

MĀORI RESERVATIONS

Te Kooti Whenua Māori – Māori Land Court

For more information, go to maorilandcourt.govt.nz

Te Kooti Whenua Māori – Māori Land Court (MLC) is the New Zealand Court that hears matters relating to Māori land. The unique relationship between Māori and whenua is recognised by the MLC, and the records held by the Court form an invaluable part of the whakapapa of all Māori people. The MLC operates under the provisions of Te Ture Whenua Māori Act 1993 ('the Act').

The regulations referred to in this factsheet are contained in the Māori Reservations Regulations 1994 ('the Regulations'). Every trustee¹ of a Māori reservation² should obtain a copy of, and become familiar with, the Regulations. Copies are available from the MLC.

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 factsheet does not apply to Māori reserves.

Māori reservation land

Any Māori freehold land or any general land³ may be set aside as a Māori reservation. Crown land⁴ 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 the following purposes:

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

1. A person bound to deal with property on behalf of the owners or beneficiaries. The trustee becomes the legal owner when the order appointing them as trustee for the land is registered against the title. The beneficiaries are called the beneficial owners.

2. Before 6 February 2021, Māori reservations were established by notice in the New Zealand Gazette. Since, the Court has had authority to create, modify and cancel Māori reservations by court order.

3. In broad terms, land that is not Māori land and is not Crown land (see next item).

4. The Crown refers to the Sovereign, who is the head of state of New Zealand. Crown-owned land is, in effect, state-owned land.

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

People who benefit from the reservation are usually named as members of a hapū⁵ or several hapū, or 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 Aotearoa New Zealand.

Establishing a Māori reservation

APPLYING TO THE MĀORI LAND COURT

An application must be made to the MLC to establish a Māori reservation. The process to do this is different from other MLC 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 ad should identify the land and state the purpose of the meeting. The completed application, with the meeting's minutes and the application fee, should be sent to the MLC.

COURT ORDER

The MLC will conduct a hearing about the application. A judge can then make a court order to set the land aside as a Māori reservation. A court order will also be made to appoint trustees 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 MLC 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 corporate⁶, such as a Māori trust board or a Māori incorporation).

5. A subtribe or kin group that is linked by a common ancestor.

6. A legal entity such as a company, incorporation or Māori trust board.

A trustee does not have to be an owner in the land. The MLC, 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 disability⁷
- a minor⁸
- 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 beneficiaries⁹. They cannot be finally appointed until a gazette notice has been issued formally establishing the Māori reservation.

TERM OF OFFICE

A trustee remains in office unless they are removed by order of the MLC. A trustee may resign sooner if they wish, or may be removed by the MLC 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 MLC should not later be reappointed as a trustee for the same reservation (removal by the Court is a disciplinary matter).

POWERS OF THE TRUSTEES

Trustees are responsible for the administration of the Māori reservation and complying with the Regulations. Trustees of a reservation may:

- authorise and/or issue permits of lawful activities on the reservation
- apply to the MLC 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 proxy¹⁰ or a Power of Attorney to act for them.

QUORUM

The total number of trustees is the number appointed by the MLC. 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 MLC. Where there are more than three

trustees, a quorum¹¹ 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 MLC) if the trustees have passed a resolution authorising the document. However, if the document needs to be registered against Toitū Te Whenua – Land Information New Zealand (LINZ) title¹² to the land, then every trustee must sign it. There are limitations imposed on the trustees in section 338 of the Act. Trustees:

- may not mortgage or sell the land
- may grant a lease or occupation licence
- must seek the MLC’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 charter¹³. 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 Aotearoa, then the beneficial owners¹⁴ 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 iwi¹⁵, 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.

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

12. The legal ownership of property and the legal evidence of a person’s ownership rights.

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

14. 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.

15. 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.

7. 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 their affairs in relation to their property.

8. A person who has not yet reached the age of 20.

9. Owner(s) of shares of land held within a trust. Beneficiaries are also called the beneficial owners.

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

Using a reservation for an activity

ACTIVITIES REQUIRING 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.

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 who 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:

- adjourn¹⁶ 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 MLC.

Annual general meetings

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

ATTENDEES

Any beneficiary 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 AGM 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 AGM, the trustees will:

- outline their administration of the reservation, including any matters undertaken by the trustees in the past 12 months, and present the financial accounts
- report their proposal for the administration of the reservation during the next 12-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.

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 MLC 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
- 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 of where to send the application.

¹⁶. To postpone a court sitting, or any meeting, to another date and/or location.

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 a lease or occupation licence of the land for a term of up to 14 years (including renewals), unless the lease or occupation licence is for education, health or papakāinga housing, in which case there is no time limit.
- Any lease or occupation licence on a Māori reservation needs MLC's consent.
- Any revenue from the lease or licence must be used as directed by the MLC.

Section 150A of the Act (as amended by section 24 of Te Ture Whenua Māori Amendment Act 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 MLC.

CHANGES TO A RESERVATION

After a Māori reservation has been established, 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 MLC and a further court order will be made.

PAYMENT OF RATES

Any Māori reservation set aside for the purpose of marae, meeting place, or urupā/burial ground or any reservation set aside for the common use and benefit of the people of Aotearoa qualifies for exemption from payment of rates (this exemption is granted by the Local Government (Rating) Act 2002). The exemption does not apply to marae land that is used primarily for commercial or agricultural activity or for residential accommodation. 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 can apply to the MLC to conduct an inquiry into the administration of the reservation.

The MLC encourages parties to make every attempt to resolve their concerns on the marae or among themselves first. The MLC should be asked to intervene only when negotiations among the parties fail. The application must contain the details of why the inquiry by the MLC is sought. The MLC 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 their allegations.

More information

To find out more about Māori reservations, **go online to** maorilandcourt.govt.nz

Or you can visit your local MLC office or attend an offsite clinic. We have nine offices across Aotearoa New Zealand which are open between 10am and 4pm on normal weekdays. You don't need to make an appointment. Contact details follow or **go online to** maorilandcourt.govt.nz/contact-us

Contact the Māori Land Court

The DX number is the postal address.

Taitokerau District	Level 3, Manaia House Rathbone Street, Whangārei 0110 DX Box AX10086, Whangārei Phone 09 983 9940 Email mlctaitokerau@justice.govt.nz
Auckland Information Office	Ground floor, Building B 65B Main Highway, Ellerslie Auckland 1051 DX Box EX10912, Auckland Phone 09 279 5850 Email mlctamakimakaurau@justice.govt.nz
Waikato-Maniapoto District	Level 2, BNZ Centre 354 Victoria Street, Hamilton 3204 DX Box GX10101, Hamilton Phone 07 957 7880 Email mlcwaikato@justice.govt.nz
Wairiki District	Hauora House 1143 Haupapa Street, Rotorua 3204 DX Box JX10529, Rotorua Phone 07 921 7402 Email mlcwaiariki@justice.govt.nz
Aotea District	Ingestre House 74 Ingestre Street, Whanganui 4500 DX Box PX10207, Whanganui Phone 06 349 0770 Email mlcaotea@justice.govt.nz
Tākitimu District	Hastings District Court, 106 Eastbourne Street West, Hastings 4122 DX Box MX10024, Hastings Phone 06 974 7630 Email mlctakitimu@justice.govt.nz
Tairāwhiti District	Ngā Wai e Rua Building Cnr Reads Quay and Lowe Street Gisborne 4010 DX Box PX10106, Gisborne Phone 06 869 0370 Email mlctairawhiti@justice.govt.nz
Te Waipounamu District	Level 1, CJESP 20 Lichfield Street, Christchurch 8011 DX Box WX11124, Christchurch Phone 03 962 4900 Email mlctewaipounamu@justice.govt.nz
Office of the Chief Registrar/Specialist Applications Team	Level 7, Fujitsu Tower 141 The Terrace, Wellington 6011 DX Box SX11203, Wellington Phone 04 914 3102 Email mlc.chief-registrars.office@justice.govt.nz