FROM MARINE POLICY TO LAW

Coastal Zone Decision-Making with Community Participation by Right

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INTRODUCTION

Research

Participatory Consent for Stakeholders in Marine Project Approvals: A Path to Social License?
OVERVIEW

A. Background – Dissecting our Topic

B. The Public Trust Doctrine – A Legal Link?

C. Defining the Scope of “Community” Stakeholders — Your Views

D. Questions/Comments
BACKGROUND

Dissecting Our Topic

Coastal Zone Decision-Making with Community Participation by Right

- Why Community Participation in Marine Project Decision-Making as a Right?
BACKGROUND

Dissecting Our Topic

Coastal Zone Decision-Making with Community Participation by Right

• Where is the Coastal Zone?
BACKGROUND

Dissecting Our Topic

Coastal Zone Decision-Making with Community Participation by Right

- Who are the Community Stakeholders?
BACKGROUND

Dissecting Our Topic

Coastal Zone Decision-Making with Community Participation by Right

• What is meant by Stakeholder Participation?
BACKGROUND

Dissecting Our Topic

• What is meant by Stakeholder Participation?
  INFORM
  CONSULT
  INVOLVE
  COLLABORATE
  EMPOWER
BACKGROUND

Dissecting Our Topic

Coastal Zone Decision-Making with Community Participation by Right

- What encompasses Project “Decision-Making?”
Unless otherwise noted, much of the background information on the Public Trust Doctrine shared today stems from Mary Christina Wood’s NATURE’S TRUST.
“Things common to mankind by the law of nature, are the air, running water, the sea, and consequently the shores of the sea.” *

*(The Institutes of Justinian Lib. II, Tit. I, Sec 1 (T. Cooper trans. & 3d ed. 1852)*
Substantive Duties of Fiduciary

1. Protect
2. Guard
3. Maximize
4. Restore
5. Recoup
6. Refrain

Procedural Duties of Fiduciary

1. Undivided Loyalty
2. Adequate Supervision
3. Good Faith & Skill
4. Cautionary Management
5. Open Information

*Wood, Mary Christina, Nature’s Trust
THE PUBLIC TRUST DOCTRINE

“That which touches all should be approved by all.” –Edward I (1295)

“Governments derive their just powers from the consent of the governed” – Declaration of Independence, United States of America

• US jurisdictions: Individual state vs Federal statutory or Constitutional provisions

• Other jurisdictions:
  o Canada, India, Pakistan, Philippines, Uganda, Kenya, Nigeria, South Africa, Brazil, Ecuador

• Australian jurisdictions: ”an exotic American invention” (wrong)
DECISION-MAKING

Direct Relationship of Marine Space Risk
(Relative to Fiduciary Duties)
To Degree of Decision-Making Participation Afforded Stakeholders by Right

Risk to Marine Space

Degree of Stakeholder Decision-Making
SUMMARY

Coastal Zone Decision-Making with Community Participation by Right

• Community Stakeholders
• Marine Coastal Zone
• Projects or Activities
• Participatory consent
• Decision-making
• The Public Trust Doctrine
• Legal Baseline for Marine Governance
DEFINING THE SCOPE OF COMMUNITY STAKEHOLDERS

YOUR VIEWS

Elements to Consider:
Do you have something to say about Tasmanian marine aquaculture approval processes? Your help is requested.

Online surveys are available for anonymous completion at https://www.surveymonkey.com/s/

AquaSurvTAS18

Questions?
Contact PhD student
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This research is part of a PhD project on causes of conflict in marine space project approvals. This field research in Tasmania focuses on marine aquaculture licensing and approval processes.

Survey data collection closes on 30 June 2018! Don’t miss the chance to be heard!

QR Code.