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14 July 2010

## Foreshore and Seabed – Gone by Christmas?

Remember National's slogan in 2004: "*National says the foreshore and seabed is Kiwi property, not iwi property.*" How readily National U-turns for its own perceived short-term political advantage, and with no concern for the public interest.

Privatising the foreshore and seabed racially to iwi is now National policy, because of its post-election agreement with the Maori Party. Many people voted for National in 2008 because they supported the Maori Parliamentary seats abolished. Now instead John Key wants to allow privatisation of the foreshore and seabed to iwi, with legislation being rushed through before Christmas.

The foreshore and seabed is very dear to New Zealanders. It is large, being greater than ten million ha, over 35% of our land area and stretches 22 km out to sea from the nearest land. It is where most of us holiday and recreate and where many make their living.

It is very scenic and strategically important. It provides our sea and air links to the rest of the world. The foreshore and seabed includes all the water and air above it and all land and minerals beneath it.

National's foreshore and seabed proposals are highly controversial. They would remove Crown ie public, ownership, and instead allow customary title to iwi who can prove exclusive occupation since 1840. Very strong private property rights would attach to this title, including exclusive mining, aquaculture and development rights.

When present leases expire eg for aquaculture, marinas, wharves etc iwi with customary title could re-negotiate the leases or require their removal. This is privatisation of the foreshore and seabed based on race. Other nationalities are ineligible. These customary titles could not be sold, or changed to fee simple title.

There is great uncertainty about the outcomes of National's proposals. John Key thinks "very little" will go to iwi customary title. His colleague Treaty Minister Chris Finlayson says "about" 10% (2,000 km) of the coast. But iwi want 90-100%.

Uncertain legislation is bad legislation, as unexpected consequences can be very costly. They have great skills and tenacity in manipulating Treaty and Government processes to their own advantage. The property rights that go with customary title will be very valuable in developed coastal areas. Iwi are likely to win much more than John Key expects.

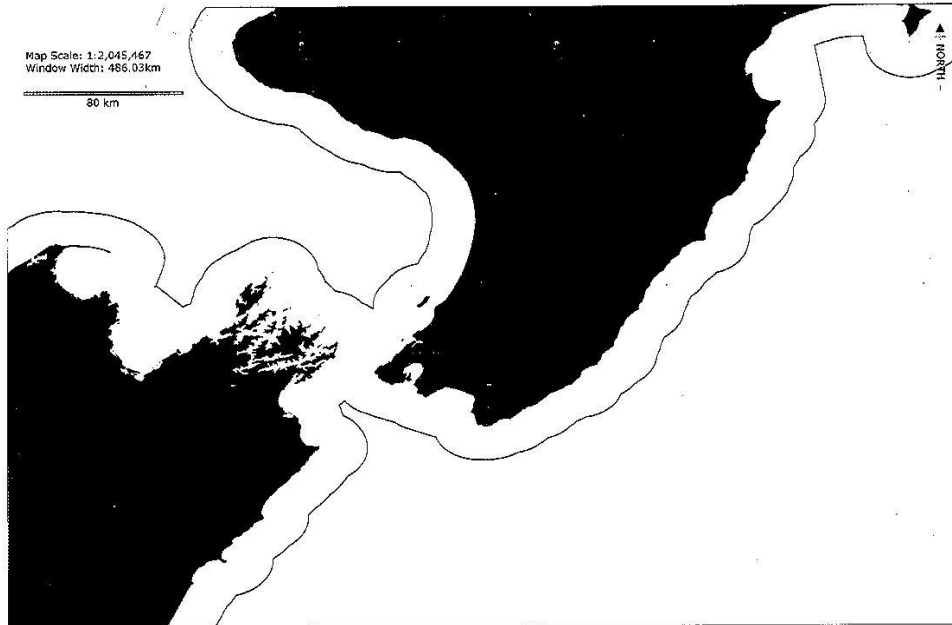
Finlayson says he cannot guarantee that any of our iconic beaches, Ninety Mile Beach, Ohope, Oriental Bay, Lyall Bay, Abel Tasman etc won't become iwi customary title. But if they do, they will be gone forever, as they cannot be bought back, even by the Crown. The lack of certainty in the proposals is of very great concern. The proposals need much more debate, rather than being rushed through by Christmas.

National's proposals strongly favour iwi, and sideline the public. Iwi claimants for title can either go to the High Court, where possibly other affected parties could appear. Or iwi can negotiate directly with the Minister behind closed doors. Then other points of view would be ignored. National is giving iwi very strong property rights that will allow them to hold the rest of the community to ransom, should they wish.

Don't believe either National's claim that the public will have guaranteed access across iwi customary title,. Iwi can declare all their customary title to be *wahi tapu*, sacred places, which exclude public use. This may be appropriate for known sea burial sites. But it could be misused, as

Iwi are the sole determiners of where wahi tapu exist. No-one can challenge them. This would allow iwi to prohibit public access or charge for it. They often do this on dry land.

National also proposes an extensive new iwi property right, “universal recognition” or *mana taku iho*. This would give each coastal iwi recognition of the foreshore and seabed areas near their tribal areas. These will be similar to, or larger than the customary title areas they occupied 1840. Here they would have the right to challenge Department of Conservation management, and probably other property rights. Titles would be issued to identify their areas. These would probably cover 100% of the Crown owned foreshore and seabed. Again there would be no public involvement in how these areas are decided.



***Lots at stake: The foreshore and seabed of Central New Zealand includes the Marlborough Sounds, Wellington Harbour, Hawke's Bay, Tasman Bay, Golden Bay and coasts in between***

Chris Finlayson says National is seeking a “fair and enduring” solution and claims his proposals provide it. So far National’s process has been anything but fair. National’s Panel to review the 2004 Act was stacked with three Maori activists, and its recommendations strongly favoured iwi. Public submissions on the proposals were restricted to only 20 working days. Time extensions were refused.

Now, more than two months after submissions closed, no summary of submissions, or submissions have been released. There has been no subsequent Government discussion of the proposals with commercial, recreational, or community groups. Only lengthy discussions with iwi.

However the proposals are now out-of-date because National has made additional major concessions to iwi, since submissions closed. National is breaking with parliamentary tradition by avoiding consultation with non-Maori before introducing controversial legislation. This one-sided consultation is hardly likely to lead to “fair and enduring” solutions to this very fraught issue.

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