

Customary fisheries tools - North Island and Chatham Islands				
	Taiāpure-local fisheries*	Section 186A*	Kaimoana Regulations - rohe moana†	Kaimoana Regulations - mātaimai reserves‡
Purpose	These tools provide for the exercise of customary use and management practices guaranteed to tangata whenua in the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.			
	Taiāpure aim to provide for recognition of rangatiratanga and the fisheries rights secured under Article Two of the Treaty of Waitangi, in relation to specific areas that have customarily been of special significance to any iwi or hapu either as a source of food or for spiritual or cultural reasons.	Section 186A temporary closures and method restrictions or prohibitions aim to recognise and provide for the use and management practices of tangata whenua by improving the size and/or availability of fish stocks or by recognising a customary fishing practice in the area.	The Kaimoana Regulations recognise and provide for the special relationship between tangata whenua and places important for customary food gathering (including tauranga ika and mahinga mātaimai), including through: <ul style="list-style-type: none"> - appointment of Tangata Kaitiaki/Tiaki, who authorise customary food gathering of kaimoana within their area/rohe moana; - confirmation of who are the tangata whenua for, and the boundaries of, the area/rohe moana; - input and participation of Tangata Kaitiaki/Tiaki in fisheries management; - Tangata Kaitiaki/Tiaki preparing a management plan for their area/rohe moana; and - providing for establishment of mātaimai reserves. 	Mātaimai reserves recognise and provide for customary food gathering by Maori and the special relationship between tangata whenua and places of importance for customary food gathering. Mātaimai reserves can be declared over identified traditional fishing grounds where there is a special relationship with tangata whenua. Tangata whenua may make recommendations for managing fishing within mātaimai reserves.

* Taiāpure-local fisheries and temporary closures and method restrictions or prohibitions are tools available under Part 9 of the Fisheries Act 1996 (sections 174-185; and section 186A and B, respectively). Section 186 A applies to North Island and Chatham Islands, Section 186 B to the South Island. Section 186 also contains more general provisions for regulations to be made. These provisions are discussed below.

† The Fisheries (Kaimoana Customary Fishing) Regulations 1998.

‡ Mātaimai reserves can be declared in New Zealand fisheries waters (except South Island fisheries waters or fresh waters found outside South Island fisheries waters) under the Fisheries (Kaimoana Customary Fishing) Regulations 1998 (regulations 18-32). For the South Island, similar provisions are available in the Fisheries (South Island Customary Fishing) Regulations 1999 (mātaimai reserves can be declared over freshwater in South Island fisheries waters).

	Taiāpure-local fisheries	Section 186A	Kaimoana Regulations - rohe moana	Kaimoana Regulations - mātaimai reserves
Establishment process	<p>Any person may submit a proposal to the Chief Executive, who refers proposals to the Minister of Fisheries. If, after consulting with the Minister of Maori Affairs, the Minister of Fisheries agrees in principle with the proposal, notice of the proposal is published in the Gazette, and in local and metropolitan papers. If the Minister does not agree in principle with the proposal, the person making the proposal is notified.</p> <p>The proposal is available for public inspection after notification in the Gazette. Objections/submissions may be lodged at the Maori Land Court within 2 months of publication.</p> <p>A public inquiry is conducted into all objections and submissions. A Tribunal, adjudicated by a Maori Land Court Judge, conducts the inquiry and makes recommendations to the Minister of Fisheries. There is no right of appeal, except on points of law.</p> <p>After the proceedings have finished, the Minister must make a decision whether or not to establish a taiāpure (as long as he/she is satisfied the criteria in section 176 of the Act have been met).</p>	<p>There is no prescribed process for assessing a s186A proposal, bar providing for consultation from interested parties and input and participation from tangata whenua. There are no set timeframes under s186A, and the length of the timeframe and consultation process will depend on the issues involved in the proposal.</p> <p>If the Minister decides to impose a temporary closures and method restrictions or prohibitions, the measure is notified in the Gazette and may be in force up to 2 years.</p>	<p>Before tangata whenua begin management of customary food gathering under the Kaimoana Regulations, they must notify the Minister of the proposed Tangata Kaitiaki/Tiaki for the area/rohe moana (using the required Form 1).</p> <p>Notification is published in a local newspaper and submissions are called for. Dispute resolution must take place if there is dispute about:</p> <ul style="list-style-type: none"> - who are tangata whenua; or - who should be Tangata Kaitiaki/Tiaki; or - the boundaries for the area/rohe moana. <p>The Minister confirms appointment of Tangata Kaitiaki/Tiaki, and the boundaries, of the proposed customary food gathering area/rohe moana only after disputes have been resolved. Appointments are published in the Gazette and a local newspaper.</p> <p>Once appointed, the powers of Tangata Kaitiaki/Tiaki include those set out in the "control and management" section below.</p>	<p>Once appointed under the Kaimoana Regulations, Tangata Kaitiaki/Tiaki or the tangata whenua who notified them can apply for a mātaimai reserve in any part of their area/rohe moana (using the required application Form 4).</p> <p>Consultation occurs in two parts: - (1) with the local community; and (2) with those with fishing interests in the stock/s in the area in question.</p> <p>The Minister's decision to establish a mātaimai reserve is notified in the Gazette. Applicants are notified if he/she decides not to establish it.</p>

	Taiāpure-local fisheries	Section 186A	Kaimoana Regulations - rohe moana	Kaimoana Regulations - mātaimai reserves
Consultation (1)	Any person, public or local authority or body, or Minister of the Crown, with functions that relate to, or could be affected by, the proposed taiāpure-local fishery may lodge an objection or submission. Submissions or objections have to be lodged with the relevant Maori Land Court within 2 months of the proposal's publication in the Gazette.	On behalf of the Minister, the Ministry of Fisheries consults with persons considered representative of those with an interest in the species concerned or in the effects of fishing in the area concerned (including tangata whenua, environmental, commercial, recreational and local community interests). Provision must be made for input and participation of tangata whenua with a non-commercial interest in the species or the effects of fishing in the area, with particular regard to kaitiakitanga.	<p>Consultation and dispute resolution (if required) occur once tangata whenua have notified the Minister of their proposed Tangata Kaitiaki/Tiaki and rohe moana. The notification is published twice in a local newspaper. Authorised representatives of any whānau/hapu/iwi group within (or claiming manawhenua manamoana within) the area in question may make a submission, within 20 working days after the date of the second publication of a notification.</p> <p>Where submissions raise a dispute about:</p> <ul style="list-style-type: none"> - who are tangata whenua; or - who should be Tangata Kaitiaki/Tiaki; or - the boundaries for the area/rohe moana; <p>then the Minister must recommend the disputing parties agree on a dispute resolution process that it consistent with Tikanga Maori. If no resolution can be reached, the parties must refer the dispute to an authority agreed between the parties for settlement.</p>	<p>Notice of the application is twice published in local newspapers, inviting written submissions by the local community (which must be made within 20 working days). A meeting is also held with the local community (notice given in local newspapers), where the Minister and tangata whenua must consult with the local community. Tangata whenua may subsequently amend the application.</p> <p>Further consultation then occurs with persons with a fishing interest in the stock/s in the area in question. Notice is twice published in local newspapers, inviting written submissions from persons with a fishing interest (which must be made within 20 working days). The Minister must discuss with tangata whenua any conditions he/she considers necessary to address issues raised in submissions (see below for Minister's discretion).</p> <p>The Kaimoana Regulations outline specific timeframes for consultation but the Minister can still declare a mātaimai reserve even if the timeframes are not met.</p>
Location	<p>Taiāpure can be established in estuarine and littoral coastal waters that have been of significance to an iwi or hapu either as a source of food or for spiritual or cultural reasons.</p> <p>'Littoral coastal waters' are generally considered to be shallow waters where the effect of tidal phenomena and currents is apparent.</p> <p>'Estuarine' waters are generally considered</p>	<p>186A temporary measures can be established in any area of the New Zealand fisheries waters outside of the South Island.</p> <p>New Zealand fisheries waters are all waters in the exclusive economic zone of New Zealand (out to 200 nautical miles), as well as all internal waters of New Zealand.</p>	The Kaimoana Regulations apply to the taking of fisheries resources for customary food gathering purposes from any New Zealand fisheries waters except South Island fisheries waters and fresh waters found outside South Island fisheries waters.	Mātaimai reserves can be established in any area of the New Zealand fisheries waters (excluding fresh waters found outside South Island fisheries waters).

	to belong to an estuary, tidal opening/inlet, or tidal mouth of a large river where the tide meets the stream.			
Size	<p>The proposed area has to be 'estuarine or littoral coastal water' of special significance to iwi/hapu for food gathering and/or spiritual and cultural reasons. Demonstrating that areas around the body of water applied for are of special significance does not necessarily mean the whole of the waters are of special significance.</p> <p>The size of the area is one of the factors the Minister has to consider when making his/her decision (along with considerations about the impact on the local community, on those having a special interest in the area, and on fisheries management).</p>	<p>The Fisheries Act 1996 does not specify the size of the area a s186A measure may cover. However, the appropriate size is related to the purpose of the section (as outlined above).</p> <p>In addition, consultation with interested parties may cause the Minister to amend the proposed boundary (e.g. if it is apparent the measure will have a large impact on other users).</p>	<p>The size of the area/rohe moana depends on the size of the area Tangata Kaitiaki/Tiaki are tangata whenua for, and have mana whenua/mana moana over.</p> <p>The size of the area notified may change as a result of dispute resolution. The areas/rohe moana of neighbouring groups may overlap, so that one area is included in the area/rohe moana of more than one group.</p>	<p>A mātaimai reserve must be an identified traditional fishing ground and of an appropriate size for tangata whenua to effectively manage. The Minister must be satisfied that the mātaimai reserve will not:</p> <ul style="list-style-type: none"> - unreasonably affect the ability of the local community to take fish for non-commercial purposes; or - prevent commercial fishers from taking their quota or annual catch entitlement from the quota management area; or - unreasonably prevent commercial fishers with a permit from taking non-QMS species from within the area of that permit; or - unreasonably prevent persons taking fish for non-commercial purposes within in the wider fisheries or quota management area.
Minister's discretion	<p>A public inquiry is conducted into all objections and submissions in relation to a taiāpure proposal, but the Minister may accept or decline any or all recommendations of the Tribunal. The Minister must be satisfied that the taiāpure:</p> <ul style="list-style-type: none"> - will further the purpose described above; - is appropriate having regard to its size and its impact on the local community, on those having a special interest in the area, and on fisheries management. 	<p>The Minister may impose a temporary measure only if satisfied it will recognise and provide for the use and management practices of tangata whenua - either by improving availability or size of marine life, or by recognising a customary fishing practice. If a method restriction or prohibition is requested, the Minister also has to be satisfied that the method in question is having an adverse effect on the use and management practices of tangata whenua in the exercise of non-commercial fishing rights.</p>	<p>The Minister must confirm appointment of Tangata Kaitiaki/Tiaki of the proposed customary food gathering area/rohe moana if satisfied that—</p> <ul style="list-style-type: none"> (a) No submission in opposition to a notification or a competing notification for a general customary food gathering area/rohe moana has been received; or (b) A dispute resolution process has been concluded and all disputes have been resolved through that process. <p>The Minister must cancel the appointment of any Tangata</p>	<p>The criteria that the Minister must be satisfied of before he can declare a mātaimai reserve are set out in regulation 23 of the Kaimoana Regulations. The criteria relate to the special relationship between tangata whenua and the proposed area, sustainable and effective management, and the impact the mātaimai reserve will have on fishers (both commercial and non-commercial).</p> <p>Further information:</p> <p>Regulation 23 of the Fisheries (Kaimoana Customary Fishing) Regulations 1998.</p>

	<p>Further information:</p> <p>Sections 176-183 of the Fisheries Act 1996.</p>		<p>Kaitiaki/Tiaki if requested by the Tangata Kaitiaki/Tiaki of the area/rohe moana, or the tangata whenua who notified them.</p>	
<p>Control and management</p>	<p>The Minister of Fisheries, after consultation with the Minister of Maori Affairs, appoints a committee of management for each taiāpure, with persons who the Minister considers are representative of the local Maori community.</p> <p>The management committee may recommend to the Minister the making of regulations for the conservation and management of the fish, aquatic life, or seaweed in the taiāpure.</p> <p>No regulations shall provide for any person to be refused access to, or use of, any taiāpure; or be required to leave or stop using any taiāpure, because of their colour, race, or ethnic or national origins.</p>	<p>The Gazette notice that establishes a 186A temporary measure is the control itself. The measure is temporary – no more than two years – although a request can be made to extend the measure for another two years.</p>	<p>Tangata Kaitiaki/Tiaki may authorise any individuals to take fisheries resources for customary food gathering from within the area/rohe moana for which the Tangata Kaitiaki/Tiaki have been appointed.</p> <p>Tangata Kaitiaki/Tiaki may require harvesting to be consistent with local tikanga. Authorisations must specify the species and dates they may be taken; by whom; quantity and size limits; methods; from which area/s; for what purpose; and the venue where catch may be used.</p> <p>The Kaimoana Regulations also provide for Tangata Kaitiaki/Tiaki to provide input to and participate in the process of setting or varying sustainability measures, or developing management measures for their area/rohe moana. Tangata Kaitiaki/Tiaki must provide the Ministry of Fisheries with information on authorisations issued and fisheries resources taken, so that the information can be used in fisheries management decision-making.</p> <p>Tangata Kaitiaki/Tiaki may prepare a management plan for their area/rohe moana. Once agreed by tangata whenua, the plan may be treated as part of an iwi planning document under the Resource Management Act</p>	<p>Tangata Kaitiaki/Tiaki on behalf of tangata whenua may make bylaws, subject to the Minister's approval, considered necessary for the sustainable utilisation of fisheries resources in the mātaimai to manage the mātaimai reserve. Bylaws can be recommended to restrict or prohibit take of fish, shellfish, or seaweed etc, within the whole or any part of the mātaimai reserve. Bylaws must apply generally to all fishers, including commercial as well as non-commercial fishing.</p> <p>If approved by the Minister, the bylaw is published in the Gazette. If rejected, the Minister will notify Tangata Kaitiaki/Tiaki.</p> <p>Commercial fishing is generally prohibited from within a mātaimai reserve. However, Tangata Kaitiaki/Tiaki may request the Minister to recommend regulations that allow commercial fishing for specified species by quantity or time period within the mātaimai reserve (this would apply to the whole of the reserve).</p>

			1991. The Minister of Fisheries must take the plan into account when he/she develops policies to help recognise the use and management practices of Maori in the exercise of non-commercial fishing rights.	
Consultation (2)	Where recommendations are made for regulations, the Ministry of Fisheries consults on behalf of the Minister with representatives of interested parties including tangata whenua, environmental, commercial, recreational and local community interests.	See Consultation (1).	Consultation occurs before Tangata Kaitiaki/Tiaki are appointed.	<p>The mātaihai reserve provisions set out a clear public consultation process for developing bylaws.</p> <p>Proposed bylaws must be given to the Ministry of Fisheries, and be available for the public to view and make submissions on for at least 15 working days before the date on which the proposed bylaw is notified to the Minister. The availability of the bylaw for inspection must be publicly notified in a local paper. Tangata Kaitiaki/Tiaki may alter proposed bylaws based on submissions.</p> <p>For a request to reinstate commercial fishing, the Ministry consults on behalf of the Minister with representatives of interested parties.</p>
Who does it apply to?	The taiāpure management committee can recommend to the Minister regulations to manage both commercial and non-commercial fishing.	Temporary measures put in place under section 186A apply to all fishers, including customary.	Only tangata whenua of an area can apply to have Tangata Kaitiaki/Tiaki and their area/rohe moana appointed. Once their appointment is confirmed by the Minister, Tangata Kaitiaki/Tiaki can authorise any individual to take fisheries resources for customary food gathering purposes from within the area/rohe moana, for which the Tangata Kaitiaki/Tiaki has been appointed.	<p>Tangata Kaitiaki/Tiaki may request the Minister to recommend regulations to allow commercial fishing for specified species (by quantity or time period).</p> <p>Tangata Kaitiaki/Tiaki can recommend to the Minister bylaws to manage fishing in the area. Such bylaws generally apply to all fishers, although Tangata Kaitiaki/Tiaki may allow take of fisheries resources to sustain the functions of a marae, despite any bylaws applying under the Kaimoana Regulations.</p>

<p>Examples</p>	<p>Taiāpure in the North Island/Chathams:</p> <ul style="list-style-type: none"> • Palliser Bay • Porangahau • Maketu (Bay of Plenty) • Waikare Inlet (Bay of Islands) • Kawhia-Aotea <p>The Maketu Taiāpure was established in September 1996 in the Bay of Plenty. A management committee has produced a 5-year 'strategic plan' with the aim: "to enhance and manage the coastal resources of Te Arawa in a sustainable manner for the benefit of present and future users." The plan covers such areas as sustainability, tino rangatiratanga, manaakitanga principles, protection of ecosystems and 'mauri', preservation of waahi tapu (sacred sites), monitoring systems, human resources and communication.</p> <p>According to the plan, in the short term the existing marine resource is being studied, along with possible harvesting restrictions to enable recovery. The existing pattern of harvesting in the area is also being investigated. In the medium term, the management committee intends to control use of the marine resource to facilitate an improvement in the quantity and quality of the resource. Longer term, extensive use of the resource will be provided for within the bounds of overall sustainability.</p>	<p>Temporary measures in the North Island/Chathams:</p> <ul style="list-style-type: none"> • Kaipara Harbour (Scallops); • Western Coromandel (Pipi and Cockles); • Mt Maunganui (Green-lipped mussels); • Hicks Bay (All shellfish including kina and rock lobster); • Pukerua Bay (All fishing except hand line fishing). <p>The Mount Maunganui temporary closure of green-lipped mussels was established on 6 July 2002 and renewed for a further 2 years on 6 July 2004.</p> <p>The Tauranga Moana Customary Fisheries Working Party (Ngaiterangi, Ngāti Ranginui and Ngāti Pukenga) proposed the closure to address concerns about harvesting pressure on green-lipped mussels in the area, particularly during the summer. Harvest pressure was seen as having an adverse effect on their customary right to use the resource. In 2000-01, a scientific monitoring programme commissioned by Tauranga Moana iwi reported that green-lipped mussels were considerably depleted in the area.</p> <p>Tauranga Moana iwi have continued the monitoring, and have artificially re-seeded the 'wedding cake' rock with green-lipped mussel spat.</p> <p>In December 2005, the Tauranga Moana iwi applied for a mātaimai reserve around Mt. Maunganui, including the 186A closure area.</p>	<p>Areas with Tangata Kaitiaki/Tiaki gazetted:</p> <ul style="list-style-type: none"> • Ngā Hapu o Taiamai Ki Te Marangi (Northland) • Okapu Marae, Ngāti Te Wehi (Aotea, west coast) • Marokopa Marae (Ngāti Kinohaku, Ngāti Te Kanawa & Ngāti Peehi) (Marokopa, west coast) • Ngā Hau o Aotea Moana (Aotea, west coast) • Ngaiterangi, Ngāti Ranginui & Ngāti Pukenga (Bay of Plenty) • Ngai Tai Iwi (eastern Bay of Plenty) • Kaiaia Hapu (eastern Bay of Plenty) • Te Whanau a Maruhaeremuri (eastern Bay of Plenty) • Tapaeururangi (East Cape) • Te Whanau-a-Hunaara (East Cape) • Paikea Whitireia Trust (Ngāti Konohi) (Gisborne) • Ngai Te Ruruku o Te Rangi (Hawke Bay) • Ngā Hapu o Waimarama & Ngāti Hawea (Wairarapa) • Kairakau Lands Trust (Wairarapa) • Ngāti Kere (Wairarapa) • Te Hika o Papauma (Wairarapa) 	<p>Mātaimai reserves in the North Island/Chathams:</p> <ul style="list-style-type: none"> • Moremore 'a' and Moremore 'b' (Napier) • Raukokore (East Cape) <p>The Moremore mātaimai reserve in Napier was established in August 2005. It covers part of the customary rohe that Kaitiaki a Moremore manage. Two Kaitiaki have been confirmed under the Kaimoana Regulations on behalf of Ngai Te Ruruku o Te Rangi, with the support of hapu of Tangoio Marae.</p> <p>The Kaitiaki a Moremore application states the following general management aims for the Moremore mātaimai reserve:</p> <ul style="list-style-type: none"> • To ensure the sustainability of the fisheries resources and the environment; • To conduct a comprehensive survey of the quantities and variety of species currently inhabiting the mātaimai reserves (provided funding can be obtained); • Due to depletion through over-fishing, to introduce bylaws that will help restore and enhance all species; • To monitor fish stocks on a regular basis; • To investigate fish stock enhancement techniques and reseeded programmes. <p>Commercial fishing is excluded from the mātaimai reserve, but Kaitiaki have recently requested that commercial rock lobster and paddle crab harvesting be reinstated.</p>
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Regulation making powers under the Fisheries Act 1996		
	Section 186	Section 297 – general regulations; Section 298 – regulations relating to sustainability measures
Purpose	<p>Regulations can be made under Section 186 to recognise and provide for customary food gathering, and the special relationship between tangata whenua and important places for customary food gathering.</p> <p>The main use of the regulation-making powers under section 186 has been the creation of the Fisheries (Kaimoana Customary Fishing) Regulations 1998 and the Fisheries (South Island Customary Fishing) Regulations 1999.</p>	<p>Under section 297, a broad range of regulations can be made to regulate or control fishing and the possession, processing, and disposal of fish, aquatic life, or seaweed. Under section 298, regulations can be made in relation to sustainability measures and to avoid, remedy, or mitigate fishing-related mortality or the effect of fishing-related mortality on protected species.</p>
Establishment process	<p>Regulations are created following a standard process, involving:</p> <ul style="list-style-type: none"> - writing of initial position paper; - consultation; - preparation of final advice paper; - Minister's decision; - Cabinet process, generally including Economic Development Committee, Parliamentary Council Office drafting the regulations, Legislation Committee, followed by Gazettal. <p>The Ministry of Fisheries must prioritise how time is allocated to making regulations (along with other processes e.g. sustainability measures, introduction of species to the quota management system).</p>	<p>As for regulations made under section 186, the Ministry of Fisheries must prioritise how time is allocated to making regulations.</p>
Consultation	<p>The Ministry consults on behalf of the Minister of Fisheries about any proposed regulations.</p>	<p>The Ministry consults on behalf of the Minister of Fisheries about any proposed regulations.</p>
Location	<p>Regulations created under section 186 can apply to any area of New Zealand fisheries waters, as long as it is a place of importance for customary food gathering (including tauranga ika and mahinga mātaītai).</p> <p>New Zealand fisheries waters are all waters in the exclusive economic zone of New Zealand (out to 200 nautical miles), as well as all internal waters of New Zealand.</p>	<p>Regulations created under sections 297 and 298 can apply to any area of New Zealand fisheries waters.</p>
Size	<p>The Fisheries Act 1996 does not specify the size of the area a regulation created under s 186 may cover. However, the appropriate size is related to the purpose of the section (as outlined above), and whether other tools could achieve the desired outcomes.</p>	<p>The size of the area any regulation covers depends on the reason the regulation is being put in place. It would also have to be considered in relation to the purpose and principles of the Fisheries Act 1996.</p>

Minister's discretion	The Minister makes his decision based on the purpose of the section, as well as the purpose and principles of the Fisheries Act 1996. As such, relevant considerations include the Minister's obligation to act in a manner consistent with the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. The purpose of the Fisheries Act 1996 is to provide for the utilisation of fisheries resources while ensuring sustainability. The environmental and information principles found in part II of the Act are also relevant.	As for section 186, the Minister's discretion relates to the requirements the Fisheries Act 1996 sets out for decision-makers.
Control and management	Control and management is through the regulation/s created under section 186. Regulations can control fishing by sector, by species, by method, or by season (amongst other controls). Regulations can be permanent or for a fixed time period.	Control and management is through the regulation/s created under section 297 or 298. Such regulations include bag limits, size limits (for commercial and non-commercial fishers), requirements for commercial fishers to report their catches, and can include area-based controls. For example, regulations can be made under s 297 to close an area/s to commercial fishing, or prohibit a method/s of commercial fishing within an area/s, to better provide for recreational fishing for a stock under section 311 of the Fisheries Act (after following the dispute resolution procedures in Part VII).
Who does it apply to?	Regulations can be targeted at one or more specific sectors, or can apply to all fishers.	Regulations can be targeted at one or more specific sectors, or can apply to all fishers.
Examples	Section 186 has been used to create regulations that recognise four areas of importance for customary eel harvest - Taharoa Lakes, Lake Poukawa, Whakaki Lagoon, and the Pencarrow Catchment. Commercial fishing is prohibited in those areas.	Section 297 has been used to create regulations that prohibit commercial scallop fishing in parts of the Coromandel scallop fishery, and to exclude commercial fishing from within two marine 'parks', Tawharanui and Mimiwhangata. Section 298 has been used to create regulations prohibiting all commercial fishing in the Motu, Mohaka, and part of the Whanganui River catchments, to ensure longfin eels can return to the sea to spawn.

	Other
	Marine reserves[§]
Purpose	Marine reserves preserve areas for the scientific study of marine life.
Establishment process	<p>Proposals to create a marine reserve can come from the Department of Conservation, tangata whenua, groups that administer neighbouring land reserves, or are or others who are engaged in or have as one of their objects the scientific study of marine life or natural history.</p> <p>Informal discussion/consultation may occur as part of the proposal process. After a formal application has been notified, interested parties are consulted and may lodge objections. The Minister of Conservation considers both the objections and applicant's response.</p> <p>If the Minister of Conservation does not uphold any objections, he/she then decides to establish the proposed area as a marine reserve and seeks concurrence (agreement) from the Ministers of Transport and Fisheries.</p> <p>Further information:</p> <p>Sections 5(1)(a) and 5(6) to 5(9) of the Marine Reserves Act 1971.</p>
Consultation	The proposer of a marine reserve and the Department of Conservation consult during establishment of a marine reserve (as above). In addition, the Ministry of Fisheries may undertake consultation with all or some affected parties during the concurrence process, which is determined on a case-by-case basis. There is no statutory requirement that the Ministry of Fisheries consult during the concurrence process.
Location	Marine reserves can be created in coastal/marine areas within New Zealand's territorial waters (i.e. up to 12 nautical miles from the coastline).
Size	<p>The size of a marine reserve depends on what area applicants apply to have made into a reserve. It may also depend on the impact on other resource users. Original proposals may be modified in response to information submitters provide.</p> <p>The Minister of Fisheries cannot amend proposed boundaries as part of the concurrence process.</p>
Minister's discretion	<p>The Minister of Fisheries is required to independently assess the same matters the Minister of Conservation considers. The Minister of Fisheries focuses particularly on those matters within his or her portfolio: i.e. effects of the marine reserve on commercial, recreational, customary fishing.</p> <p>Effects on customary fishing rights fall within consideration of whether the reserve will "Otherwise be contrary to the public interest".</p>
Control and management	<p>Within a marine reserve, all marine life is protected. Fishing and removal or disturbance of any living or non-living marine resource is prohibited, except as necessary for permitted monitoring or research.</p> <p>The Department of Conservation is responsible for managing marine reserves (e.g. marking marine reserve boundaries, law enforcement, issuing scientific permits and monitoring environmental changes).</p>
Who does it apply to?	Applies to all fishers, including customary.
Examples	<p>Current marine reserves in the North Island:</p> <ul style="list-style-type: none"> • Cape Rodney-Okakari Point Marine Reserve (1975) – Leigh, north of Auckland • Kermadec Islands Marine Reserve (1990)

[§] Marine reserves are managed under the Marine Reserves Act 1971.

- Long Bay-Okura Marine Reserve (1995) – Auckland
- Motu Manawa-Pollen Island Marine Reserve (1995) – Waitemata Harbour, Auckland
- Poor Knights Islands Marine Reserve (1981) – northeast of Whangarei
- Te Angiangi Marine Reserve (1997) – central Hawke's Bay coast
- Te Matuku Marine Reserve (Approved 2003) – Waiheke Island
- Te Tapuwae O Rongokako Marine Reserve (1999) – East Coast, north of Gisborne
- Te Whanganui A Hei (Cathedral Cove) Marine Reserve (1992) – Coromandel Peninsula
- Tuhua (Mayor Island) Marine Reserve (1992) – North-east of Tauranga Harbour

Proposed reserves (North Island):

- Te Paepae Aotea (Volkner Rocks) – approved by Ministers of Conservation and Fisheries but yet to be formally established by Order in Council
- Whangarei Harbour - approved by Ministers of Conservation and Fisheries but yet to be formally established by Order in Council
- Parininihi (North Taranaki) - approved by Ministers of Conservation and Fisheries but yet to be formally established by Order in Council
- Great Barrier Island/Aotea - approved by Minister of Conservation, and the Ministry of Fisheries is undertaking the concurrence process
- Tapuae (New Plymouth) – formal application is being considered by the Minister of Conservation
- Taputeranga (Wellington south coast) – approved by the Minister of Conservation, and the Ministry of Fisheries is undertaking the concurrence process