



ANGLICAN DIOCESE OF AUCKLAND

SOCIAL JUSTICE COUNCIL

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28 April 2010

Reviewing the Foreshore and Seabed Act 2004

Freepost Authority number 224164
Foreshore and Seabed Review
Ministry of Justice
PO Box 180
Wellington 6140

This submission is by the Auckland Anglican Social Justice Council.

The Auckland Anglican Social Justice Council is an Anglican Tikanga Pakeha Diocesan Body, and is appointed by the Auckland Anglican Diocesan Council each year.

Present members are:

Rev Anne Moody (Convenor)
Mr Peter Bargh
Rev Jean Brookes
Mrs Philippa Colgan
Rev Dr Janet Crawford
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We are a Tikanga Pakeha group aged between 20s and early 70s.

We are part of the 3 Tikanga Anglican Church of Aotearoa, New Zealand and Polynesia.

In 2004 the then members of the Auckland Anglican Social Justice Council wrote a submission to the Select Committee in which it opposed the 2004 Foreshore and Seabed Bill.

A submission opposing the Bill in much greater detail was made by the Anglican General Synod Commission on Treaty/Te Tiriti, Church and Nation.

In May 2009 the Auckland Anglican Social Justice Council wrote a further submission to the Ministerial Review Panel in which it again recommended that the 2004 Act be repealed, and that another substantial, in-depth, nation-wide consultation and dialogue take place paying full attention to all voices and particularly those of Hapu and Iwi.

We continue to support the repeal of the 2004 legislation.

We have considered the 4 options offered by the government in its discussion document.

We affirm the following changes that the Discussion Document proposes –

1. the repeal of the 2004 Foreshore and Seabed Act,
2. the restoration of rights that the 2004 Act tried to remove,
3. the restoration of due process - that is restoring the right of those who wish to go to the courts on this matter to do so, and
4. the acknowledgement that agreements entered into by Iwi under the 2004 Act will be honoured.

However, we have considered the four options offered by the government in the Discussion Document and we oppose options 1, 2, and 4 as they are all based on the assumption that the default ownership of the foreshore and seabed is with the Crown.

We believe that we should be approaching the issue the other way round –with Maori ownership as a given. Within this paradigm, and alongside it, models that are not in the consultation document have already started to emerge. We strongly recommend that there be a sufficiently lengthy consultation with Maori in particular, so that these emerging ideas can be explored positively. We particularly draw attention to the ‘Statement by Ngati Kahungunu’ that you have received as part of this 2010 consultation process.

We are particularly concerned that the ‘no ownership’ regime in option 4 totally disregards the tikanga understanding that whenua has to belong to somebody just as tangata whenua have to belong to the whenua. The notion of not belonging to or not being owned, diminishes the relationship Hapu and Iwi have with the whenua, and therefore the living principle of whakapapa itself. Worse still, in terms of Pakeha law it carries the possibility of reviving the

discredited doctrine of terra nullius or 'the empty land' which allowed colonisers to take indigenous lands by saying there were no people there

In summary, we believe that the 3rd option offered by the discussion document is the only one that could provide a starting point for a fair and just way forward for Maori as tangata whenua and indigenous peoples of Aotearoa; a relationship with the Crown based on Te Tiriti o Waitangi. We therefore recommend that extended dialogue and consultation with Maori continue well after the 30th April.

Thank you for the opportunity to address this important issue.

Jean Brookes
For the Auckland Anglican
Social Justice Council

Copies to:
The Prime Minister, and
The Minister of Maori Affairs