

www.nzffa.net

NEW ZEALAND FEDERATION OF FRESHWATER ANGLERS (INC.)



PO Box 38-777, Howick, Auckland
Secretary
Selwyn Hodder
sghodder@xtra.co.nz

16th November 2011

To Suze Jones, Secretary
Maori Affairs Select Committee
Parliament, Wellington
E mail: Suze.Jones@parliament.govt.nz

Submission on the Marine and Coastal Area (Takutai Moana) Bill

The New Zealand Federation of Freshwater Anglers (Inc) wishes to make the following submissions on the Marine and Coastal Area (Takutai Moana) bill.

The New Zealand Federation of Freshwater Anglers (Inc) is an affiliation of angling clubs from throughout NZ. It has been operating continuously since 1974. It is an independent organisation which represents the collective interests of the anglers who participate in freshwater sports fishing in New Zealand. The Federation works to identify and resolve national issues affecting freshwater angling in NZ, and supports member clubs and organisations in their efforts to resolve local issues.

The *Federation's* strength lies in its independence and the number of anglers it represents. We are also here to advocate for, and to celebrate the joy of freshwater fishing.

1. The *Federation* is strongly opposed to any laws that discriminate on the basis of Race. The Treaty of Waitangi was about forming one society with the egalitarian principle of opportunity for all. Politicians have eroded this. This applies equally to positive as well as negative discrimination, as positive discrimination to one group results in negative discrimination to others.

2. The *Federation* considers that there should be no private property rights to the foreshore and seabed that by law, is currently publicly or crown owned. There should be no erosion of free public access and recreational opportunities. Many New Zealanders use the foreshore for recreation such as shore sea fishers, salmon fishers, swimmers, four wheel drive operators and the general public for picnicking and leisure pursuits.

3. All groups in society should comply with the country's laws. Therefore it is considered dangerous to exempt some of the Community from existing laws such as the RMA, Conservation Act thus giving special, discriminatory privileges.

4. This proposed law, should be seen in conjunction with the National Government's proposed aquaculture reforms and drive to establish fin-fish aquaculture. We consider Fish farming is no substitute for proper management of the natural fishery. Fish farms are a threat to the public's right to recreational harvesting of sea food. Overseas experiences of Fish farming are not good. We believe that this proposed law, in conjunction with Government's proposed aquaculture reforms and drive to establish unsustainable finfish aquaculture, poses a threat to the public recreational harvesting of sea food. The proposed reforms would prevent uninhibited movement of freshwater fish such as trout and salmon through estuaries and river mouths, which would be detrimental to the interests of our members.

5. Further, that we see this precedent as being a threat to free and enduring access to our wonderful streams, rivers and lakes in the longer term. An untenable situation which flies right in the face of

what many of our fore-fathers came to NZ for – and will further erode our egalitarian society.

6. *The Federation* considers that the *Foreshore and Seabed Act 2004* should remain.

We absolutely oppose proposed laws that give any group within society the ability to be exempt, on a racial preference basis, from existing laws such as the RMA or Conservation Act.

We would like to speak to our Submission if given the opportunity.

Selwyn Hodder
Secretary

Public Access New Zealand

Incorporated

Secretary, Public Access New Zealand Inc., P. O. Box 17, Dunedin, Otago New Zealand.
phone/fax 64-03-489 8284

The Maori Affairs Select Committee,
Committee Secretariat,
Maori Affairs,
Parliament Buildings,
Wellington.

Dear Sirs/Madams,

Submission on the MARINE AND COASTAL AREA (Takutai Moana) BILL

This submission is presented by :

Alan McMillan
Chairman,
Board of Trustees,
Public Access New Zealand Inc.,
P.O.Box 17,
Dunedin
Ph/fax 03 489 82 84
Club.wingatui@xtra.co.nz

On behalf of PUBLIC ACCESS NEW ZEALAND INCORPORATED

PUBLIC ACCESS NEW ZEALAND INCORPORATED IS A NON
REGISTERED CHARITABLE TRUST ESTABLISHED IN 1992 .

Our objectives are the

“The preservation and improvement of public access to public lands , waters and
the countryside , through the retention in public ownership and control of resources
of value for recreation”

Our support base is widespread throughout New Zealand and consists of
individuals, recreational groups and outdoor interests.

GENERAL STATEMENT

Our organization is emphatically opposed to those proposals in the Bill which would effectively surrender Crown sovereignty over much of our coastline, diminish the general public expectation of future prosperity to be gained from development of the area, and introduce, in a major way, divisive race based preference in to our country's legislative structure.

We believe it will be regarded as provocative by all non iwi New Zealanders . It will certainly create division between iwi and non iwi and is an affront to all who would aspire to an inclusive society in New Zealand where citizens of all races may be treated equally under our laws

This Bill should be an embarrassment to its authors and will certainly not enhance the mana of its proposed beneficiaries

PUBLIC ACCESS NEW ZEALAND INC., IS OPPOSED TO THIS BILL IN ITS ENTIRETY AND ASKS THAT IT BE REJECTED AND THAT THE FORESHORE AND SEABED ACT OF 2004 BE RETAINED.

IN OUR VIEW THE FORESHORE AND SEABED ACT 2004 CONFIRMS OWNERSHIP AND CONTROL BY THE CROWN, WHILE ALLOWING THE RECOGNITION OF IWI MANA, AND IT IS OUR BELIEF THAT WILL PROVIDE THE BEST PROTECTION FOR THE ASSETS OF THE FORESHORE AND SEABED TO THE BENEFIT OF ALL NEW ZEALANDERS MAORI AND NON MAORI ALIKE

SPECIFIC CONCERNS

There are many aspects of the proposed bill which are the antithesis of fairness and consideration for all New Zealanders, which we would expect from any Government, but some matters certainly create more offence than others. .

(1)

We find the litany of self interested constructiveness in the processes used to reach the stage of the Bills presentation to Parliament an appalling misuse of those processes--for instance :

(a) The membership of the initial “ independent panel” set up by Minister Finlayson to review the Foreshore and Seabed Act 2004 is widely perceived as being terminally flawed and designed to deliver a predetermined result. Certainly it excluded anyone not steeped in Maori studies.

(b) As a result of the findings of that Panel the Government then created a so called public consultation document , released it 2 days before a 4 day Easter Holiday break thus providing just 20 working days for public consideration .
When challenged over the short notice given and a most reasonable request made for a time extension the Government effectively limited public input by refusing extra time.

(c) In spite of assurances repeated ad nauseum that free access and freedom of access to our beaches would be guaranteed a most important clause (SEE SECTION 40 (2)) giving effect to these assurances was not transferred over from the 2004 Act to the Bill. In spite of a vigorous defence of this by Government sound legal opinion questioned the potential for uncertainty over the Government assurances
There is still no Supplementary Order Paper (SOP) confirming that there will be no charging for public access or use.

(d) We have serious reservations about public exclusion from discussion and decisions between the Crown and Iwi .(see clauses 93to95)
In decisions involving the award of Customary Rights it is proposed that Iwi could present a case to a high Court or, alternatively, take part in a secret mediation process conducted in private with representatives of the Crown .
In our view these secret meetings, dealing with matters of such high public interest, have no place in New Zealand politics .

We believe strongly that Maori should be allowed their day in court to present their case which should be able to be contested on the basis of fact alone and according to the law – and that the parameters of that law should be spelled out clearly by Parliament to ensure that judicial activism can not over rule the wishes of Parliament

We note that the 2004 Act did not deny Maori a right to take their case to court.

(e) Again the same issue arises in the declaration of Wahi Tapu sites in the Bill

These can be established in a High Court but also be “agreement “ after a secret meeting with a Minister of the Crown That meeting would exclude the public and there would be no right of appeal to decisions taken.

We have no issue with the designation of Wahi Tapu sites by a High Court but consider the lack of transparency in any “agreement” deals with the Crown, is highly questionable.

(f) Recreation in the coastal area is an issue of high interest for all New Zealanders . yet the Bill makes little provision for the protection of recreation . The 2004 Act is quite specific when it mentions “ providing for general rights of public access and recreation”
The proposed Bill contains no such provision and we believe it is a major failing that recreation attracts little consideration in the Bill

(g) Race based exemptions from compliance with New Zealand law.

The Bill provides for race based exemptions from much of the Resource Management Act , and the Conservation Act where customary marine title is awarded

Customary Marine Title under this Bill would permit those holding that title to :

Provide a right of veto over applications for coastal permits , Resource Management Consents, conservation permissions and marine mammal watching permits.

The will be able to create planning documents that impact on coastal policy statements and over ride local Government decisions , the Resource Management Act, the Historic Places Trust and other Government agencies and iwi would be able to gain ownership of all non nationalised minerals in the area .

. As a disbursement of highly valuable public assets this latter issue is of major concern Those assets are rightly owned by the general public through the Crown and should be retained in public ownership for the benefit of all New Zealanders – Maori included

All of the above gives a strong impression of a surrender of sovereignty by the Crown --a matter of great constitutional concern .

(h) The Government has repeatedly stated that it needed to repeal the 2004 Act in view of the immense weight of opposition to it. It justified its decision to repeal Crown ownership of the Foreshore and Seabed as was confirmed in the 2004 Act on the basis that “ significant numbers” of New Zealanders had complained that the 2004 Act was “unfair and discriminatory”

In studying these statements it is revealed that the Government’s decision was based almost entirely on the view of Maori obtained as a result of some 21 Hui and 580 submissions.

Now we find after months of refusal to publicise the summary of submissions presented during the public consultation process that the general public response was quite the opposite.

Of the submission presented during the consultation process it is now revealed that some 77% of respondents were opposed to the repeal of the Foreshore and Seabed Act 2004 and further that 91% of respondents opposed the overall approach being taken by the Government.

That most effectively removes the Governments stated mandate for a review of the 2004 Act

When the public Consultation Document was released the Prime Minister Mr John Key himself said if there was clearly no support for the law change then the current law could remain in place .

On the basis of these figures alone that should result in the withdrawal of the Marine and Coastal Area (Takutai Moana) Bill

The greater percentage of the population doesn’t accept its content and the Government now has no mandate to progress it further.

CONCLUSION:

There are other serious shortcomings in this ill considered Bill and no doubt they will be brought to the attention of the Select Committee but in closing we must question the wisdom of having this matter placed under the control of the Maori Affairs Select Committee .

We would not impugn the integrity of this Committee or any of its members and clearly this Committee is not responsible for the shortcomings which we believe are so evident but we believe there is now a strong public perception that a Select Committee so compromised by an apparent association with proposed beneficiaries will be severely handicapped in reaching a balanced conclusion-- and in its defence we believe it should never have been placed in this position in the first place .

The shortcomings which we see in this Bill are so comprehensive that we believe there is no alternative to its immediate demise and withdrawal

We therefore urge this Committee to recommend the withdrawal of the Bill and recommend the retention of the Foreshore and Seabed Act 2004

As your Committee has apparently no plans to meet in Dunedin we will be unable to expand on the views we have expressed, in person

. Alan McMillan,
Chairman, Board of Trustees,
Public Access New Zealand Inc ,
P.O.Box 17,
Dunedin.
Ph/fax 03 489 82 84
Club.wingatui@xtra.co.nz
15th November 2010