



Reviewing the
Foreshore and Seabed
Act 2004

Government's Proposals
for Public Consultation

Government's objectives

- » A just and enduring solution
- » Equitable balance of interests of all New Zealanders in the foreshore and seabed
 - › Recreational and conservation interests
 - › Customary interests
 - › Business and development interests
 - › Local government interests

Assurances

- » Public access for all (subject to certain exceptions, e.g. port operational areas, urupā)

- » Respect for rights and interests, in particular:
 - › Recognition of customary rights and interests
 - › Protection of fishing and navigation rights
 - › Protection of existing use rights to the end of their term

Principles

- » Treaty of Waitangi
- » Good faith
- » Recognition and protection of interests
- » Equity
- » Access to justice
- » Certainty
- » Efficiency



A new approach

Options considered

- » Option 1: Crown notional title
(subject to recognition of customary interests)
- » Option 2: Absolute Crown ownership
- » Option 3: Absolute Māori ownership
- » Option 4: A new approach –
“public domain/takiwā iwi whānui”
Government’s preferred option

Government's preferred option

- » Repeal 2004 Act and remove Crown ownership
- » Restore uninvestigated customary title
- » No-one owns, or can own, foreshore and seabed
- » Restore access to courts
- » Process for determining customary interests
- » Protect statutory right of public access
- » Protect existing private titles
- » Protect existing use rights to the end of their term

Determining customary interests

- » Iwi/hapū could make claims for recognition of customary interests through direct negotiations or by accessing the courts
- » Tests and awards for recognition of two kinds of customary interests:
 - › *Non-territorial* (customary activities, uses, practices), and
 - › *Territorial* (interest in land, exclusive use and occupation)

Awards for proven customary interests

- » Awards for proven *non-territorial* interests:
 - › Customary activities protected
 - › Rāhui (temporary restrictions) over wāhi tapu areas
 - › Planning document

- » Awards for proven *territorial* interests :
 - › Right to permit activities
 - › Participation in conservation processes
 - › Planning document



Dealing with other matters

Other matters

- » Allocation of coastal space (particularly relevant to aquaculture)
- » Structures (eg. jetties, pipelines, wharves)
- » Reclamations
- » Local authority-owned foreshore and seabed
- » Adverse possession and prescriptive title ('squatting')
- » Other matters (eg. leases and licences, roads, local Acts, coastal occupation charges)