



17 October 2019

Document Number: **B19-0531**

Bylaw for Ōpihi Mātaitai Reserve

Purpose:

This paper seeks your agreement to approve a bylaw for the Ōpihi Mātaitai Reserve. The bylaw, if approved, will be made under the Fisheries (South Island Customary Fishing) Regulations 1999.

| Minister | Actions Required: | Minister's Deadline |
|------------------------------|--|---|
| Minister of Fisheries | <p>Approve a bylaw for the Ōpihi Mātaitai Reserve that sets a daily bag limit of ten flatfish.</p> <p>Agree to sign the attached Gazette notice (Appendix Four) to establish the bylaw for the Ōpihi Mātaitai Reserve.</p> <p>Agree to sign the attached letters (Appendix Three) to Tāngata Tiaki/Kaitiaki for the Ōpihi Mātaitai Reserve informing them of your decision.</p> | A decision is required before 13 November 2019 but preferably before 25 October 2019. |

Contact for telephone discussion (if required)

| | Name | Position | Work | Mobile |
|---------------------|-------------|---------------------------|------------|------------|
| Responsible Manager | Andrew Bell | Manager Inshore Fisheries | 04 8940421 | 021 318160 |
| Principal Author | Tony Brett | Fisheries Analyst | 03 4663688 | - |

Key Messages

1. Tāngata Tiaki/Kaitiaki have made a bylaw for the Ōpihi Mātaitai Reserve to manage recreational flatfish fishing within the mātaitai reserve area. The mātaitai reserve is on the east coast of the South Island near Temuka (**Appendix One**).
2. Under the Fisheries (South Island Customary Fishing) Regulations 1999, you must decide whether to approve the bylaw before it can be gazetted and take effect. Your decision must be made as soon as practicable and, in any case, no later than 40 working days after the bylaw has been proposed. To meet this requirement, your decision needs to be made by 13 November 2019.
3. The bylaw proposes that, within the mātaitai boundaries, the recreational daily bag limit for pātiki (flatfish) be reduced from 30 to 10.
4. Given increasing fishing within the mātaitai area, which includes the lower reaches and lagoons associated with the mouth of the Ōpihi River, the Tangata Tiaki/Kaitiaki have proposed to reduce the daily bag limit within the mātaitai to 10 pātiki per person.
5. The Tangata Tiaki/Kaitiaki consider the bylaw is necessary in order to:
 - enhance the pātiki (flatfish) fishery
 - ensure access for customary and recreational fishers who may not have access to boats and fishing gear, and
 - ensure the long term future of the fishery.
6. No submissions were received during consultation, despite wide advertising.
7. There are no impacts on commercial fishers from the proposed bylaws since commercial fishing is already prohibited in the reserve.
8. As the bylaw is consistent with the requirements of the legislation, and the objectives of the mātaitai reserve, Fisheries New Zealand recommends you approve the bylaw and sign the attached *Gazette* notice (**Appendix Four**) to give effect to the bylaw.
9. We also recommend you sign the letters to the Tangata Tiaki/Kaitiaki of the mātaitai reserve informing them of your decision.

Recommendations

10. Fisheries New Zealand recommends that you:

- a) **Approve** a bylaw for the Ōpihi Mātaitai Reserve that sets a daily bag limit of ten flatfish.

Approved / Not Approved

- b) **Agree** to sign the attached *Gazette* notice (Appendix Four) to establish the bylaw for the Ōpihi Mātaitai Reserve.

Agreed / Not Agreed

- c) **Agree** to sign the attached letters (Appendix Three) to Tāngata Tiaki/Kaitiaki for the Ōpihi Mātaitai Reserve informing them of your decision.

Agreed / Not Agreed

Stuart Anderson
Acting Deputy Director-General
Fisheries New Zealand

Hon Stuart Nash
Minister of Fisheries
/ / 2019

Background

Regulatory Framework

11. The Fisheries (South Island Customary Fishing) Regulations 1999 (the Regulations) enable Tāngata Whenua or Tāngata Tiaki/Kaitiaki to apply to the Minister of Fisheries for a mātaihai reserve in respect of any part of the area/rohe moana for which they are Tāngata Whenua or Tāngata Tiaki/Kaitiaki.
12. Once a mātaihai reserve is declared, it is managed by Tāngata Tiaki/Kaitiaki appointed for the mātaihai reserve.
13. Tāngata Tiaki/Kaitiaki may make bylaws specifying the quantity of any species that may be taken, and restricting or prohibiting the taking of fish, aquatic life, or seaweed from within the whole or any part of the mātaihai reserve. Such bylaws may be made for any purpose the Tāngata Tiaki/Kaitiaki consider necessary for the sustainable management of the fisheries resources in that mātaihai reserve. These bylaws apply generally to all persons fishing in the mātaihai reserve.
14. Tangata Tiaki/Kaitiaki are empowered to propose measures to achieve the objective of the mātaihai, which can provide for different levels of abundance and value provided the measures are consistent with sustainability.
15. In considering whether to approve or decline a bylaw, you are required to act in accordance with the principles of the Treaty of Waitangi, confirm that the establishment process has adhered to the legal requirements, and confirm that the wording of the bylaw meets legal requirements. You must also inform the Tangata Tiaki/Kaitiaki of your decision.
16. Once you have been notified of a bylaw you must make your decision as soon as practicable and publish that bylaw in the *New Zealand Gazette*. The bylaw takes effect on a date specified in the published bylaw. To facilitate this, a *Gazette* Notice is attached. It would be appreciated if you could make your decision before 25 October 2019, but, in any case, no later than 40 working days after you have been notified of the bylaw or no later than 13 November 2019.

Ōpihi Mātaihai Reserve

17. The Ōpihi Mātaihai Reserve was established on 7 August 2014. The mātaihai reserve covers much of the lower Ōpihi River and the lagoons near the mouth of the river, near Temuka (see attached map, Appendix One).

18. The vision and objectives of the mātaimai are:

- Mātaimai Vision
The fisheries resources and marine environment of our mātaimai are protected and enhanced for present and future generations of Ngāi Tahu Whānui to enjoy and use in a sustainable manner.
- Key Objectives
To ensure customary fishers have access to and use of an abundant supply of healthy mahinga kai in order to sustain their customary practices (including sustaining functions of our marae); and
To protect the long-term sustainability of the fisheries resources and the recreational fishing experience within our mātaimai for present and future generations to use and enjoy.

Bylaw: Maximum daily limit of pātiki (flatfish) - Ōpihi Mātaimai

19. To ensure sustainable use of flatfish, the Tāngata Tiaki/Kaitiaki for the Ōpihi Mātaimai believe the following bylaw is necessary:

- No person may, on any day, take more than ten (10) flatfish from within the Ōpihi Mātaimai.

Rationale for flatfish catch limits

20. Tāngata Tiaki/Kaitiaki wish to enhance pātiki (flatfish) stocks in the Ōpihi Mātaimai. Through rebuilding these stocks they seek to increase future access to this fishery for customary and recreational fishers. Tāngata Tiaki/Kaitiaki believe reducing the recreational daily bag limit from 30 per person per day to 10 per person per day will contribute to an improvement in the abundance, accessibility and sustainability of flatfish in the mātaimai reserve.
21. Fisheries New Zealand notes that there is a popular drag net fishery for flatfish within the mātaimai, especially the lagoon and river mouth, and that fishing pressure within these localised areas can be high. Reducing the daily bag limit to 10 flatfish per person per day supports sustainable utilisation of this local fishery.

Consultation

22. A public submission process on the bylaw was undertaken in accordance with the Regulations. The proposed bylaw was advertised in major daily newspapers in the area (*The Press* and the *Timaru Herald*), and through Fisheries New Zealand web and social media channels. This included recreational fishing magazines.
23. No submissions were received.

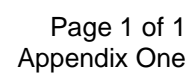
Analysis

24. The Tāngata Tiaki/Kaitiaki for the Ōpihi Mātaitai Reserve, in notifying you of the bylaw, are required to supply you with the reasons why they consider the bylaw is necessary or desirable for the sustainable management of fish, aquatic life, or seaweed in the mātaitai reserve. A copy of their application and notification is attached as **Appendix Two**.
25. The process for establishing the bylaw, as set out in the Regulations, has been adhered to, including:
 - the legal validity of the proposing Tāngata Tiaki/Kaitiaki;
 - the advertising requirements for consultation;
 - reviewing the wording and enforceability of the proposed bylaw; and
 - consistency with the intention of the Regulations, the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and the Fisheries Act 1996.
26. Fisheries New Zealand and MPI Fisheries Compliance have, on your behalf, analysed the bylaw and have concluded that there is nothing in the bylaw that is inconsistent with the legislative requirements.
27. Fisheries New Zealand considers the proposed bylaw is consistent with the principles of the Treaty of Waitangi and the objectives of the mātaitai; that is, to ensure the long-term sustainability of fisheries resources and the recreational fishing experience.
28. Given that no submissions were received and that access to flatfish is still available, albeit at a reduced daily bag limit, Fisheries New Zealand does not consider the bylaw will have a significant impact on recreational fishing.

Conclusion

29. Fisheries New Zealand considers the bylaw is consistent with the requirements of the Regulations.
30. Fisheries New Zealand is not aware of any reason why you should not approve the bylaw.
31. Should you agree to approve the bylaw, attached for your signature are letters to the Tāngata Tiaki/Kaitiaki for the Ōpihi Mātaitai Reserve, and a notice for publication in The Gazette.
32. If you decide to decline the bylaw, you are required to notify the Tangata Tiaki/Kaitiaki of the reasons for your decision. Fisheries New Zealand will provide alternative letters to the Tangata Tiaki/Kaitiaki should you decide not to approve the bylaw.

33. Fisheries New Zealand will also arrange for your decision to be published in The Press and the Timaru Herald newspapers. Fisheries New Zealand will work with your office to determine whether any wider media messaging is appropriate.
34. Fisheries New Zealand will also ensure Fisheries Information brochures and signage are updated appropriately and the New Zealand Fishing Rules App is updated.



Appendix Two: Copy of Bylaw Notification and Application

From: Peter Hopkinson.LTD [<mailto:peterhopkinson.ltd@xtra.co.nz>]
Sent: Friday, 13 September 2019 4:29 PM
To: Anthony Brett <Anthony.Brett@mpi.govt.nz>; hahenry1953@gmail.com
Subject: Ōpihi Mātaitai bylaw

*Kia ora Tony,
Can you please forward this email and attachment on to the Minister on our behalf.
Thanks
Richard*

Tēnā koe e te Minita,
Pursuant to Regulation 26 of the Fisheries (South Island Customary Fishing) Regulations 1999, please find attached the proposed bylaw for the Opihi Mātaitai. We have consulted the public on this bylaw and we received no submissions. We look forward to receiving your final decision on the proposed bylaw.
Ngā mihi
John Henry
Arowhenua Mātaitai Tangata Tiaki/Kaitiaki Committee Chairman

Opihi Mātaitai Proposed Bylaw

Mātaitai Vision:

1. The fisheries resources and environment of the mātaitai are protected and enhanced for present and future generations of Ngāi Tahu Whānui to enjoy and use in a sustainable manner.

Key Objectives of the Mātaitai Reserve:

2. To ensure customary fishers have access to and use of an abundant supply of healthy mahinga kai in order to sustain their customary practices (including sustaining the functions of our marae); and
3. To protect the long-term sustainability of the fisheries resources and the recreational fishing experience within the mātaitai for present and future generations to use and enjoy.

*Mō tātou, ā, mō kā uri ā muri ake nei
For us and our children after us*

Proposed bylaw:

4. To meet these objectives, the Mātaitai Tangata Tiaki/Kaitiaki believe a Mātaitai bylaw is necessary in order to enhance and maintain the pātiki (flatfish) fishery for future use by customary fishers and recreational fishers who have less capacity.
5. Tangata Tiaki/Kaitiaki believe the following bylaw is necessary:

Bylaw: Maximum daily limit on pātiki (flatfish) – Opihi Mātaitai

No person may, on any day, take more than ten (10) flatfish from within the Opihi Mātaitai.

Appendix Three: Letters to Tangata Tiaki

B19-0531

Kevin Russell-Reihana
24 Clyde Carr Crescent
TIMARU 9710

Tēnā koe Kevin

I am pleased to inform you that I have approved the following bylaw for the Ōpihi Mātaitai Reserve:

Bylaw 1: Maximum daily limit on patiki (flatfish) – Ōpihi Mātaitai

No person may, on any day, take more than ten (10) flatfish from within the Ōpihi Mātaitai.

The bylaw will take effect from the date specified in the approved bylaw to be published in the *New Zealand Gazette*.

Nāku noa, nā

Hon Stuart Nash
Minister of Fisheries

B19-0531

Karl Russell
47 Huirapa Street
TEMUKA 7920

Tēnā koe Karl

I am pleased to inform you that I have approved the following bylaw for the Ōpihi Mātaitai Reserve:

Bylaw 1: Maximum daily limit on patiki (flatfish) – Ōpihi Mātaitai

No person may, on any day, take more than ten (10) flatfish from within the Ōpihi Mātaitai.

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Nāku noa, nā

Hon Stuart Nash
Minister of Fisheries

B19-0531

John Henry
79 Barrett Road
TIMARU 7973

Tēnā koe John

I am pleased to inform you that I have approved the following bylaw for the Ōpihi Mātaitai Reserve:

Bylaw 1: Maximum daily limit on patiki (flatfish) – Ōpihi Mātaitai

No person may, on any day, take more than ten (10) flatfish from within the Ōpihi Mātaitai.

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Nāku noa, nā

Hon Stuart Nash
Minister of Fisheries

B19-0531

Charles Rehe
2/32 Maude Street
TEMUKA 7920

Tēnā koe Charles

I am pleased to inform you that I have approved the following bylaw for the Ōpihi Mātaitai Reserve:

Bylaw 1: Maximum daily limit on patiki (flatfish) – Ōpihi Mātaitai

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Nāku noa, nā

Hon Stuart Nash
Minister of Fisheries

B19-0531

Michael Anglem
264 King Street
TEMUKA 7920

Tēnā koe Michael

I am pleased to inform you that I have approved the following bylaw for the Ōpihi Mātaitai Reserve:

Bylaw 1: Maximum daily limit on patiki (flatfish) – Ōpihi Mātaitai

No person may, on any day, take more than ten (10) flatfish from within the Ōpihi Mātaitai.

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Nāku noa, nā

Hon Stuart Nash
Minister of Fisheries

B19-0531

Gwen Bower
38 Huirapa Street
TEMUKA 7920

Tēnā koe Gwen

I am pleased to inform you that I have approved the following bylaw for the Ōpihi Mātaitai Reserve:

Bylaw 1: Maximum daily limit on patiki (flatfish) – Ōpihi Mātaitai

No person may, on any day, take more than ten (10) flatfish from within the Ōpihi Mātaitai.

The bylaw will take effect from the date specified in the approved bylaw to be published in the *New Zealand Gazette*.

Nāku noa, nā

Hon Stuart Nash
Minister of Fisheries

B19-0531

Richard Hopkinson
22 Hopkinson Road
TEMUKA 7985

Tēnā koe Richard

I am pleased to inform you that I have approved the following bylaw for the Ōpihi Mātaitai Reserve:

Bylaw 1: Maximum daily limit on patiki (flatfish) – Ōpihi Mātaitai

No person may, on any day, take more than ten (10) flatfish from within the Ōpihi Mātaitai.

The bylaw will take effect from the date specified in the approved bylaw to be published in the *New Zealand Gazette*.

Nāku noa, nā

Hon Stuart Nash
Minister of Fisheries

B19-0531

Mokai Reihana
126 Hopkinson Road
TEMUKA 7985

Tēnā koe Mokai

I am pleased to inform you that I have approved the following bylaw for the Ōpihi Mātaitai Reserve:

Bylaw 1: Maximum daily limit on patiki (flatfish) – Ōpihi Mātaitai

No person may, on any day, take more than ten (10) flatfish from within the Ōpihi Mātaitai.

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Nāku noa, nā

Hon Stuart Nash
Minister of Fisheries

B19-0531

Tairoa Benson
9 Huirapa Street
TEMUKA 7920

Tēnā koe Tairoa

I am pleased to inform you that I have approved the following bylaw for the Ōpihi Mātaitai Reserve:

Bylaw 1: Maximum daily limit on patiki (flatfish) – Ōpihi Mātaitai

No person may, on any day, take more than ten (10) flatfish from within the Ōpihi Mātaitai.

The bylaw will take effect from the date specified in the approved bylaw to be published in the *New Zealand Gazette*.

Nāku noa, nā

Hon Stuart Nash
Minister of Fisheries

B19-0531

Rangi Timothy
Flat 2/ 17 Renwick Place
Washdyke
TIMARU 7910

Tēnā koe Rangi

I am pleased to inform you that I have approved the following bylaw for the Ōpihi Mātaitai Reserve:

Bylaw 1: Maximum daily limit on patiki (flatfish) – Ōpihi Mātaitai

No person may, on any day, take more than ten (10) flatfish from within the Ōpihi Mātaitai.

The bylaw will take effect from the date specified in the approved bylaw to be published in the *New Zealand Gazette*.

Nāku noa, nā

Hon Stuart Nash
Minister of Fisheries

B19-0531

Sula Timothy
Flat 2/ 17 Renwick Place
Washdyke
TIMARU 7910

Tēnā koe Sula

I am pleased to inform you that I have approved the following bylaw for the Ōpihi Mātaitai Reserve:

Bylaw 1: Maximum daily limit on patiki (flatfish) – Ōpihi Mātaitai

No person may, on any day, take more than ten (10) flatfish from within the Ōpihi Mātaitai.

The bylaw will take effect from the date specified in the approved bylaw to be published in the *New Zealand Gazette*.

Nāku noa, nā

Hon Stuart Nash
Minister of Fisheries

B19-0531

Craig Fowler
51 Barrett Road
Waipopo
TIMARU 7973

Tēnā koe Craig

I am pleased to inform you that I have approved the following bylaw for the Ōpihi Mātaitai Reserve:

Bylaw 1: Maximum daily limit on patiki (flatfish) – Ōpihi Mātaitai

No person may, on any day, take more than ten (10) flatfish from within the Ōpihi Mātaitai.

The bylaw will take effect from the date specified in the approved bylaw to be published in the *New Zealand Gazette*.

Nāku noa, nā

Hon Stuart Nash
Minister of Fisheries

B19-0531

Brett Harris
109 Domain Avenue
TEMUKA 7920

Tēnā koe Brett

I am pleased to inform you that I have approved the following bylaw for the Ōpihi Mātaitai Reserve:

Bylaw 1: Maximum daily limit on patiki (flatfish) – Ōpihi Mātaitai

No person may, on any day, take more than ten (10) flatfish from within the Ōpihi Mātaitai.

The bylaw will take effect from the date specified in the approved bylaw to be published in the *New Zealand Gazette*.

Nāku noa, nā

Hon Stuart Nash
Minister of Fisheries

B19-0531

Dick Weastell
7 Shaw Street
TEMUKA 7920

Tēnā koe Dick

I am pleased to inform you that I have approved the following bylaw for the Ōpihi Mātaitai Reserve:

Bylaw 1: Maximum daily limit on patiki (flatfish) – Ōpihi Mātaitai

No person may, on any day, take more than ten (10) flatfish from within the Ōpihi Mātaitai.

The bylaw will take effect from the date specified in the approved bylaw to be published in the *New Zealand Gazette*.

Nāku noa, nā

Hon Stuart Nash
Minister of Fisheries

B19-0531

Christine Todd
128 Hopkinson Road
TEMUKA 7985

Tēnā koe Christine

I am pleased to inform you that I have approved the following bylaw for the Ōpihi Mātaitai Reserve:

Bylaw 1: Maximum daily limit on patiki (flatfish) – Ōpihi Mātaitai

No person may, on any day, take more than ten (10) flatfish from within the Ōpihi Mātaitai.

The bylaw will take effect from the date specified in the approved bylaw to be published in the *New Zealand Gazette*.

Nāku noa, nā

Hon Stuart Nash
Minister of Fisheries

Appendix Four: *Gazette* notice
