

Customary Marine Title (CMT) Rights



What rights does Ngāti Koata gain by getting customary marine title?

The CMT rights include:

- » the 'RMA permission right'
- » the right to create a 'planning document'
- » a 'Conservation permission right'
- » a right to protect wāhi tapu
- » rights in relation to marine mammal watching permits
- » kaitiaki of newly found taonga tūturu (unless the Māori Land Court decides otherwise)
- » ownership of minerals, except for petroleum, gold, silver, and uranium.



What is the RMA permission right?

RMA stands for Resource Management Act 1991. The RMA permission right:

- » applies when a person wants a resource consent for some types of activities to be carried out in the area covered by the CMT (the CMT area); and
- » gives Ngāti Koata the ability to consider the activity which the resource consent is for and give or decline permission for that activity on any grounds

Unless and until Ngāti Koata gives permission, the activity cannot start. Ngāti Koata can also say their permission is only if the activity is done a certain way or for a certain length of time.



What activities aren't covered by the RMA permission right?

The permission right doesn't apply to 'accommodated activities' and 'permitted activities'. Accommodated activities include emergency works, existing aquaculture, and certain infrastructure. For example, if a marine

farm applies to renew their resource consent and doesn't intend to change the size of the marine farm, then it would be an accommodated activity and exempt from the permission right.

Activities that don't need resource consents are called permitted activities. Permitted activities are decided at the planning stage and are usually activities where the effects on the environment are known and are manageable.



Can anyone appeal a decision not to give permission?

No. There is no appeal against a decision to decline permission. Permission can be declined on any grounds.



Can Ngāti Koata stop people accessing the takutai moana where the Iwi has customary marine title?

Basically, no. CMT does not stop other people from their legal right to go over, or navigate a boat through, the CMT area. In certain circumstances, wāhi tapu protection rights can restrict access.



Can Ngāti Koata stop people from fishing where the Iwi has customary marine title?

Basically, no. CMT does not stop other people from their legal right to fish in the CMT area. In certain circumstances, wāhi tapu protection rights can restrict access.



Who within Ngāti Koata would actually use the RMA permission right?

These are decisions that need to be made by the Iwi. We will prepare more information and take legal advice about what the best options would be.





What kinds of activities will the RMA permission right apply to?

Some examples of activities that might require resource consent and the permission of Ngāti Koata include:

- » Drilling
- » Maintenance dredging for navigation management and berthage purposes
- » Stormwater discharge
- » Discharge of human sewage
- » Discharges into the air
- » Discharges into the water
- » Occupation of the takutai moana
- » Disturbance of the takutai moana, including taking sand, shingle, shell, or other material
- » Reclamation
- » Structures
- » Depositing material on the takutai moana.

Whether the permission right applies will depend on the particular activity.



Once Ngāti Koata has given permission, can we take our permission back?

No. Once permission has been given it cannot be taken back or revoked.



If we grant permission, does the applicant still have to seek resource consent?

Yes. An applicant wanting resource consent would still need to get that consent from, in most cases, the Marlborough District Council.



Can we give or decline permission verbally?

No. Whether we give or decline permission, we need to put our decision in writing to the applicant and to the Marlborough District Council.



How long do we have to give or decline permission?

40 working days from the time we are given notice of the request for our permission once the resource consent has been granted. But the person who wants to carry out the activity can talk to us sooner, and we can give consent earlier or think about it right through the resource consent process. The 40 working days starts from when the resource consent is granted but only if we haven't already said yes.



What happens if we don't decide to give or decline permission within the 40 working day period?

The 40 working days only applies if we haven't already said yes or no before the resource consent is granted. If we haven't done so, and we do not notify our decision to give or decline permission within 40 working days after the resource consent is granted, we are treated as having given permission.



How do we know when a resource consent is granted, so we know when the 40 working days period starts?

The resource consent applicant must notify us to seek our permission once their consent is granted.



What is a planning document?

The planning document is a new thing. It will be like an Iwi Management Plan for the takutai moana but which a group with CMT can prepare. Once the plan is written, certain decision-makers, including the Marlborough District Council, will legally have to review their RMA regional plans to make sure those documents acknowledge our planning document. This will give Ngāti Koata a strong say in how the regional plan will be written for our CMT area for generations to come.



How does the planning document have any influence?

The key influence will be through the Marlborough Sounds Resource Management Plan (**MSRMP**). Once our planning document is finished, we



would give it to the Marlborough District Council and they would see whether they should change or vary the MSRMP to acknowledge our planning document. If the council think changes or variations were needed, the council would have to go through the RMA planning process to make those changes or variations.

Does the resource management reform affect these RMA rights?

The RMA is being replaced with the Natural and Built Environments Act and the Spatial Planning Act. These are currently being considered by Parliament (they are not the law yet). The permission right and the planning document right will work in the new system too once it becomes law.



What is the conservation permission right?

The conservation permission right applies to some decisions of the Minister of Conservation and Department of Conservation to approve:

- » marine reserves
- » conservation protected areas
- » concessions (basically, leases and licenses or approvals to carry out an activity over conservation land).

A CMT group could say yes or no to these things happening in a CMT area (with some exceptions).



What is the right to seek protection of wāhi tapu?

We can seek to include in the recognition agreement conditions that:

- » identify the location of wāhi tapu
- » prohibit or restrict access to wāhi tapu
- » set out any exemptions allowing certain people to run any Protected Customary Rights near a wāhi tapu.



What are the rights in relation to marine mammal watching permits?

The Director-General of Conservation would have to acknowledge our views before deciding on any application for a permit to watch marine mammals in our CMT area.



What are the rights in relation to the New Zealand coastal policy statement?

If the Minister of Conservation proposes to prepare, issue, change, review, or revoke a New Zealand coastal policy statement, the Minister will be legally made to consider our views.



What is interim ownership of newly found taonga tūturu?

We will become the temporary kaitiaki of any newly found taonga tūturu (artifacts) in our CMT area. If no competing claims for ownership are made within six months, we will be the long-term kaitiaki of the taonga tūturu.



What rights of ownership to minerals do we get?

We would become the owners of some of the minerals in our CMT area.

This would include:

- » pakohe (argillite or black rocks used for ornamental or other purposes)
- » pounamu
- » gravel
- » sand
- » rock
- » limestone.

We would not be owners of:

- » petroleum
- » gold
- » silver
- » uranium
- » any minerals found above the high-tide mark.

