

Finlayson

# (Finlayson, 2010)



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## Marine and Coastal Area (Takutai Moana) Bill passes first reading

The Marine and Coastal Area (Takutai Moana) Bill, which guarantees the rights of all New Zealanders in the marine and coastal area, has passed its first reading in the House.

"Recreational interests in the common marine and coastal area, such as swimming, boating, walking, and fishing, are a birthright of all New Zealanders," Attorney-General Chris Finlayson said. "That's why public access, fishing and navigation in the common marine and coastal area are guaranteed."

"The bill does not take away rights; rather, it recognises and protects the rights of all New Zealanders, including Maori, to the common marine and coastal area of this country."

The Bill will replace the Foreshore and Seabed Act 2004. It restores the right of iwi to seek customary title in particular areas of the Common Marine and Coastal Area.

The Bill was moved by Maori Party co-leader Tariana Turia, and passed by 106 votes to 15.

The Maori Affairs select committee will undertake a full round of public consultation on the bill, and report back to Parliament by 25 February 2011.

"I look forward to a full, constructive and thoughtful discussion of this Bill which will lead to a durable solution of the issue," Mr Finlayson said.

More information about the Bill is available here:

<http://www.beehive.govt.nz/release/marine+and+coastal+area+bill+introduced+-+guarantees+public+access>

The Bill can be read here:

<http://www.legislation.govt.nz/bill/government/2010/0201/latest/DLM3213131.html>

### The Marine and Coastal Area (Takutai Moana) Bill Summary

- Repeals the Foreshore and Seabed Act 2004.
- Applies to the area formerly known as the foreshore and seabed, which will be known in future as the marine and coastal area.
- Creates a common space in the marine and coastal area (the common marine and coastal area) which allows the interests and rights of all New Zealanders in the marine and coastal area to be recognised in law.
- Guarantees free public access in the common marine and coastal area
- Does not affect private titles in the marine and coastal area
- Guarantees and, in some cases, extends existing rights for navigation, ports, fishing and aquaculture.

- Provides for the customary interests and rights of Maori in the common marine and coastal area to be recognised.
- - This recognition will include the right to go to the High Court (or negotiate an out-of-court settlement with the Crown) to seek customary marine title for areas with which groups such as iwi and hapu have a longstanding and exclusive history of use and occupation.
- - Unlike private title, customary marine title will be subject to the right of public access and cannot be sold.
- - Similar to private (fee simple) title, customary marine title gives rights to permit activities requiring a resource consent, some conservation activities, protection of wahi tapu, ownership of taonga tuturu found in that space, and ownership of non-Crown minerals. It also gives the customary title holder the right to create a planning document setting out objectives and policies for the area.
- - Groups such as iwi and hapu will also be able to gain recognition and protection for longstanding customary rights that continue to be exercised. Their association with the common marine and coastal area in their rohe will also be recognised through a status known as mana tuku iho, which formalises existing best practice in coastal management. This will allow them to take part in conservation processes in the common marine and coastal area.

#### **Background to the Marine and Coastal Area (Takutai Moana) Bill**

Following an agreement between the National Party and the Māori Party in November 2008, an independent Ministerial Review Panel undertook a nationwide consultation process in the first half of 2009 and concluded that:

- The Foreshore and Seabed Act 2004 failed to balance the interests of all New Zealanders in the foreshore and seabed, and
- Was discriminatory and unfair.

In March 2010 the Government released a consultation document outlining its preferred solution. The Attorney-General consulted widely on this document, including 20 hui and public meetings, and meeting representatives of business, recreational, conservation and iwi groups.

The Bill is the result of both of these consultation processes extending over 18 months.



[Christopher Finlayson](#) [Attorney-General](#)