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Fisheries and Other Sea-Related Legislation Select Committee

Submission on the Foreshore and Seabed Bill

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This document is the submission from option4.co.nz on the Foreshore and Seabed Bill currently being considered by the Fisheries and Other Sea-Related Legislation Select Committee. Copies (25) of this submission have been forwarded to the Committee as requested.

Our representative(s) wish to appear before the Select Committee and speak in support of this submission. Details will be forwarded to the secretariat.

We request the Fisheries and Other Sea-Related Legislation Select Committee conduct hearings in Auckland so the public of Auckland has an opportunity to attend the hearings on this most important matter.

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option4 was formed in the year 2000 by a concerned group of recreational fishers, in response to MFish's invitation to participate in the process of redefining the nature and extent of the rights of the public to gather seafood in New Zealand.

Support

option4 is an NGO which promotes the interests of non-commercial fishers in New Zealand in conjunction with the NZ Big Game Fishing Council, NZ Recreational Fishing Council, NZ Angling and Casting and the Council of Outdoor Recreation Associations of NZ.

Submission

option4 strongly objects to the Foreshore and Seabed Bill as proposed and asks that it be withdrawn on the following grounds (but not limited to):

- The common law right that all New Zealanders enjoy for non-commercial fishing will be extinguished. The commercial and customary rights that are defined in the Fisheries Act 1996 are explicitly referred to in the Bill as proposed and are not to be affected. However, this Select Committee should be well aware of the ongoing work to develop understanding and clarity on the non-commercial fishing rights in this country.

We understand tangata whenua enjoy a Customary fishing right that allows them to provide kaimoana for the purposes of their marae, for customary purposes, and that this right is a first priority on the fisheries, subject only to the constraints of sustainability and tikanga. However, when simply fishing for food for their families and friends tangata whenua enjoy the same rights to take a reasonable daily bag limit as the rest of the citizens of New Zealand, as well as visitors. The courts have consistently rejected the defence of customary fishing when tangata whenua are caught taking more than they are allowed to take under the Amateur Fishing Regulation regime.

Is there a clear understanding and agreement on tangata whenua's part that when simply fishing for food they are equal in every respect to the rest of those who fish, including tourists and visitors?

Do they understand that their existing rights may well be jeopardised by this Bill as proposed? Or do tangata whenua believe that their Customary fishing rights will be their protector for the purposes of fishing for food for their whanau and friends?

- The Bill proposes to weaken the public's right of access and navigation to the foreshore and seabed.

The consequences of the Bill, whether intentional or not, have the potential to severely limit the non-commercial fisher's access to harvest seafood. The Bill proposes to disadvantage tangata whenua by the removal of the common law right and any imposition on the public to access a reasonable daily bag limit to feed their families is objectionable.

We will not accept our right to fish for food being extinguished and contend that this Bill contravenes our existing common law and human rights. The Maastricht Guidelines on Violations of Economic, Social and Cultural Rights clearly states, *"It is now undisputed that all human rights are indivisible, interdependent, interrelated and of equal importance for human dignity. Therefore, states are as responsible for violations of economic, social and cultural rights as they are for violations of civil and political rights."*¹

Recommendations

option4 strongly recommends the Bill, as written, be withdrawn.

The issues of access, navigation and the common law right to fish are existing rights we hold and the public deserves more time and consideration be given to these fundamental issues. At the very least, likely scenario-based case studies need to be developed and be the subject of wide ranging discussion so that any legislation being contemplated proceeds with a reasonable degree of certainty as to its intended outcome.

We will not accept any lesser rights than those we currently hold.

We note that the only political party that has been elected with a clear position on the Foreshore and Seabed Bill is the Maori Party. Where and what is the mandate of this present Government to proceed with ANY legislation?

We recommend the Fisheries and Other Sea-Related Legislation Select Committee conduct hearings in Auckland so the public of Auckland has an opportunity to attend the hearings.

¹ Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, Maastricht, 22-26 January 1997.