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Suze Jones, Secretary
Maori Affairs Select Committee
Parliament, Wellington
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Submission on the Marine and Coastal Area (Takutai Moana) Bill

The Council of Outdoor Recreation Associations of New Zealand (CORANZ) makes this submission on the above Bill.

CORANZ is the national association of six major national outdoor recreation associations – New Zealand Federation of Freshwater Anglers, New Zealand Four Wheel Drive Association, Option4 – recreational sea fishers' trust, Public Access New Zealand, New Zealand Bowhunters Society, New Zealand Salmon Anglers Association; Jet Boating New Zealand, and the Marlborough Recreational Fishers Association.

Total membership of CORANZ member bodies is about 12,000. CORANZ also advocates generally for the more than a million New Zealanders who recreate outdoors, and for their right to continue to do so.

CORANZ members, and the recreational public, are extensive users of public lands and waters throughout New Zealand, including the coasts and marine areas. They will be significantly adversely influenced by this Bill.

The Bill is one of the most controversial to be considered by Parliament in many years, dealing as it does with allowing privatisation only to Maori tribal groups of what has been Crown (publicly) owned foreshore and seabed since 1840. The foreshore and seabed, called the Common Marine and Coastal area (cmca) in this Bill, makes up at least 100,000 square kilometres. It is a very large area, more than 35% of New Zealand's dry land area of 270,000 sq km.

To propose allocating private property rights to all of this formerly publicly owned "land", on a racist basis only to Maori tribal groups, is opening a Pandora's Box of many unseen adverse outcomes. It is already being very divisive on many communities, and this will get much worse if the Bill is passed.

There are already small Maori "occupations" of dry land near the coast being justified by Maori extremist expectations of this Bill. For example at Taipa in the Far North, where a boating club's area and slipway has been occupied, and at Papa-aroha, north-west of Coromandel Township, where a launching slipway was blocked. These actions appear primarily intimidatory on the local community.

The Bill's goal is to also impose very strong tribal private property rights to as yet undecided areas of the cmca only to Maori tribal groups. This is a race-based privatisation, masquerading as a private property rights issue. These groups are those who will be able to meet some very unclear criteria, to be verified in secret, without public scrutiny or involvement, relating to their involvement with the claimed areas, back to 1840.

CORANZ Recommendations: (1) **Withdraw the Bill**: Rather than embark on this very divisive and destructive exercise, CORANZ urges your Select Committee, for the sake of New Zealand's future as a multicultural nation, to recommend the Bill be withdrawn. There are so many things wrong with this Bill, and it so favours one small segment of the community, Maori tribal groups, that withdrawal seems the only sane decision. As well,

(2) Retain the 2004 Act: The 2004 Foreshore and Seabed Act is satisfactory in allowing recognition of tribal customary rights, allowing tribes to go to court over their claims. CORANZ strongly supports retention of this Act.

The vast majority of the public who made submissions on the Government's proposals in April 2010 opposed this Bill (by 13 to 1), and supported retaining the 2004 Act (by almost 4 to 1).

CORANZ requests to be heard in support of this submission.

CORANZ has many concerns about the divisive and unfair nature of this Bill:

The Bill has many divisive and racist matters that are inadequately dealt with, some of which CORANZ highlights in this submission. There are so many of these and they are so widespread in the Bill, that is would be virtually impossible for your Committee to rectify them satisfactorily.

1 The National and Maori parties are introducing this race-based bill for party politics:

Most commentators see this massive privatisation and transfer of public rights to tribal groups as a cynical ploy by National to cement a long-term political coalition with the Maori Party and iwi groups. This would allow a National-Maori alliance to remain in government in New Zealand in the long term. This purpose has nothing to do with the best interests of all New Zealanders or the future of the country. It is looking increasingly like a major step backwards to a Maori tribal Apartheid nation.

This major difference can be clearly seen in the Purposes (s 4) of the 2004 Act, and this Bill. (Clause 4).The 2004 Act re-affirmed Crown ownership, which has been presumed since 1840,

provided for recognition and protection of customary rights, and allowed tribal groups to go to the High Court to prove them, and potentially gain recognition and redress for them. It also provided for general rights of free public recreation and public access, and navigation.

The purpose of this Bill in contrast is to remove Crown ownership over the whole cmca to allow a customary title, with very strong exploitive and RMA rights, akin to a separate nation, to be claimed by iwi groups who qualify under the terms of the Bill.

The Bill claims to protect public rights of access (but no longer recreation), navigation and fishing.

2 National has no election mandate for this Bill:

In the 2008 Election, National campaigned on abolishing the Maori Electorate seats. They did not campaign for repealing the 2004 Foreshore & Seabed Act, nor for allowing tribal customary marine title to be granted under a new Act.

This was even though National and the Maori Party started talks about reviewing the 2004 Act, and this Bill in February 2008 [Chris Trotter column, Dominion Post, 8 February 2008], well before the November 8 2008 election date. They and the Maori party signed their Support and Governance agreement, proposing these two changes just over a week after the Election, showing that the policy had been pre-agreed on. The public were purposely misled.

3 What would Customary Marine Title (CMT) have been prior to 1840?:

New Zealand consisted of warring tribes since muskets had been introduced by Ngapuhi in 1806. By 1840 the country had been savaged by over 30- years of intertribal musket wars. [See for example, R D Crosby "***The Musket wars – a history of inter-tribal conflict 1806-45***" 1999, Reed.] Missionary diaries over this time also record returning war parties with slaves etc. Tribes lived in a state of constant fear of ambush and war, often driven by concepts of tribal revenge.

In 1836 major Ngati Haua and Te Arawa war parties, and others attacked each other for much of the year throughout the Bay of Plenty, starting with the sacking of Te Arawa's Maketu Pa. This included attacking tribal food gatherers in the forests.

With this history of anarchy (lack of government), it was not surprising there was no Maori nation, nor any way of enforcing law and order on tribes. Title on dry land was only as good as a tribe's warriors' ability to defend it against attacking tribes.

The signing of the Treaty of Waitangi in February 1840 finally brought law and order over the next few years, as the British Army gained control. Consequently any Iwi customary marine rights cannot claim to have been very strong. Certainly not as strong as in a less war-prone country, or where tribes had better relations between them. It was the signing of the Treaty that allowed any potential customary rights to the foreshore and seabed to exist.

Customary title usually involves food gathering and fishing rights. However the Sealords deal (1992) allocated 20% of the commercial total allowable catch to Maori tribes, soon after the sea fishery was privatised by the Quota Management System. The 2004 ***Maori Commercial Aquaculture Claims Settlement Act***, allocated 20% of all aquaculture sites to Maori. So these two important customary rights have already been addressed by the Crown.

Hence the residual customary claims to the cmca cannot be considered to be as strong as if these agreements had not already occurred. The Crown appears to have received little recognition from iwi for these significant fisheries and aquaculture settlements.

Prior to 1840, as there was no Maori nation, no territorial sea would have been recognised internationally. From 1840 on, with New Zealand becoming a British colony, a 3 nautical mile (5.5 km) territorial sea, and consequent foreshore and seabed, would have been internationally recognised. By British law, this was owned by the Crown.

Only because of the ***Territorial Sea, Contiguous Zone and Exclusive Economic Zone Act*** of 1977 was the territorial sea extended from three to twelve nautical miles (22.2 km). The benefits of this extension, 133 years after 1840, are the property of all New Zealanders, as iwi ownership would not have existed internationally since1840.

There are no full-blooded Maori alive today. Because of intermarriage between Maori and non-Maori, and because of intermarriage between different tribes, the original iwi blood-lines will have been greatly reduced in today's population.

For example, Ngai tahu, the iwi with the longest area of coast in its tribal area, is acknowledged to be the "most white" iwi, because of intermarriage etc. In many cases there will be far more white blood/genes in the group than there are iwi blood/genes. Tribal groups have not generally been living in isolation from the non-Maori community, but as a largely integrated part of it.

Hence the concept of customary rights and a customary way of life today, is a mirage. It does not exist. Hence the question of why these nebulous customary rights are to be re-allocated today, and why that is, is a nonsense. CORANZ considers it is simply replacing one relatively small wrong with a very large wrong on the present non-iwi New Zealand community, who will respond very negatively when they see the divisive type of tribal aristocracy it will create.

Because of this CORANZ urges the Committee to:

a) Withdraw the Bill, or less satisfactorily
b) Restrict the proposed customary rights CMT, recognised customary rights (RCR) to only within the 3 nautical mile seabed
c) Disallow CMT and RCR from overriding the Resource Management Act (RMA).

4 No guarantee of continuing free public access:

When CMT is to be awarded to a tribal group there is uncertainty as to whether they can charge or demand koha or other kind of payment for public access or recreational use. In the 2004 Act, s 40 (2) says: *"Neither the guardians of a foreshore and seabed reserve nor the applicant group nor the board is entitled to charge or collect fees or other form of payment from any person or body for the use or occupation of the reserve."*

Foreshore and Seabed Reserve is the 2004 Act equivalent of the Bill's CMT. This makes clear that public access or use of the customary area is free, under the 2004 Act.

There is no such clause in the proposed Bill, because, although many parts of the 2004 Act were transferred across, s 40 (2) was not. Clause 27 Rights of access does not say "free" access, or that no fee will be charged. The word "free" does not appear in the Bill.

Only individuals have the rights listed in Cl 27. This is in stark contrast with the rights free access in s 40 (2) being for "*any person or body*" ie including commercial or group activities.

Although engaging in recreational activities is allowed by Cl 27 (1) (c), there is no right for commercial activities access. So this can presumably be prohibited e.g. in CMT areas. This is potentially very disruptive for aquaculture and other commercial activities.

The guarantee has been significantly weakened by not transferring s 40 (2), to the extent that a judge comparing the two Acts, would conclude that s 40 (2) had been left out purposely, and that free access had consequently been downgraded to the point of not being important.

There is a well-established and perfectly sensible **rule of statutory interpretation** which says that where one statute replaces another, and where the new statute does not repeat a particular provision in the previous one, then it is to be presumed that Parliament has omitted that earlier provision deliberately, and therefore the legal situation is different from what it was under the previous law. Hence, without an equivalent clause to s 40 (2), a judge would conclude that free access was no longer guaranteed in the new Bill, if it becomes law.

Cl 63 (1) (a) on CMT rights states that it is "an interest in land" and also in (2) (c) that the group may *use, benefit from, or develop (including derive commercial benefit) from exercising the rights conferred by a CMT*. So there is an expectation that CMT groups could charge for public access.

Although Cl 63 does not include the right to alienate or otherwise dispose of any part of a CMT, it does allow transfers to other tribal groups according to tikanga. There appears to be no prohibition on leasing, or the length of a lease. It is a way of deriving benefit. So the prohibition on sale is academic, as leasing is allowed, with no limit on the length of the lease.

Cl 64, also on CMT title rights, states that the holders can decline many RMA consents eg for wharves, launching ramps etc, and so can charge fees for these when they negotiate conditions for a consent, sometimes called an iwi tax.

On dry land, those with an interest in land eg a lease, have the right to charge for public access, because the Trespass Act applies to dry land. Tribal groups often charge for public access to areas they own eg Kaimanawa Ranges, Mt Tarawera, Maori land on Stewart Island.

CORANZ proposes the Bill set out that public access for any person or body cannot be charged for, in a similar way to S 40 (2).

5 Defining and prohibiting access in wahi tapu areas:

Wahi tapu are defined in the Bill (Cl 7) very broadly as "*a place sacred to Maori in the traditional, spiritual, religious, ritual or methodological sense*" (from s 2 of the Historic Places Act). This definition is very broad. But it does not say the public will be excluded.

Under the new Bill, award of CMT to a tribal group allows, by Cl 64 (1) (c), the right to protect wahi tapu. These protection rights are set out in Cls 77-80. Recognition can be done either "by agreement" (in secret with the Minister, with no other interested parties present and without any public appeal rights, except possibly judicial review - Cls 93-95) or through the High Court, where other parties can be represented. (Cls 96 – 117). It is so attractive for tribal groups to use the "by agreement" path that very few, if any, wahi tapu proposals are likely to be considered openly in the High Court. So other interested parties will not have their day in court.

Wahi tapu can prohibit public access by Cl 77 (2) (b). Maori wardens can be appointed (Cl 79) to enforce exclusion of the public, and fines for trespass of up to $5,000 can be imposed on conviction (Cl 80 (2)).

CORANZ is very concerned with this "by agreement" process of approving wahi tapu that the public and government agencies will be shut out. It is only after the decision is made and registered that the public and councils will get to know of it. CORANZ believes the process must be an open one, and that facts-based evidence must be provided, and be able to be challenged.

To our knowledge there are no wahi tapu currently on the foreshore and seabed. Most, if not all wahi tapu registered under the Historic Places Act are on dry land. Hence the Bill proposes that foreshore and seabed areas that have had public access to them since 1840, can, if this Bill is passed, be closed off to the public with no public involvement in whether close-off is needed. CORANZ thinks this is an unjust racist process, subject to abuse, like all processes that suppress or ignore valid community concerns.

The method of awarding wahi tapu means that any area of the common marine and coastal area (cmca) that is awarded CMT, can become a wahi tapu, from which the public can be excluded and fined, even though the public has had free access to it for the last 170 years.

Tribal groups have the ability to gain CMT anywhere in the 100,000 sq km (35% of New Zealand's land area) that is the cmca, and can then gain wahi tapu rights to it. Consequently CORANZ argues that there is no need for any wahi tapu on the cmca. If there had been they

would already have been recorded. These wahi tapu provisions appear primarily to give tribal groups the ability to exclude the public, and be able to penalise them with warnings or fines.

Wahi tapu are usually thought of as burial areas. But the HPA definition is far broader than that, and can be very difficult to verify objectively. It would be surprising if there were any burial areas in the cmca. Any bodies buried at sea would be eaten by fish, and would be washed away. In any case all burials are now required to be in cemeteries or by cremation. This has been the law for many decades. If any bones were found, then they could be re-buried in a cemetery.

New Zealand and overseas battle sites eg Gallipoli, First World War Western Front battles such as the Somme, Paschendale, where tens of thousands died, do not exclude the public. Why should pre-1840 skirmishes between tribes, now long forgotten, if they existed at all, be a pretext for excluding the public, having bullying wardens, and imposing significant trespass fines?

In the 2004 Act, wahi tapu had to be proved to the satisfaction of the Maori Land Court. The decision of whether to restrict public access, as a consequence, was then made jointly by the Ministers of Conservation and Maori Affairs (probably means made by Cabinet when contentious). This is a far more open and fair process than what is proposed in the 2010 Bill.

CORANZ recommends to the Committee to remove wahi tapu from being considered in the Bill. After 170 years of public useof all the foreshore and seabed, there is no need for them. They are simply a means of tribal groups creating friction within their broader community.

6 Award of Customary rights should be via a non-secret mediation and a participatory High Court process:

The Bill proposes the award of CMT and protected customary rights be “by agreement (cls 93-95) a secret process between the Minister and the applicant group as well as by a contestable process through the High Court (Cls 96-117). However, recognition by agreement is so attractive, to applicants because it is so undemocratic with all other stakeholders excluded, and evidence being kept secret, that it will be the process of choice for many applicants. Who in government will safeguard the public interest? The Minister is unlikely to do so. How will stakeholders safeguard their interests? Secrecy is a cloak for corrupt deals.

CORANZ proposes that this secret process, potentially open to corrupt practice, be removed from the Bill. It has no place in a democratic country, where decisions are made publicly, not in secret, solely for the benefit of the participants, and against the interests of the wider community.

7 Bill lowers the bar and increases the rights on awarding customary title

The Court of Appeal decision (Ngati Apa) considered whether customary title could exist, and decided that it might. Continuous ownership of adjacent dry land since 1840 was considered essential.

The 2004 Act only recognised one type of customary right – **a territorial customary right** (s 32). This required (a) exclusive use and occupation of a particular area of the public foreshore and seabed (now proposed to be called the cmca) by the group since 1840.and had continuous title to contiguous land since 1840

This Bill in contrast defines three types of “customary title” CMT (Cls 60-91), protected customary rights (Cls 53-59), and mana tuku iho (Cls 49-52), which will apply to the whole of the cmca.. The two lower rights have not been mentioned before, and were not mentioned in the 2003 Court of Appeal decision, nor in the 2004 Act. They are a new invention of this Bill, with no precedent in Court decisions.

The bar on CMT has been lowered significantly in this Bill relative to the Court of Appeal decision. Cl 61 says that ownership of land abutting all or part of the specified area is just a “factor that may be taken into account”. There is now no requirement to have continuously owned ALL the adjacent foreshore and seabed, just part of it, a significant lowering of the qualifying bar.

Also exercise of non-commercial customary fishing rights is now a factor. (It is not mentioned as a factor in the 2004 Act, or the Court of Appeal decision.)

Cl 62 allows a new kind of transfer, customary transfer, which does not exist in the 2004 Act. The Supplementary Order paper (23 Sept 2010) proposes allowing fishing by non-members of the group "*does not of itself, necessarily preclude the applicant group from establishing the existence of CMT*." This too lowers the bar on qualifying.

Consequently, there are now three claimed customary rights, where before there was just one; contiguous land is now just a "factor that may be taken into account"; non-commercial fishing rights are now a new factor; only a small part of contiguous land is now OK; customary transfer is now to be allowed, and fishing by non-members of the group, may not void the right.

The fact that CMT will usually be awarded "by agreement" (Cls 93 – 95) further lowers the bar as this is a secret process, where other stakeholders are not present, or able to put their concerns or cross examine, and where no evidence confirming that the Applicants met the conditions is required to be published.

All these amount to a major reduction in the difficulty of a tribal group achieving CMT.

CORANZ requests: That these lowerings of the bar be removed.

It is very clear too that there has been a massive increase in the rights associated with CMT, (and the other two new "customary" rights) in this Bill.

8 Mana tuku iho is not a customary right and should be dropped:

This entity relates to the commercial fishery area for each tribal group. As the fishery interest has been dealt with under the 1992 Sealord deal, there is no need to consider such matters in this Bill. This is stated for a protected customary right in Cl 53 (2) which states that this right does not include any fisheries-related rights.

National created this "right" solely at the request of the Maori Party in mid June 2010. In spite of it being discussed in Part 3, Customary interests, it does not relate to any customary matter or right, as it relates to a number of responsibilities that the Department of Conservation has.

None of these are "customary". They relate to responsibilities under the Conservation Act and related Acts, namely marine reserves, marine mammal-watching concessions, marine mammal sanctuaries, and granting concessions. The Department of Conservation has existed only since 1987. It did not exist prior to 1840.

This is more a licence for race-based meddling in DOC's public management, for private tribal gain. There is no reason either to have *mana tuku iho* mentioned in the purpose of the Bill. It does not reflect any customary right.

CORANZ recommends that mana tuku iho be dropped from the Bill. It is not a customary right.

9 Coastal Recreation downgraded in this Bill compared to the 2004 Act:

The cmca is the main area of recreational use by New Zealanders, being significantly greater than recreational use of the mountains and forests. Recreational use includes visiting the beach, swimming, yachting, swimming, surfing, power-boating underwater diving, swimming exploring etc. Both people of Maori descent and people not of Maori descent are equally keen on recreating there. It is a passion all New Zealanders share.

Whereas the 2004 Act specifically mentions "*providing for general rights of public access and recreation*" in its purpose (s 4 (d)), the new Bill does not mention recreation in its purpose (Cl 4).

Recreational activity has been downgraded. This is another strong reason CORANZ greatly prefers the 2004 Act to this new Bill, and why we want this Bill withdrawn.

CORANZ recommends That recreation because of its importance to all New Zealanders, be mentioned positively in the purpose of this Bill, as in the 2004 Act

9 Money is now the major driver, not mana:

The 2004 Act allows tribal groups to seek recognition (mana) and the exercise of kaitiakitanga (guardianship) but not to commercially exploit the foreshore and seabed (make money from it).

In this Bill the main purpose of CMT is to open the way for money to be made from activities and business and exploitation (eg mining, tourism, aquaculture etc) from the area. E.g. RMA and Conservation Act permission rights, marine mammal watching permits, mineral exploitation, and the right to create a planning document (Cl 64 CMT rights).
The emphasis is now almost wholly about ways for the owners of their CMT area can make money from it. There is no mention of conserving the area, or managing it sustainably.

10 Most New Zealanders oppose this new Bill, and want to keep the 2004 Act:

It took Attorney General Christopher Finlayson six months from 30 April to release the Summary of submissions on the public consultation in April, in spite of the Consultation Document saying they would be publicly released. When they were released, on 28 October, more than four months after they had ben prepared, it was obvious why he had been so reluctant to release them.

The summary document shows that on the most important issue, Question 1, 'Should the 2004 Foreshore and Seabed Act be repealed?' 77 percent of respondents were opposed, 21 percent were in support and 2 percent did not know. Those opposing repeal (956), outnumbered those favouring repeal (256) by almost four (3.7) to one.

This is a massive public vote against repealing the 2004 Act. It explains why the Attorney General has kept this information suppressed in spite of numerous calls for it to be made public – as the consultation document stated was intended.

But the bad news for the government doesn't stop there.

The response to the second key issue, Question 2, 'Do you support the overall approach proposed by the government?' ie this Bill, was overwhelmingly opposed with 91 percent against, only 7 percent supporting it, and 2 percent undecided. This is thirteen to one in opposition, of the 795 submitters that answered the question.

It is clear from this overwhelming public rejection of the two key issues in the Review, that there is no public mandate at all for the Government's proposed repeal of the 2004 Foreshore and Seabed Act.

When the public Consultation Document was launched, the Prime Minister said that if there was not widespread support then the current law could remain in place.

The summary of submissions shows that there is clearly no public support for the law change, so the Prime Minister should honour his commitment to the New Zealand public and withdraw the Bill.

Mr Finlayson argued that at his public meetings most present favoured his proposals As an attendee at one of his public meetings the writer can vouch this was not the case. Most people knew little about the proposals, and had not read the Discussion Document. In any case they were not asked their views at the meeting. The public meetings were poorly advertised, and consequently few members of the public attended.

Once the public understood the National and the Maori Party's proposals, the submission results show that a large majority opposed them. This majority is continuing to grow. The Minister and your Committee cannot continue to hide your heads in the sand about the anger with which the public feels about being betrayed by National.

CORANZ recommends – Because of this strong public opposition, the Bill be withdrawn, as the Prime Minister promised.

11 National's deceptions and undemocratic tactics over this Bill:

CORANZ is very concerned about the National Government's deceptions and anti-democratic actions regarding this Bill.

These include National keeping secret during the 2008 Election, their agreement with the Maori Party to repeal the 2004 Act and replace it with legislation to privatise the foreshore and seabed racially to Maori tribal groups. Consequently the public could not vote against National for proposing privatisation.

Then the public consultation period in April 2010 was extremely short, a mere 20 working days, with the Easter holidays near the start of it. National did not allow any extension of time, in spite of a 5,000 signature petition being presented to the Prime Minister, by the Coastal Coalition, asking for a two month extension. In contrast, on the far less controversial matter of mining in small areas of our National Parks, National was happy to allow a significant extension to an initially much longer consultation period.

National's goal was to minimise the ordinary members of the public that got around to making submissions and opposing the proposals. It is clear now that Minister Finlayson has finally released the summary of submissions that his tactics to restrict public submissions failed. A large majority opposed the proposals, even with his very short submission time. With more time the opposition would have been much larger.

Then, in spite of the public being overwhelmingly against National's proposals, as he would have known at the time, Prime Minister John Key further appeased the Maori Party by agreeing to their mana tuku iho demands. It is now clear this is NOT a customary right at all. His actions show that Mr Key doesn't consider the views of the majority of New Zealanders as having any merit.

The National Government has shown itself contemptuous of the democratic process, and solely interested in the views of the Maori Party and tribal groups.

12 Race based exemption from the Resource Management Act, Conservation Act and RMA Planning documents:

When a Maori tribal group gains CMT, it is exempted from much of the Resource Management Act, and by Cl 64 (1) (a), acquires an RMA permission right, and by Cl 64 (1) (b) a conservation permission right. These rights entitle the group to veto any application, eg by Cl 65 (2) ("may give or decline permission on any grounds, for an activity to which an RMA permission right applies") and by Cl 65 (3) the activity must not commence without the group's permission.

By Cl 68 massive fines up to $300,000 (natural person) and $600,000 (person other than a natural person) can be imposed, and have any profit or revenue confiscated and most of it given to the group. These are astounding rights for a party in government to be proposing. It gives excessive rights to any tribal group gaining CMT.

The Bell Gully law firm have also expressed concern about the extreme nature of these "CMT rights", and also with the enforcement of environmental safeguards, and the secrecy attached to the discussion. .

As well we and they are concerned about the rights of CMT holders to issue their own "planning documents", and no rights of consultation, objection or appeal apply to the preparation of that

document, by the public or councils. These dictatorial rights are above any rights that private land holders have on dry land. They are race-based rights certain to be seen by the rest of the community as highly discriminatory and divisive. Furthermore a territorial authority "must take into account" such a planning document when amending a district plan.

The CMT tribal group's rights do not have any rights of appeal against their decisions, or a right of objection under the RMA. This gives complete power to the group, irrespective of New Zealand law. It would be one of the most dictatorial pieces of New Zealand legislation ever passed, if it becomes law. Cl 67 (2) states there is no right of appeal against the CMT group.

This is a surprising situation for what is said to be a common area, supposedly not owned by anyone (Cl 7). It shows that in spite of its definition, this is not a "common'. Maori tribal groups have far superior rights, effectively ownership property rights, over it, if they can gain CMT. These rights are much greater than those attaching to even fee simple, as is seen above.

Cl 68 sets penalties as a fine not exceeding $300,000, or imprisonment not exceeding two years. For a corporate etc, the fine is up to $600,000. Any income earned etc is subject to confiscation. These are excessive and extreme powers to give to any sector of a community.

Consequently the Group will be able to charge "fees" and "rental" for giving the iwi group's permission. This is a privilege no other New Zealanders enjoy. It is a massive breach of the Government's responsibility to its citizens. It will set up a tribal Apartheid system of race based privilege if this Bill becomes law.

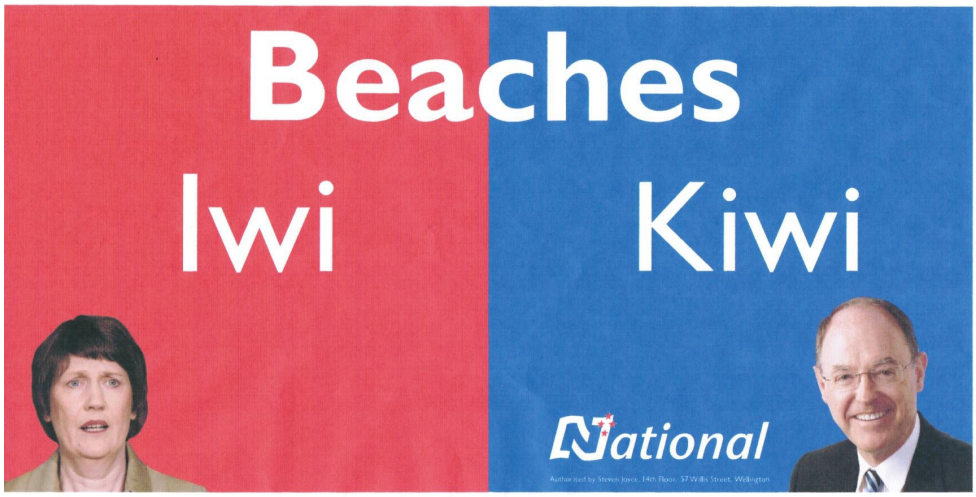
CMT also gives the tribal group veto rights over marine mammal watching (Cl 75), so that the group becomes the issuing authority for such permits on its CMT. DOC's view, concerning sustainability and other conservation matters for marine mammals, can be overridden by the Group (DOC must "recognise and provide for the views of the tribal group" on their CMT area.). Again, this is extreme powers to give to any community group.

So the area of the tribal group's CMT is no longer governed by these New Zealand statutes. The Group is to all intents and purposes an iwi authority, with the rights to tell these agencies of the Government of New Zealand what they have to do to appease the CMT group. This is an astounding situation of Maori Apartheid, for New Zealanders to find themselves subject to, if this Bill becomes law.

CORANZ believes the ability of tribal groups with CMT to override the RMA and Conservation Acts in the ways described above, are unacceptable. It will give rise to massive friction between Maori tribal groups and the rest of the community, in much the same way that Apartheid in South Africa did. Because of these massive downsides CORANZ asks your Committee that the Bill not be proceeded with.

14 Racist nature of this National Bill:

CORANZ remembers the 2005 Election billboards used by the National Party showing Helen Clark favouring iwi and Don Brash – Kiwi, shown below. In fact this was not the case. Helen Clark and Labour were scrupulous in attempting to represent all New Zealanders' rights on the foreshore and seabed. The Billboard was solely biased National propaganda, aimed at exploiting the race card. This is why CORANZ and most New Zealanders support retention of Labour's 2004 Act.



2005 Election: - National's propaganda Billboard

Now it is National that is doing what it falsely accused Labour of doing in 2005 – playing the Race card. It is being racist by using the questionable 2003 Court of Appeal decision as a pretext for setting up a system of private property rights on the foreshore and seabed, which only Maori tribal groups can qualify for. Racism is a belief in the superiority of one race over another, or discrimination against other races.

National's racist discrimination will be implemented in this Bill by giving iwi groups superior race-based rights over the foreshore and seabed. These will be very strong property, trespass, RMA and other rights only to Maori tribal groups, as set out in this Bill.

The Bill creates laws that constrain the public's rights, and over-ride New Zealand laws, solely on the basis of Maori racial tribal affiliation. This mindset is likely to be worse than the Apartheid practiced from 1930 to 1993 in South Africa.

Hence the relevance of the recent billboard showing Prime Minister John Key waving a Maori separatist flag, and giving rights to iwi. But only possibly visiting rights to non-iwi kiwis. It sums up this Bill.

2010 Billboard: John Key privatising the beaches to Maori tribal groups.

National's future vision for New Zealand appears to be one of a separate Maori tribal aristocracy, owning much of the foreshore and seabed, over 35% of New Zealand's land area, unencumbered

by Resource Management Act responsibilities, and with the ability to exclude the public via wahi tapu sites decided in secret with the Minister.

Iwi and the Maori Party seem to want this vision too. It is a racist vision New Zealanders are unlikely totolerate. But it is likely to create much conflict in our society, much greater than the 1981 Springbok tour, a conflict again that National, the government at the time, helped create.

Because of its racist basis, CORANZ strongly opposes this Bill and asks that it be withdrawn.

14 Conclusion:
For all of the above reasons, there is a very strong case for withdrawing this Bill CORANZ urges your Committee to do so, and retain the 2004 Act. Otherwise it will set back race relations between Maori tribal groups and the rest of the community enormously.

CORANZ asks to be heard in support of this submission.

Dr Hugh Barr
Secretary