Tamaki Treaty Workers Submission on:

Marine and Coastal Area (Takutai Moana) Bill

19 November, 2010

Please note:
Representatives from Tamaki Treaty Workers wish to appear before the Committee and speak to our submission.

Background

Tamaki Treaty Workers is a network for groups and individuals, mainly Pakeha/Tauiwi, in Tamaki Makaurau, who affirm Te Tiriti o Waitangi as the basis for the future of Aotearoa New Zealand.

General Comment

We acknowledge to following positive aspects of the Bill
1) That the Bill repeals the Foreshore and Seabed Act 2004.
2) That the Bill removes Crown ownership of the public foreshore and seabed.
3) That the Bill restores some customary interests that were extinguished by the 2004 Act, and allows some legal recognition.

However this proposed legislation retains and enforces the main inequities of the 2004 Act.

Tamaki Treaty Workers wishes to record the following objections.

The common marine and coastal area

This term is a deliberate and cynical misuse of language and is designed to confuse and conceal the reality of a racist and unjust law. Although the Bill states that this area is not owned, and cannot be owned, by any person, the Crown will retain the right to control and manage the foreshore and seabed.

This in reality amounts to ownership rights.

It is unbelievable that the common space only applies to Maori land and excludes foreshore currently held under private title.

Protected customary rights and customary marine title

This does not describe title recognised in Maori law/lore and not in any Pakeha/English common law. It does not measure up to any international law of aboriginal title.

The Bill clearly does not protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources.

Part 3, cl 53
Meaning of protected customary rights.

The requirement that Iwi and Hapu have to prove continuous use of the relevant area since 1840 imposes an unjust barrier.

The phrase is not extinguished as a matter of law immediately excludes areas where rights have been illegally extinguished by the Crown. This is so manifestly unjust that we seriously question the intentions of government.

Concluding Comments

We submit that responsibility for proving customary interests should not only rest with affected iwi or hapu. The Crown also has a responsibility to provide proof as to why areas are not deemed eligible for the establishment of these rights.

We recommend to the government that it gives consideration to the 1991 Orakei Act which has proved to be an example of a successful resolution.

Because of the inequities and injustices in this proposed legislation we believe that it will not provide for progress on the issues raised and will have a destabilizing impact upon Aotearoa/New Zealand. If this Bill progresses through the House it will not in any way result in a full and final resolution.

Thank you for the opportunity to provide this submission.

Tamaki Treaty Workers
November 2010