

# Are We Being Screwed????

We have been approached recently by a number of people within fisheries management or politically connected expressing serious concerns at the potential of the Mataitai legislation to blow open the whole fisheries management and race relations issues. **Polly Flower** began by flying to Wellington to interview one of the most vocal protagonists, National's Phil Heatley...

**INVITE you to look at the attached map and send me your thoughts. There is talk commonly around that this is 'Foreshore by Stealth'. Because this contentious issue is quite involved and disputed by the political factions we feel there is a need for a lot more transparency and public forum. It is necessary to realize that mataitai are established 'in perpetuity', that is, once gifted, held forever. Even if the application of them does in fact prove to discriminate.**

Mataitai reserves are areas deemed traditional Maori fishing grounds wherein the local tangata whenua have complete control over all fishing in that area.

From Phil Heatley, shadow minister of fisheries -

Generally there is no commercial fishing within reserves (does that include the likes of the local cray fishermen?), and recreational fishing is heavily controlled. Maori can write and enforce bylaws at only 15 days notice that cover,

- The species of fish that can be taken,
- The quantity of fish that can be taken
- Size limits
- Methods by which species are taken
- Any other matter the tanga kaitaki sees fit

This does seem to be borne out in the 'Fishing Kaimoana Customary Fishing Regulations 1998' paragraph 28 which pretty much says same thing.

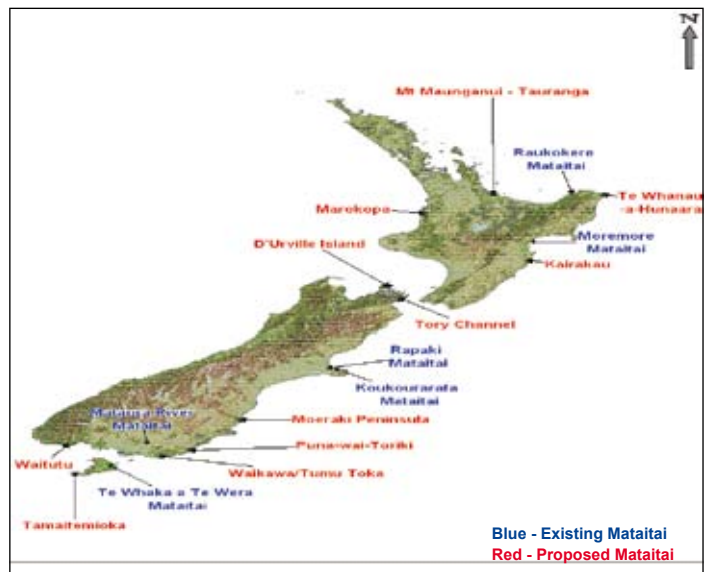
However, this is disputed by Labour, to quote the Minister for Fisheries, Jim Anderton, "Kaitiaki may propose bylaws on the quantities and species of fish that may not be taken in the mataitai as long as A/ these bylaws are necessary to ensure the sustainable utilization of the fishery and B/ are consistent with the stated management aims of the mataitai, as approved by the minister at the formation of the mataitai. The kaitiaki must make any bylaws available for public inspection and submission at MFish offices and public places around the mataitai for at least 15 working days."

After this time the submissions are passed onto the minister who processes them through his channels which can take up to around 60+ days - or less as he so calls.

Are we hearing from Labour that iwi can make submissions for new regulations and after 15 working days of notification, the general public is then dependant on the mind-set of the minister as to whether or not those regulations are ratified and in what time frame?

If the general public miss the 15 day time frame to make submissions, which I would suggest is not long enough to ensure all who would be affected are informed of the submissions, do they then not have any redress once submissions have been presented to the minister?

Time frames are an issue it would seem. Once a mataitai application is lodged by iwi there is a very limited window of time for the general



public to find out about it and if they wish, make submissions of objection. The ministry must place 2 advertisements in local papers. Randall Bess of Ministry of Fisheries said that there are times when they will place advertisements in up to 4 papers. We are getting information that the public have not known anything about the submissions until the reserves have been put in place. Obviously newspaper notices alone are not effective in reaching the general public.

I questioned Randall Bess whether they would reach more people by including information in local radio fishing shows and local fishing clubs. His reply was that they rely upon interested organizations to disseminate the information.

Allowing that a lot of what comes from official channels is gobeldy gook to the average man on the street I would suggest that official information should be released in plain language, the implications of proposals included in the information released and it should be released in arenas used by the general public. While newspapers are one forum, today many partake of their news via radio on the way to work, tv in the evening and fishing news via magazines, fishing web sites and the local fishing club which may only meet once a month.

I would suggest that there is a concerning lack of transparency which always suggests something does not smell quite catch-fresh.

## HISTORY

As a result of discontent with the original fishing quota systems, in particular regarding definitions of customary rights, the new Settlement Act, under National, seeking to resolve conflict by clarifying and giving legal effect to customary fishing rights also included Maori management of discrete areas called mataitai reserves'.

In National's day one reserve was gazetted, since the time of Labour we have 6 mataitai with 11 more in the pipeline. Because the regulations stipulate that the ministry must act within 20 days of application for a mataitai reserve, Randall Bess informed me that means the reserve applications are lodged immediately but that they can then be sat upon for extended lengths of time as with the East Cape application whereby the iwi concerned have lodged application for rights extending out 12 nautical miles.

Information published recently by National suggests that included in current claims are mataitai for areas up to 715sq kilometers. If this is so then it is seriously at odds with the 'discrete areas, often reefs near to coastal marae' quoted by Tipene O'Reagan.

Papers from April 1993 and released under the official information act, paragraph 17 with regards to 'Right of management of small fishing grounds' states, '.....be provided to Maori by regulation

would be the right to exercise full management authority over small, discrete fishing grounds for non-commercial purposes....'

Continually throughout the literature released the references are to small, discrete areas close to coastal marae. This would seem to be at odds with reality and needs further investigation.

It also refers to 'non-commercial' use however the same paper in paragraph 20 states '... the rights of Maori in respect of the small fishing grounds (that word 'small' again) would encompass the full authority to manage and enhance the fishing ground to ensure its sustainability and availability for use, primarily to meet the needs of the local Maori community but also to provide sufficient access to enable the tribe to provide for other users in the long term as an expression of their rangitiratanga over the area.'

Could this mean traditional trade with inland tribes which then surely becomes commercial useage??

The act claims 'In regard to the maitaitai reserves areas, the new Act provides for regulations which will give local Maori communities a degree of management responsibility over small, defined fishing grounds which have been of traditional importance to them. The Act requires that any controls on fishing within the maitaitai reserves must apply equally to all people. There is one exception: if a reserve is closed for general harvesting the maitaitai management could still approve of the taking of seafoods to meet the needs of events on the marae which manages the reserve.

WHAT???

Does this then mean one law for some and another for the majority??

Would it be too un-PC to suggest that the area will be closed to general fishing but marae could well have endless open slather?

Published material from 1998 states, 'access to maitaitai by people outside of that marae community would be by invitation only'.

I am concerned that under the 'Fishing Kaimoana Customary Fishing Regulations 1998' paragraph 23, Declaration of Maitaitai Reserve, includes that, 'subject to regulations 20,21,22, (which are essentially crossing 't's and dotting 'i's of application), '...the Minister must..... declare an area to be maitaitai reserve if satisfied that -

a/ there is a special relationship between tangata whenua making the application and the proposed reserve, and

b/ ..... consistent with sustainable utilisation, and

c/... identified as traditional grounds and is of a size appropriate to effective management by tangata whenua .....

Could also, 23/c be interpreted to mean the maitaitai size can be decided based on ability to manage which of course, with today's technology could mean an area exceeding that manageable by traditional means?

There are many questions to be answered and hopefully with the public airing of concerns, the unseemly rush we are seeing to

establish maitaitai will slow till all questions are attended to.

I do not seem to have received an answer to my question as to whether Labour are actively approaching marae to encourage them to submit maitaitai sites.

We would also have to ask who polices the regulated use of non-commercial customary / iwi take? There have already been prosecuted instances of mis-use of customary take. Perhaps it will be left to iwi to police themselves or our under-staffed, under-resourced fisheries officers??

I have been contacted by a very helpful Randall Bess from the Ministry of Fisheries who is very willing to have further discussion with this magazine and any interested public to clear up misunderstandings. He is contactable via Minister of Fisheries, Parliament.

Meantime, we are very keen to hear from people with their thoughts and concerns, either for or against and also any who have had dealings with the maitaitai now established or proposed.

**Any persons wanting copies of the information released under the official information act that I have, send stamp, addressed envelope and I will send it to you.**



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