORNE 4010
DX Box PX10106, GISBORNE
T (06) 869 0370
F (06) 869 0371
E mlctairawhiti@justice.govt.nz

Te Waipounamu

Registry Office
30 Sheffield Crescent, Burnside
CHRISTCHURCH 8053
DX Box WX11124, CHRISTCHURCH
T (03) 962 4900
F (03) 962 4901
E mlctewaipounamu@justice.govt.nz

National Office, Office of the Chief Registrar, Māori Appellate Court

L7, Fujitsu Tower, 141 The Terrace
WELLINGTON 6011
DX Box SX11203, WELLINGTON
T (04) 914 3102
F (04) 914 3100
E mlcnationaloffice@justice.govt.nz

Use the X number as you would a PO Box number.

