

**Integrating Generations  
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**Property Rights and Planning for  
Public Access to the English Coastal  
Zone**

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**Why Focus? ...**

*Is the coast different from sea or land?*

*Does it need a special focus?*

- YES:
  - Dynamic
  - Sustainable and resilient development objectives
  - Common Law rights
  - Many and varied institutions and user groups

## Overview ...

- Setting the Scene
- Property Rights and Restrictions
- Emerging Integrated Marine Policy
- Observations and Conclusions

## Definitions, to Set the Scene...



English Coastal Zone:

**High water:** line of the medium high tide, between the springs and neaps ascertained by taking the average of these medium tides during the year

**Low water:** similar, but relates to the medium low tide

**Inter- tidal/ foreshore:** lies between high- water mark and low water mark

## Above High Water

### **Bundle of rights:**

- Freehold, Leasehold & Licences
- Easements- Public rights to “pass and re pass”
- Customary rights

### **Restrictions:**

- Town and Country Planning
- Public health (Nuisance and Waste)

## Below Low Water/ Seabed



**Rights-** Access to the water column is 3 dimensional, so seabed and afloat!

**Restrictions-** Often qualified by Public rights

- Occupation- by leases and licences,
- Conservation – Marine Nature reserves
- Safety – Protection against threat from activities: Wrecks, Recreation and Defence.
- Harbours- Byelaws, distinction from anchorage , additional benefits are provided



## Foreshore



- Crown Estates- circa 50%+
- Private, but restricted by:
- Coast protection, and
- Defence of the realm (byelaws)
- Public rights.....

## Public Rights over the Foreshore



### Fishing

- To cross, reality designated, also
- Bait for own use, but
- Seaweed not allowed

### Navigation

- Common law right to wander
- Incidental anchorage/ beaching/ grounding

## **Access?**

- Above HWM- subject to land rights
- Below LWM- subject to common law rights
- Foreshore – subject to public rights

## **EU and National Maritime Policy**

- 2007 EU LEAD- Integrated Marine Policy and detailed action plan
- By 2020, EU Marine strategy directive, member states expected to take measures to achieve and maintain Good Environmental Status (GES) in Europe's marine environment
- 2006 - England progressing through its proposals for a Marine Bill
- April 2008 entered parliamentary process, so
- 2009 Law to provide the implementation framework?

## Public Access Integrated?

- Government Agency (DEFRA) coastal access is a priority, and
- Natural England flagship
- 2007- options:
  - a) New rights
  - b) Open access
  - c) Voluntary with landowners
- Decided: none, so.....
- Framework in the Marine Bill

## Property Rights



- Alienation is an important concept

- **On Land...**

subdivisions and allocation of land enables multiple uses

- **On Sea....**

hunting and gathering, but

- **Changing scenarios.....**

Marine culture, seabed mining, reclamation, tourism, trawl or dredge fishing, pollution – all will modify the water column

## Planning for Society

Access Policy needs to

- Serve all sections of our communities
- Understanding our individual and collective responsibilities

Knowing that

- On sea- Traditional sense of public rights to coastal use is extremely strong
- On land- Highly institutionalised and able to prevent access

... Policy seeks to organise society to adapt and change

## Stakeholders

**Leads to...**

- **Government** - intention ecosystem based approach to management to deliver GES
- **Landowners** - they are critical players in delivering environmental, social and economic objectives
- **Society**- recognised that in isolation they will not solve all public access objectives, but an important part

**Territorial imperative of property rights is fundamental to any new policy framework**

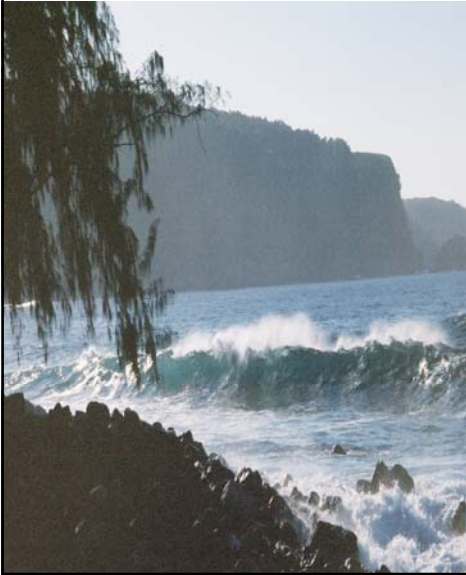


## **Land Governance and Management**

- **Balance** between individual freedom and community responsibility
- **Tension** between legal rules and local practice on the ground
- **Mechanics** of control over land use and development is a strategic responsibility



## Above all.....Dynamic interface



**Right** to access to Coastal resources for Individuals and Communities

**Responsibilities** of all stakeholders

## Conclusions

- Coastal policy for the next generations will be adaptive and change orientated that reflects “How” we need to organise,

But,

- An Essential component for an integrated marine access policy is to understand the influence of property rights and restriction,



**Thank You**

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