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Secretary
Fisheries & Other Sea Related Legislation Committee
Parliament
Wellington

Submission: Foreshore and Seabed Bill

Introduction

The New Zealand Four Wheel Drive Association is a national body representing some 6,000 4WD enthusiasts, their family and friends. We ardently support the ideals of sustainable and responsible recreational use of 4WD vehicles. We are also closely aligned with other bodies such as Tread Lightly and Public Access New Zealand – both of whom we believe are making their own separate submissions.

We have been involved in the preliminary discussions with Government as part of the recreational coalition. Whilst initially promising, that consultation process seems to have been largely ignored with the current drafting of the proposed legislation.

We would like to speak in support of this submission.

Significance of the Coast, Beaches and Foreshore as a Recreational Resource

Many groups take advantage of New Zealand's extensive coastline for recreational purposes. These include the full gambit of chosen recreations from simple sunbathing and swimming through fishing, walking, horse-riding, cycling, land-yachting and driving.

Indeed, by its very nature, much of our Coastline is so remote and inaccessible, that 4WD becomes the only practical way to gain access to many places. In this respect, the so-called Queen's Chain (incomplete as it is) and the Foreshore form a major component affording New Zealander's access to these isolated places. Once arrived, the chosen pastime may be entered into.

In essence then, the very nature of the foreshore is not only as a recreational resource in its own right, but it also forms the basis of a vital public highway by default.

The nature of the foreshore and Queen's Chain was established by Queen Victoria's 1840 letter to Governor Hobson. This required (amongst other things) the establishment of the coastal areas a recreational resource to be enjoyed by one and all. It is upon this basis that New Zealand enjoys the freedom of access to the coastal area that is envied the world over. We cannot afford to lose this vital essential component of the New Zealand culture.

This Bill is Unworkable.

In no way can we offer support to this Bill. It is divisive of New Zealanders, and offers powers to perpetuate the Kiwi "Grievance Industry" for years to come, based solely upon Race. Those of European descent are offered little or nothing by this Bill. Indeed, existing Common Law rights are to be extinguished, to be replaced with codified provisions that severely constrain the Public. Indeed draconian penalties are proposed for even the most minor of infraction.

Maori Issues Should be Addressed Elsewhere

Having the proposal that Maori shall have in effect total say over what is a "Customary Right", then decide themselves what "Rights" that conveys over a portion of Crown Estate is repugnant to Natural Justice. It disenfranchises mainstream New Zealanders from their known heritage, and favours one group solely based upon Race. This in itself is a recipe for continuing rather than settling grievances, and may in the long term serve to further degraded racial harmony within New Zealand.

Any issues around the Foreshore and Seabed must be addressed by way of a Court System that is open to all, is above reproach and that offers equality of representation to all parties.

To say that the proposed Bill offers equality to both Maori and non-Maori is disingenuous. Whilst the Bill may state this, in practice, there are no non-Maori who can establish proven occupancy and/or connection to any coastal area dating back to pre-1840. However, many different Maori could claim some form of ancestral connection to the same area. One group defeated in battle and vanquished from a region would still retain some form of ancestral connection. The later occupiers naturally claim the same. Is this then an opportunity to double-dip on what is already a double-dip for many?

Crown Ownership Does Not Guarantee Public Access

Simply vesting an area in Crown Ownership does not prevent the concept of private occupancy. By giving one group special rights over sections of the coastal area effectively transfers care and control. With that care and control goes occupancy

rights. Once a group establishes such rights, then in general the public are excluded, or at the very best, tolerated subject to whatever conditions might be imposed.

An example might be drawn from Tarawera. Ever tried the walk to the summit of Tarawera recently? The cost is now over \$100 per person. A classic example of what happens when a private group capture what should be a public resource. The Seabed and Foreshore are no different.

All Land is Crown land

It is a common principle at law, that all land is Crown Land, and that title is merely a recognised occupancy of that land. Whether occupancy be via title, or via other instrument such as care and control, it is still occupancy – and that can be at the exclusion of all others. The concept then of excluding the public from Crown land is not new – it is a centuries-old tradition.

The Public Deserve Guarantees

Most Kiwis were born into a society where access to the coast was a “given” right. Those immigrants who joined Kiwi society later in life have come to expect nothing less for themselves and their descendents.

Government has promised that the Foreshore & Seabed will be retained for all New Zealanders. The preamble to the Bill reiterates this *“the principle of access: there should be open access for all New Zealanders in the public foreshore and seabed”*

The contents however leave much to be desired, and fail in all respects to uphold the primary purpose of the bill.

This Bill must fail, and be replaced with legislation that was promised by Government. No if’s, no but’s, no maybe’s

Andy Cockroft
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