Submission to the committee regarding the Marine and Coastal Area (Takutai Moana) Bill 2010

Introduction

1. These submissions are tendered by Angeline Ngahina Greensill as the environmental spokesperson for the Tainui Hapu of Whaingaroa (‘the claimant hapu’).

2. Tainui is made up of several coastal hapu: Tainui, Ngati Koata, Ngati Kahu, Ngati Tahau, Ngati Te Kore, Ngati Pukoro, Ngati Te Ikaunahi, Ngati Tira, Ngati Hounuku, Ngati Heke, Te Paetoka, Ngati Ruaaruhe and Ngati Te Karu. These hapu share a common whakapapa to “Tainui”. We are the people of the sea. We live on the shores of the Whaingaroa moana/Raglan harbour.

3. Tainui, is currently involved in a Waitangi Tribunal claim concerning all of our lands moana and other waterways within our west coast harbour, Whaingaroa/Raglan.

4. Tainui have a gazetted rohe moana under the Ministry of Fisheries which recognises customary fishing rights and interests within the 200km of our coastline. Attached hereto and annexed ‘A’ is a map indicating the rohe moana of the west coast area.


6. This submission addresses the Crown’s acknowledgment of the complete failure of the 2004 Act, the Government’s proposal for territorial ‘Customary Title”, the Crown’s preferred options, the issue of access and possible solutions of the claimant hapu in these regards.

7. In sum we submit that if the Crown’s current proposal is enforced it will be a breach of the guaranteed principles of Te Tiriti o Waitangi and a breach of our customary rights as kaitiaki and tangata whenua of our foreshore and seabed.
8. We strongly oppose the Marine Coastal Area (Takutai Moana) Bill 2010.

Crown Consultation Document

9. In its Consultation Document the Crown acknowledged the complete failure of the 2004 Act and is committed to its repeal and enactment of replacement legislation. However the Prime Minister has advised the media that even if Maori do not want what is now being proposed things will then remain as they are. It has been presented as a ‘take it or leave it’ option not too dissimilar to the approach adopted by the former government and one that is unhelpful and belies that there does not seem to be any real commitment to properly remedy what we all accept is a bad situation.

10. This is not acceptable to our claimant Hapu as our rights are part of our tino rangatiratanga and our responsibilities are part of our role as kaitiaki. These rights and responsibilities are inherent to who we are, and are inherited from our tupuna. The government did not create these rights and responsibilities, therefore no government decision or statute should be able to extinguish, change or control our relationship with the foreshore and seabed.

Territorial customary title

11. The Government’s proposals for territorial “Customary Title” does not adequately recognise and provide for Maori proprietary rights as guaranteed explicitly to Hapu by Te Tiriti o Waitangi and at common law.

12. Iwi and Hapu not only have to prove the rights and title through a test that requires proof that the claimant Iwi or Hapu has continuously exercised their rights without interruption since 1840, and that their rights apply to a piece of foreshore the claimants have continuously occupied without interruption since 1840. Iwi and Hapu must also prove their rights have not been extinguished in some way by the Crown, although the Crown is considering whether it should have to prove it has not actually extinguished them.

13. These tests will be very difficult to prove either because we have been too generous in allowing the ungrateful ‘public’ to access the beach through our multiply owned lands rather than being ‘exclusive’, or simply because most Iwi and Hapu have been
prevented from exercising them because of Crown actions such as the confiscation of the Te Kopua for an airport in 1941. The discriminatory concept of subordinate rights upon which these tests are based is a breach of Te Tiriti of Waitangi.

14. These tests need to be seen in light of clear assertions made by the Minister of Treaty of Waitangi negotiations who promised issues of title investigations would be for the Crown to prove it. So in these respects the bill is a complete departure from that which the minister proposing it promised.

The Crown preferred option

15. The Crown preferred option of “no ownership” does not include a clear definition of what “public domain” entails. The idea of nobody owning the foreshore is conceptually flawed in terms of tikanga Maori and restores the outdated doctrine of terra nullius – land that nobody owns. Yeah right.

16. Whenua has to belong to somebody as tangata whenua have to belong to the whenua. In fact when a child is born the whenua (placenta) is returned to the whenua and the child is connected to that particular whenua. The idea of the whenua not belonging to an Iwi or Hapu is a diminishment of the relationship our people have with it as well as a denial of the whakapapa and the tikanga through which our mana and rangatiratanga have always been exercised.

Access

17. The deliberate misinformation peddled by the government that Maori claims to the foreshore would deny access to the beaches for “ordinary Kiwis” and open the floodgates to widespread sale and alienation was consistently denied by Iwi and Hapu. Any control we might exercise would be tikanga-based and thus prevent alienation.
Recommendations

18. Our preferred option for resolution is to recognise that the foreshore and seabed belongs to Iwi and Hapu who continue to reside and care for these coastal areas.

19. Maori must be properly engaged so that any rights they have can be understood before any decision are made.
Customary Fisheries within Waikato/Tainui

This map is intended to be used as a guide only, in conjunction with other data sources and methods, and should only be used for the purpose for which it was developed. Although the information on this map has been prepared with care and in good faith, no guarantee is given that the information is complete, accurate or up-to-date.
KI MUA I TE ROOPU WHAKAMANA I TE TIRITI O WAITANGI

WAI 1071

MO TE TAKE O
ME

Te Ture Tiriti o Waitangi 1975 (kua whakawhitia)

TE TAKE O
ME

Nga kereme kei raro i te manu o
NGA RAURU O NGA POTIKI
me era atu o nga kaitono

TE TAKE O

te TAKUTAI MOANA

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JOINT STATEMENT OF EVIDENCE OF ANGELINE NGAHINA GREENSILL AND SEAN DANSEY ELLISON

Dated this 9th day of January 2004

Rangitauira & Co
Barristers & Solicitors
1154 Hinemoa Street
P.O. Box 1693
ROTORUA
Tel: 7 348 0034
Fax: 7 346 2933
Person acting:
Annette Sykes and Jason Pou
In the matter of the Foreshore and Seabed Urgent Inquiry (Wai 1071)

And

In the matter of a claim by Mr Matt Te Pou for and on behalf of Ngā Rauru O Ngā Potiki for Ngā Hapu o Te Urewera and Ngai Tuhoe in respect to the foreshore and seabed (Wai724, 725, 794, 795, 937, 1009, 1010, 1011, 1012, 1013, 1026, 1035, 1036, 1037, 1039, 1042)

And

a claim by Te Ariki Morehu for Ngati Makino (Wai 275)

And

a claim by Angeline Greensill for and on behalf of herself and Tainui o Tainui ki Whaingaroa (Wai 125)

And

a claim by Pereme Porter for and on behalf of himself and interests within the rohe of Nga Puhi Nui Tonu (Wai 966)

And

a claim by Wilfred Petersen Snr for and on behalf of himself and Ngati Aukiwa; Naina Oliver for and on behalf of herself and Ngati Rua; and Anaru Kira for and on behalf of himself and the Whakarara Maori Committee, Ngai Te Wake ki te takutai moana, Ngati Whakaeke, Ngati Torehina ki Waiawa, Ngati Kura ki Matauri Ngaitupango, Ngati Ruamahoe, Ngati Miru (Wai 861)

And

a claim by Ronald Wihongi for and on behalf of himself and Te Ure o Hua, Pakotoke and Ngati Kura (Wai 304)
We, Angeline Ngahina Greensill and Sean Dansey Ellison, both of Whaingaroa have been duly authorised to make this statement for and on behalf of Tainui hapu of Tainui ki Whaingaroa.

Introduction Angeline Greensill:

1. I wish to acknowledge my tupuna Turi Te Patete, a high contracting party to te Tiriti o Waitangi signed by him at Rangitoto ki te Tonga in May 1840.

2. I also acknowledge my late uncle Hami Whakatari Kereopa, the original claimant for Ngati Hounuku and Tainui in the Wai 125 claim. As our claim will not be heard for at least three years, we believe that this policy if adopted will prejudicially affect us as it is inconsistent with te Tiriti o Waitangi.

3. My name is Angeline Elizabeth Ngahina Greensill. I am the eldest daughter of the late Tuaiwa Hautai Kereopa (also known as Eva Rickard) and James Edwin Lancelot Rickard. Through my mother I am a direct descendant of Kokako, Tainui, Ngati Tahinga, Ngati Koata, Ngati Toa, Ngati Te Ata, Waiohua and Ngati Ruanui while through my father I am of Ngati Porou descent.
4. A mother of 7, a grandmother of 3, I and am currently employed as a lecturer in the geography department at the University of Waikato. I am a registered teacher and hold a Bachelors degrees in Laws.

5. I have been involved in numerous roopu over the past 30 years and continue active involvement with the following organisations in various capacities:

- Environmental spokesperson for Tainui o Tainui ki Whaingaroa since 1972
- Tainui Awhiro Ngunguru te Po, Ngunguru te Ao Environmental Management committee. This roopu deals with resource management matters for seven coastal marae groups on the west coast of the North island [between Kaawa river (south of Port Waikato) to Karioi Maunga (south of Whaingaroa/Raglan harbour)]. I have been a member of this roopu since 1989
- Coordinator of Whaingaroa ki Te Whenua Trust from 1984 to 1990. As a member of this roopu I have also been involved in work related to counteracting Government attempts to reserve lands on our maunga Karioi and County Council attempts to restrict our hapu developing our own lands within the statutory framework of the Town and Country Planning Act.
- Member of the Mana Maori Movement since 1996
- Member of Nga Hapu o Te Uru Customary Fisheries Committee since 1997. I am the current chairperson of this roopu.
- Member of Nga Wahine Tiaki o Te Ao since 2000. This roopu addresses GE issues as they affect Maori
- Member of Te Waka Kai Ora since 2002 nationally promoting Hua Maori (organic production).

6. I grew up on my whenua tupuna, at Te Kopua Whaingaroa, the turangawaewae of the peoples of Tainui Hapu. There, we have lived for generations.
7. Te Kopua has long been the focus of ongoing struggle against the tides of legislative avarice and greed that have attempted to separate our peoples from our whenua, our place, our space. My late mother Tuaiwa Hautai Kereopa-Rickard fought for decades against the injustices of corrupt governments and their agents to protect our connections and relationships to Te Kopua. A responsibility she inherited from her late mother Riria, which in turn has passed to her surviving descendants.

8. Te Kopua has been a haven where our rights of self government have been protected and asserted. I attach and annex the Whaingaroa Declaration of Independence affirmed on the 12th February 1996, where we called upon

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\text{those present today and those beyond that this Declaration be elevated and acknowledged as the expression of the wish for freedom which it so clearly is.}
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9. We acknowledge the support offered at the time by Helen Clarke as she then wished us luck in our endeavours and attach herewith a copy of correspondence received by my Mother following the declaration of independence from the government of New Zealand.

10. I maintain my turangawaewae there and have a whare at 142 Riria Kereopa Memorial Drive. My front lawn is the “foreshore and seabed.” I make this affidavit and present it on behalf of Tainui o Tainui ki Whaingaroa (Tainui) asserting the connections and relationships that embed us within the Whaingaroa harbour and its surrounds.

11. Tainui o Tainui ki Whaingaroa are made up of the following hapu who occupy specific areas within the rohe.
12. Our interests in Te Taiao take into account the needs of our future
generations to retain and manage the ancestral inheritance that our
tupuna entrusted to us.

13. I pay tribute to Sean Ellison who has ably recounted below many of
the stories that our mother recounted to set the values from which our
relationship to our whenua is sustained and governed.

14. Ko te Whakataki a Sean Dansey Ellison

15. Ko Sean Dansey Ellison i tupu mai i Whāingaroa mai i te wā e
tamariki nohinohi ana. I rongo i ngā kōrero mai i ngā koroua kuia o Te Tai Whakarongo nei ā i whakatūria ki runga i ngā marae e tamariki
tonu ana. Koia e kawe ana i ngā karakia i ngā wā e hiahiatia ana e te
iwi ki ngā wāhi tapu kei te takutai moana i Whāingaroa. Nō te taha ki
tōna pāpā nō Taranaki, nō Ngāti Ruanui, nō Te Ātiawa, nō Ngāti
Mutunga, nō Ngāti Tama, nō Ngāti Maniapoto, nō Ngāi Tahu, nō Ngāti
Mamoe, nō Waitaha, nō Ngāti Porou. Nō te taha ki tōna whaea nō
Ngāti Tūwharetoa, nō Te Arawa, nō Ngāti Raukawa, nō ngā waka o Te
Arawa me Tainui. Otirā he uri tonu ia nō ētahi o ngā tūpuna e whai
wāhi ana ki Whāingaroa, nō ngā tūpuna o tuawhakarere, nō Hoturua,
nō Rakatāura, nō Tāwhao, nō Tūrongo, nō Whatihua, nō Māhanga.
Io, the Supreme Being, the Oneness
Great Io
Long expansive Io
Io the foundation of all things
Io the parentless, from whom emerged the realm of unlimited, unrealised potential
Io the progenitor, the creator, the well-spring of all

The great realm of unlimited potential
The long, expansive realm of unlimited potential
The realm of unlimited potential from which nothing can be taken or adulterated
The unchanging realm of unlimited potential, the chaos in which there is no confusion or inconsistency

The great night of becoming
The long, expansive night of becoming
The dark night of becoming
The intensely dark night of becoming and of hesitant exploration
The night of becoming in which one inclines toward the realisation of one's potential
The night which borders day in which one moves from the realm of becoming to the realm of being, where one is restlessly pushed toward the realisation of one's potential

16. Tangaroa and Papatūānuku merged, and from their union sprang new life and new energies. When Tangaroa retreated to another space Papatūānuku merged with Ranginui. On Tangaroa's return he and Ranginui fought and Ranginui was pierced through both thighs by Tangaroa's spear and fell. He was not killed but Tangaroa's grievance was satisfied and he left Papatūānuku with Ranginui and new life and new energies emerged. The divine influences of the universe were thus created. Ranginui was propped above and separated from Papatūānuku below, and the world of light, the realm of being, of realised potential forced its way upon the consciousness of all. The gods, the creative and stabilising energies from beyond the world of light exerted their influence over all things, both seen and unseen, and spiritual guardians were placed at sites throughout the universe. The life essence and ethos, the seed of life from which one grows in one's own form, was implanted within all things, including us, humankind.

17. The ultimate guardians, custodians and protectors are the gods, the divine presence. No matter where you are, or what you are looking at or relating with, they are present. Even though it is said that Tangaroa is the ocean and Tāne is the forest there are no real boundaries or separation but those created as frameworks within the perception of the human mind. We are the embodiment of those divine presences. The breath of life, the water of life and the essence or spark of life within each and every one of us comes from that divine presence, from the gods, and ultimately from Io, the progenitor, the creator of all things. The ancestors of each race and of each group of people were guided to the place most suitable for them to settle, to all points
throughout the length and breadth of our sacred mother who lies here. A language was given to each, through which one could communicate and interrelate with one another, with the divine influences and spiritual guardians. The ancestors left behind customs and practices to guide their descendants so that they could fully participate in all that the world has to offer. Each family grouping and subtribal grouping settled certain areas and became custodians for all things within their customary influence.

18. When a person moves into the realm of Tāne and Hinewao appropriate prayers and acknowledgements are made to them both. When one moves into the realm of Tangaroa, Hinemoana and Hinewainui, prayers and acknowledgements are again offered. As a result we are nurtured by the divine presences of those places and are given food – of the sea, of the land and of the forest – to feed our people. Each subtribal grouping, each family grouping has their own gardens and their own places for collecting food. The divine presences, the gods, the spiritual guardians, those that have been ritually placed at the many points throughout the universe, those that guard and protect various spaces, resources and sacred and dangerous places from inappropriate use and abuse and also protect those that assist in that role, those that are feared by some and loved by others, those known as the fairy people, the people of the forests, and the little ones who laugh and chatter and play and make fun, are the custodians and guardians within the spiritual realm. The subtribal groups and family groups are the custodians and guardians within the physical realm. It is our role as human beings to care for, nurture and protect all things within our space, within our world, and particularly within the area in which we live so that they may survive and flourish for future generations. So that the open spaces of the divine presences of the gods and spiritual influences may remain clear, clean and free from obstruction as places where the spirits of both the living and dead roam freely. Where energy flows without hindrance, and thoughts and ideas may soar. Where there is a free and uninterrupted exchange of the vibrations of the universe, and of energies, shifting, moving, escalating, and diminishing, from the earth to the heavens, from the heavens to the earth, from the land to the sea, and from the sea to the land.

19. Tangaroa still embraces Papatūānuku. Ranginui still embraces Papatūānuku. The foreshore is the space where one can clearly witness the movement and exchange of energies, and the preparation, bustling and adaptation made by the divine influences of the gods as they perpetually seek to express the inherent universal balance and harmony, one with another, within the everchanging reality of the physical world. It is the open space, the courtyard on which the voices of all the divine influences of the gods are heard, seen, felt and sensed. As the tide comes in so Tangaroa stands to deliver his speech, and Hinewainui and Hinemoana move forward with cries of welcome and support, as they gently massage Papatūānuku. As the tide recedes it is Papatūānuku, and Tāne, and Hinewao, and Rakahore, and Hinetūākirikiri, and Hineone, and others who reach out to take hold of the life essence of the courtyard, and allow their individual and collective influences to be expressed and felt by all present. Each one of them has their own story, and each one of them has something to say. According to some, during the creation of the
world, the gods began to fight, one with another, and Tangaroa and Tane continue to quarrel. The physical manifestation of their dispute may be seen on the foreshore.

20. The foreshore is a sacred space, our place of prayer, our church. Ranginui in the heavens above is the roof, and Papatūānuku is the foundation and the floor. It is where we sense and feel the divine presence of all the gods and spiritual influences at all times. Although it is a place of leisure, and a storehouse of food, certain areas are held in particular reverence, and as such are set aside for certain purposes. When I step onto the beach I feel the presence of Tāwhirimātea in the gentle breezes and buffeting winds, of Hineuamairangi in the soft caress of light showers, of Te Ihorangi in the full, unadulterated, cleansing power of driving rain, of Hinepūkohurangi in the protective embrace of the mist, of Tamanaiteā in the warmth of the sun, of Hina te marama in the illumination of the moonlight, of Urutengangana in the conversations and energy plays of the stars, and of Hurumanu in the many voices of the seabirds. I remove my footwear and the soles of my feet sense the presence of Papatūānuku, my sacred mother, of Tangaroa, of the seas and the oceans and the waters, of Hinewainui and Hinemoana, as I recall that all things have both masculine and feminine aspects and qualities, of Rakahore, whose children the rocks and boulders have accumulated countless stories over eons of time, of Hinetūkirikiri as the gravel and pebbles lightly massage the energy points of my feet, of Hineone whose sands collect the warmth of the sun, and of Tāne and Hinewao, in the trees and the bush and the forest. The soles of my feet affectionately stroke and massage the sand, the rocks, the pebbles and the grass, in the knowledge that all of creation has its own life essence, and that we are all related. We are related in the divine oneness of the universe, and we are related through our mutual descent from Ranginui of the heavens above, and Papatūānuku of the earth below. I sense the vibrations from our many relations throughout the universe, and I am energised and further enlightened. Here are some of our sacred spaces set aside for special purposes, our sacred rocks, our sacred trees, our places where we follow the example of our ancestors in giving thanks and offering prayers to the divine, and the resting places of our ancestors. These are the areas on which our ancestors walked, that felt the touch, the caress, the kicking, the stomping of their footsteps, and where they continue to roam in spirit.

21. The foreshore provides us with food to sustain our physical being. It is a place where we offer prayer, a sacred space where we conduct rituals, a place where we may purify ourselves in spirit, mind and body, a place of leisure and play, and a place of learning. It is where we may witness the presence of all the divine influences of the gods at the same time in the aspects that they themselves choose to show us, approaching and retreating, ascending and descending, tussling with one another, caring for and nurturing one another. This is the universe in miniature, being played out on the courtyard of the gods for us to witness, and learn from, and understand. The foreshore is a special place of learning. There one may watch and study the stars and the sea, just as our ancestors did in their time, both formally and informally. All things have something to say and something to share, the sea, the fish, the shellfish, the crabs, the shells, the pebbles and gravel, the rocks and boulders, the sand and
earth, the trees, the birds, and the winds. There are flax bushes there, and pingao, and bulrushes, used in the art of weaving. There also is our hospital, the medicinal remedies of the land, the bush and the sea, the salt water, and the protective and nurturing influences of our ancestors and of the divine, the gods. Landing places for canoes and sea vessels, both past and present, are here – physical vessels and spiritual vessels. In the words of Te Puea Herangi:

“Your ascent is unto the heavens themselves,
From where you descend to the summit of Karioi Mountain,
And then to Whaingaroa, the paddling place of your canoes,
Aue hei aue!” Timoti Karetu

22. There are many stories and memories, not merely of this time, but of times long gone. Every subtribal group have their own stories. My thoughts turn to Māui, that ancestor of great renown, he of both divine and human origin and attributes. He was a man who looked beyond the horizon of cultural and temporal understandings to new ways of being, and new ways of relating to the world around him. It was he who hid himself in the canoe of his elder brothers and led them out onto the open expanse of the courtyard of Tangaroa and Hinemoana. It was he who through the power and influence of his prayers, through his skill, his inherent abilities, his knowledge, the teachings he was privy to from the gods and the ancestors, was able to haul this land up from the mysterious depths of the unknown, and long forgotten past, to be named The Great Fish of Māui.

23. I cast my gaze upward to Karioi Mountain, ancient repository of much history and cultural understanding. It was he who once stood inland with his wife Karewa. They gave birth to their children, and then Karioi turned his attention to Pirongia, with whom he had an adulterous affair. On discovering this Karewa fled westward, out into the ocean. Karioi followed her but was caught by the rays of the sun and turned to stone. There he stands on the coast, while Karewa lies out at sea. Pirongia however remained inland ashamed of what she and Karioi had done, knowing that through their actions her being had been sullied. This is the story of the subtribal groups to the south. Ours however, of Whāingaroa, states that both Karioi and Pirongia are female, elder and younger siblings. They all resided inland together with Karioi’s husband Karewa, and Karewa and Pirongia were involved in a romantic affair. Karioi fled, with Karewa following behind, but Karioi forced him out into the ocean, where he remains, and is known by Pakeha as Gannett Island. Some of their children remain with him, and some are with Karioi.

24. I climb to the summit of our sacred mountain Karioi, and look into the distance. A voice touches my ears.

“Who is it that said that we came here on the Tainui canoe?
We were ashore watching as the Tainui sailed past.”

25. This statement was made by Honehone Kereopa at the sextennial celebrations of the arrival of the canoes from Hawaiki that was held at Tūrangaωaeawae
Marae in Ngāruawāhia in 1950. He was recalling the stories that had been handed down by the ancestors.

26. On Kupe’s arrival to New Zealand people were already living around Karioi Mountain, known as Ngāti Matakorē. According to Te Aoterangi “The main source of food for those people was fern root, which they acquired by digging with a spade.”

When Kupe decided to return to Hawaiki he left behind his servant Pōwhetengū and others to look after the land. When he reached the mouth of the Aotea Harbour he slapped the sea with his belt while reciting prayers so that Pōwhetengū and his companions would be prevented by the waves from following him. That action is commemorated in the name for the waters of this coast, The Seas that were raised by Kupe with his garment. Pōwhetengū turned his hand to fashioning a canoe for himself. He did not wish to remain with the local people. When the canoe was completed it was named Rewatū, and Pōwhetengū and his companions set out from Aotea. At the mouth of the harbour great waves appeared and overturned their canoe and it sank. There it remains, having been turned to stone.

27. Ngāti Matakorē was still living in the area when Hoturoa arrived on the Tainui canoe. After the canoe was hauled across the portage at Ōtāhuhu into the Manukau Harbour, it emerged at Te Mānuka o Hotunui, the place where Hotuwhi became apprehensive, at the Manukau Heads, and turned to the south. They saw the peak of Karioi, and Hoturoa announced that when they got to the mountain they would rest and wait for a while. However, because of the length of time it took to reach Karioi from the Manukau Heads the harbour was named Whāingaroa, or the place or circumstance of the long pursuit. Hoturoa sent the outrigger of Tainui, named Takere Aotea, into Whāingaroa Harbour to fetch water. The people who came aboard Takere Aotea did not return to Tainui, but opted to remain with the local people. According to the stories of our elders the descendants of Tāhinga were ashore at Te Ākau watching as the Tainui canoe sailed past. Tainui continued on, landing finally at Maketū, in Kāwhia, at Te Tumu o Tainui, or the stump or foundation of Tainui, and from there its descendants spread across the country. Our ancestors erected their fortified villages, planted their gardens with food, and paddled and sailed their canoes to their fishing grounds.

28. The time came when Te Ataioōrongo and his brother-in-law Horeta went fishing. Te Ataioōrongo caught many fish, but Horeta caught none. Horeta was annoyed at this and called out to his brother-in-law that his line had become snagged on a rock, and that he should dive down to release it. When Te Ataioōrongo dived, Horeta pulled on the line, striking him in the forehead and killing him. Horeta paddled ashore, leaving Te Ataioōrongo’s body behind. When he landed, Rangiwaia, Horeta’s sister, saw that her husband Te Ataioōrongo had not returned with him. So she asked her brother where he was. Horeta replied that he hadn’t seen him. However, that night the apparition of Te Ataioōrongo’s hand appeared and told her what his brother-in-law had done to him, warning Rangiwaia to take their child to Kāwhia. She was pregnant at the time. In the morning she left, guided by the apparition of Te Ataioōrongo’s hand, and arrived safely at Kāwhia. When their child was
born he was named Kaihū. And when he reached maturity he returned to Horeta’s village to avenge his father’s death. Te Ataiōrongo remained as a spiritual guardian, a protective taniwha in Whāingaroa. His lair is at Te Kōpua, in the Pokohue Stream.

29. There are a large number of sites of ancestral occupation right around the Whāingaroa Harbour and on the slopes of our sacred mountain Karioi. Te Whaanga, Te Pae Akaroa, Rangipū, Te Hōrea, Horongārara, Pātikirau, Motu Kōkako, Kirikiripū, Rākaunui, Poihākena, and Te Kōpua are a few of them. My thoughts go back to those ancestors who walked these beaches, the very foreshores that we are talking about at this time – to Tāwhao, a direct descendant of Hoturoa who lived at Te Whaanga, known to Pākehā as Whale Bay. He married Pūniuiatekore but they did not produce any offspring. So Pūniuiatekore told her husband to marry her younger sister Marutēhiakina. Marutēhiakina was living at Te Hōrea at that time with her people. Tāwhao recited a love charm over his ivory cloak pin, fastened it to a small raft made of bulrushes and set the craft afloat. Through the power and influence of his prayers it landed safely at the shore below Te Hōrea to his beloved. When Marutēhiakina took hold of the raft and saw the cloak pin she knew who it belonged to and so went to Te Whaanga to marry Tāwhao and become his second wife. In due course both siblings became pregnant to Tāwhao. Pūniuiatekore gave birth to a son named Tūrongo, and Marutēhiakina to a son named Whatihua, well known throughout the land. Through them tribal connections were established which remain to this day – between Waikato and Taranaki through the marriage of Whatihua and Ruapūtahanga, and between Waikato and the East Coast with the marriage of Tūrongo and Māhinārangī. I turn my thoughts to Māhanga, to Kōata, to Kāwharu, to Te Wehi, and to Whareiaia – for whom the proverbial saying was composed, ‘Karioi is the mountain, Whāingaroa is the harbour, Whareiaia is the man’. To Te Ikaunahi, and to Hounuku - a noble man with a kind heart, a chief in the line of his ancestors, in whom the people depended in times of trouble. Wētini Rāpana was one who at age fourteen fled injured from the battle site at Rangiriri, at which both his parents had been killed, to live on land provided to him by Hounuku. There are many others who were also treated with similar acts of kindness by the great chief Hounuku.

30. I look at the land that has been lost over the years and cry. On the northern shores of the harbour is Te Hōrea, taken by governmental legislation, Pātikirau, stolen in a deceitful sale, and to the south, Raglan, sold by Te Waitaia, for whom Pōtatau coined the phrase for the subtribal groups of this area, ‘Tainui, the descendants of Whiro, murmuring day and night’. Where is the land that has been left for the people? Only crumbs remain, fragmented from the whole. And yet what is left is still cared for and cherished by the descendants of the ancestors who once lived here. Those crumbs retain the stories, the histories and customary practises of the old people. Te Kōpua is one such place on the southern shores of Whāingaroa. Although it was lost for a period, it has returned to the people. Te Kōpua is the area of land that was set aside for the descendants of four ancestors, Hounuku, Pōtikitahi, Mauriri and Taioparehenui. With the loss of Te Hōrea, Pātikirau and Raglan, the old people moved the bodies of some of their relations into the cemeteries at Te
Kōpua, erected their houses, and planted crops. Te Kōpua was a swarm of people. The ancestral meeting house named Miria Te Kakara was built as a place to discuss the topics of the day.

31. I recall the stories told by Tuaiwa Hautai (Eva Rickard) about what happened at Te Kōpua when she was young – there was playing and sport, the collection of shellfish, fishing, growing crops, milking cows, singing and laughing. Those are the benefits of living together as a family group, and as a subtribal group, on ancestral lands. If somebody went to collect seafood, or to fish with a line or a net, he or she would not return to feed only their own immediate family, but would provide for the people. It would be distributed to all. No one died of hunger. Even though there was no money, the people were rich with the resources provided freely by Papatūānuku, by Tāne, by Tangaroa, by Rongo, and by Haumietiketike and others. And how appropriate, for we are the descendants of the heavens above and the earth below. Those were happy days, special days, but also sad days. There were the influenza and typhoid epidemics at the beginning of last century which claimed the lives of many, who were then buried in mass graves at Te Kōpua. There was the revered ancestor, steeped in the practises of the elders, Whātau Haukatokia Pahi, who took the young soldiers of Raglan to the sacred spring at Te Kōpua and conducted ritual prayers over them to protect them before they went to the battle fields of World War II. In due course all those whom he blessed returned safely, but Whātau himself passed away in payment. That was the power that our ancestors possessed.

32. In 1923 the tribe gifted a section of the land known as Papahua, at the eastern end of Te Kōpua, to the Town Board as a playground for all, Māori and Pākehā, after the Board requested to build a bridge spanning the Ōpōtoru River between the Pākehā land in the township of Raglan and the Māori land at Papahua and Te Kōpua. The Board offered to buy the land, but there are many ancestors buried in that area. The tribe’s response was that they would never agree to sell the bones of their ancestors, but instead gifted it with love to the people of Raglan as a playground for both races. The area gifted was over twenty eight acres.

33. In 1941 the rest of Papahua and over seventy five acres of Te Kōpua was taken under the Public Works Act for defensive purposes. The Government desired to build a runway at Whāingaroa for the period of the war. They looked at a few farms owned by Pākehā but decided that Te Kōpua and Papahua was the most suitable site for this project, despite the fact that people were living here, there was a meeting house, gardens and cemeteries. They then went through the form of giving the owners an amount of money that they themselves had decided upon for the land and the buildings. Due to the tribe’s protests over their cemeteries and kūmara plantations the cemeteries were kept outside the airstrip operations, and four acres were set aside for cultivations at a cost of one pound per year. The tribe agreed to these arrangements in support of New Zealand’s war effort, and in the belief that at the end of the war the land would be returned. Whereupon the houses were dismantled by the Government, including the cooking house and the ancestral meeting house Miria Te Kakara, and the families were moved to the remaining
portion of Te Kōpua and across the creek to Rākaunui. Some however left the area to seek employment elsewhere.

34. So then Te Kōpua was used as a place of residence at one end, as a dairy farm, a garden growing kūmara, watermelon and strawberries, an air strip, a recreation ground, and as a route to town. One would walk across the land to school or to town, and return again over the land, feeling the warmth as the spirit of the ancestors embraced you from their graves and their cemeteries. The people still used Te Kōpua and Papahua to get to the sea and the river to collect seafood, to fish, and to go to the gardens to plant, weed and harvest. But at the end of the war in 1945 the land was not returned, and in 1949 the garden was given to a Japanese man for him to use to grow crops for sale.

35. However, although the land had been taken, when a person from Te Kōpua passed away a tent was erected on the site of Miria Te Kakara, where he or she would be mourned, farewelled, and buried at Te Kōpua. Each night the people would go to the sea to get salt water to wash the body so it wouldn’t deteriorate too quickly.

36. After the war the township of Raglan formed a flying club, and they utilised one end of Te Kōpua as a landing strip, which it still is today. Another part was given by the County Council to the Raglan Carnival Club. They trained and raced horses, raced motorcars and motorbikes, and ran carnivals for the people of the district. In 1969 the Raglan County Council decided they no longer needed to retain Te Kōpua for defensive purposes and so gave the lease to the Raglan Golf Club, which had formerly been situated at Waitetuna.

37. The course started with nine holes, but in extending it to eighteen it moved into the cemeteries of Te Kōpua. That was when Hautai (Eva Rickard) began to protest. That was when she moved into the political arena for which she is widely known throughout the country.

38. She wrote letters to the Raglan Golf Club and the Government requesting that they stop playing on the graves of the old people, and that they return the land forthwith. That did not produce the desired results. However, at the start of 1978 the respected elder of the Wanganui River area, Titi Tihu, contacted her saying that if she wanted the land to be returned twelve elders versed in the ancient lore of the Māori people should gather at Te Kōpua at twelve o’clock midday on the twelfth of February of that year, 1978, to rededicate the land with prayer. The idea was that if the land was not returned then it would be allowed to return to the sea. Accordingly, people responded from around the country, and the elders, friends and relations arrived to support. That particular day was a competition day for the golf club and the police were called to evict them. When the police arrived they didn’t lay a hand on the elders but specifically targeted those who they considered to be trouble makers such as Hautai, and arrested seventeen of the protestors. That was the day that saw this issue move into the public arena to be discussed and debated by the country. In due course the court dismissed all charges against those that had been arrested, and eventually returned the land. An administrative body was established to look after Te Kōpua, for those lands that were returned, named
39. Te Kōpua is still used for the welfare of the tribe. Through the years courses have been run there to train and upskill youth so they may find employment. A festival was set up to celebrate free expression and the performing arts, commemorating the day on which Hautai and sixteen of her close supporters were arrested for the sake of the land. The festival was named Te Ao Mārama, and it is still held on a semi-regular basis. Although Miria Te Kakara no longer stands at Te Kōpua the cultural practises of our people are still very much alive. When visitors arrive they are welcomed and cared for, just as our ancestors did in their time. Now it is the pre-school children who are there learning the Māori language and customary ways in the kōhanga reo (language nest) in Hauora, the building that was erected for that purpose. They are taken out onto the beach and the foreshore and taught about that area. Recently Te Wānanga o Aotearoa began using the facilities to teach their students the language. Those are some of the schools of learning now. At an earlier time there was another type of school of learning that stood at Te Kōpua, where tribal histories and sacred lore was taught.

40. Te Whaanga is another area steeped in history, with numerous sacred places, sites of significance and graves. Even though land on both sides has been sold, what remains is firmly held in the hands of the families concerned. It was Hautai’s mother Riria Rāpana Kereopa who retained those lands while others were selling theirs. And so Te Whaanga is still a place where family members live and maintain their occupational and custodial rites – not just to the land, but out onto the courtyard of Tangaroa and Hinemoana. It is a place where ancestors are buried. It is where our ancestor Tāwhao lived, as has been mentioned before. There are sacred places there that we still use today to offer prayer, for ritual purification, for the blessing and naming of children, for weddings, funerary rites, burials, unveilings and the placing of rāhui. There are spiritual guardians there. Family members still return to stay, to plant crops, to meditate and surf. The custodial role of the family over Te Whaanga has remained intact from ancient times through to the present. The ancestral fires of occupation still burn brightly. Te Whaanga has been a storehouse of food for time immemorial. Pāua, kina and crayfish are collected to feed the family. The family have been caretakers, guardians and custodians of Te Whaanga for generation upon generation. Nobody is allowed to walk on the land or the foreshore without first asking permission from the family. Then access may be granted. Hautai’s brother, Hāmi Whakatari Kereopa, known as Sam Kereopa, was renowned for his custodianship of Te Whaanga. He evicted people for abusing the land and the family. At times he had a shotgun in his hand. He has passed away now but lies buried at Te Whaanga, with his nephew, and his ancestors. However, as one fern frond dies, another one takes its place. The family remain there caring for and protecting those noble lands.

41. The tribal groups of Whāingaroa, namely Tainui, Ngāti Hounuku, Ngāti Ikaunahi, Ngāti Kōata, Ngāti Māhanga, Ngāti Hourua, Ngāti Tahinga, Ngāti Tamainupō, Ngāti Kōtara and Ngāti Te Huaki are the custodians and guardians of Whāingaroa, of the harbour, sea and waterways, of the land, and
of the foreshore. This right is not of recent times, but from long, long ago - from long before the arrival of the Pākehā, and from long before the arrival of the canoes. It comes from Māui, from Kupe, from Rakatāura, from Hoturoa, from the old people, through generation after generation, to the representatives of those ancestors who live here today. They are still here upholding the custodial roles once held by those who have long since been called to return to the spirit world. The bond between the people and the land remains unbroken. Papatūānuku is the land, whether it is above the ocean or beneath it. The question is – Why does the Government want to change what has been operating perfectly well for time immemorial, and has historically been handled very capably and faithfully by the Māori people? Are they able to protect the sanctity of our sacred sites, the customary practices of the foreshore, and the resting places of our ancestors so they are not abused by other people, either in ignorance or otherwise? To me, we have been ordained by the gods and by our ancestors as custodians, guardians and protectors of our ancestral lands, what right has anybody to dispute what they have put in place?

When power, influence and vested authority is retained intact and utilised appropriately The sanctity and divine influence of all is maintained with respect and honoured
And the life essence, the ethos and absolute uniqueness of every species is nurtured and protected
It is the essence of life, the ethos, the spark, the life force of divine origin
It is the essence of life, the ethos, the spark, the life force reflected in our human condition
Behold and take heed! I announce my presence! The life force and divine spark burns strongly within me!

Contemporary History

Boundaries

42. Tainui is part of a confederation of hapu who trace our descent from tupuna who arrived on the Tainui waka and who settled within an area defined by the following pepeha or proverbial saying:

Mokau ki runga

Tamaki ki raro

Ko Pare Hauraki, Ko Pare Waikato

Te Kaokaoroa o Patetere

Ko Mangatoatoa ki waenganui.
I annex and attach a Map of Tainui rohe.

43. Our boundaries are part of a dynamic relationship that takes into consideration and balances our relationships with our whenua and neighbouring peoples. These boundaries are fluid and adapt to ensure ongoing health and sustenance of our peoples and whenua.

44. Similarly, the foreshore and seabed are a part of a dynamic relationship of integrated parts influenced largely by the temperaments of winds, the movement of the sand and the lunar influences over the sea.

45. In 1836 Turton entered our rohe and began dissecting our whenua, drawing the first cadastral lines across our coastal lands. This dissection was intended primarily to facilitate the alienation of those lands to the Crown. I attach and annex Turton’s Deed.

46. In 1855 we gifted our maunga Karioi to Queen Victoria retaining a reserve for ourselves. Eight years later, our tupuna were rewarded for their generosity by being labelled rebels and having 150,000 acres of our coastal land at Te Akau confiscated for British settlers from the high water mark inland.

47. In 1874 Penehamine Kiwi, Tamihana Tunui and other tupuna received 90,360 acres back as a Crown grant to say sorry for the theft of the 150,000.

48. In 1904 the Te Akau Commission, in the face of much resistance by our peoples defined and established a boundary between Ngati Tahinga and Tainui at Tauterei. These imposed boundaries chop into our relationships and connections and bear little relationship to the people who now share those boundaries.

Efforts at Kaitiakitanga

49. The relational connections between the peoples of Tainui Hapu and the Whaingaroa harbour engender obligations that we for generations have strived to fulfill. These obligations and their origins have been outlined.
already and I outline below some of the different efforts we have undertaken.

50. **Given these efforts, we are aghast that our abilities to manaaki our whenua are being trampled on, derided, and subjected once again to the legislative juggernaut that my mother and my kuia staunchly resisted.**

**Pollution**

51. In the early 1970’s under the Town and Country Planning Act 1972, permission was granted to build oxidation ponds over Te Rua o te Te Ataiorongo, the domain of our tupuna and taniwha. That struggle continues.

52. The ponds sit like a festering carbuncle on our awa, our moana, our takutai moana. It has degraded our waterways, kaimoana areas adjacent to our marae and contributed to the destruction of traditional practices. Our refrigerator is now a thoroughfare for the human excrement of the residents of Raglan.

53. Attempts to have the sewage pipeline decommissioned, the oxidation pond removed and the discharges of effluent into the Whaingaroa/Raglan Harbour terminated have been going on since 1974.

And who remains to clean up the mess.

**Kai Moana**

54. For generations a special mussel bed Pipirua was seeded, nurtured and then gathered by our people to send to Turangawaewae to feed the thousands of people who attended the annual coronation. A rahui was placed on the reef so that enough food would grow for the annual take.

55. In the 1960’s commercial fishermen, discovered the reef and began to dredge it, causing destruction of the bed and depletion of kutai and other kaimoana in the harbour. Our tribal committee protested and
demanded a revocation of the licences and once again placed a rahui on the bed.

56. We began reseeding the area again in 1990, and although the mussels returned, within 3 years they became polluted and died. It is likely that the sewage effluent being discharged into our harbour was largely responsible for the pollution of this bed.

And who remains to clean up the mess.

Erosion

57. In the 1950's our whanau noticed the increasing rate of erosion of our shores. This was caused in the main by human misuse and abuse of our whenua by those who without invitation have intruded into our realm and trampled over our domain. These uninvited and unconnected interlopers have damaged our whenua with reckless abandon contributing to great extent what is now an ongoing problem that we are obligated to address. I annex and attach photographic evidence that has been gathered over the years that show the causes and effects of the recklessness of the uninvited. This is the legacy and impact of uncontrolled 'public access'.

58. As coastal people we live with the constant interchanges that occur between Tane and Tangaroa in their exchanges with each other over Te Takutai Moana. My whanau has observed this interaction of energies since time immemorial and have learned to respond in kind when required.

59. My father has for the last fifty years diligently cared for and nurtured Te Takutaimoana to try and maintain the balance that exists at Whaingaroa. His methods have mimicked those natural processes of Tane and Tawhirimatea where sand is blown into the pingao and once trapped stabilising the landscape restores balance on Te Takutaimoana. I annex and attach photographic evidence showing the processes that we have employed and the effect that this has had.
The Passing on of Knowledge

60. These natural processes have been passed to us to carry on the obligations of Kaitiakitanga that have been undertaken by those that have come before us will continue into the future. I attach and annex photographic evidence of our tamariki who now help in the care of our whenua. These tamariki at three years old are among the youngest to have given evidence to a Regional Council to elucidate their disgust at the way rawaho mismanage their ukaipo.

61. It will come as no surprise that the complete depth and intimacy of the knowledge we possess of how we connect to our rohe is not passed to anyone. There are many secret places along our coastline which we will not divulge to anyone and never will. Our experiences have taught us that the release of such matauranga undoubtedly leads to our exploitation. We are the guardians of such places and we will ensure that they are protected, in our way.

62. It has been our experience that the provisions authorising the courts to take into account the treaty and kaitiakitanga, which purportedly protect our way of life, merely emphasise the impotence of Maori when faced with decision makers who are incompetent in tikanga terms when ruling upon our future.

Derogation and Substitution

63. Given the success of our methods of conservation, we find it difficult to come to terms with those who would trample upon us to whakamana themselves. I attach and annex a newspaper article from the Waikato Times that derides us for our efforts. How offensive that we be required to ask permission to care for our mother. The offence is compounded when we consider who caused the damage in the first place. A policy that requires us to seek permission to care for our mother from her abusers stomps our tikanga into ground and is reprehensible. Such is the legacy and impact of ‘regulation’ by those who are not connected to our world. How can you regulate that which you do not know, that which you do not understand?
Reciprocity

64. As we look after and nurture our whenua, so too does it care for and nurture us.

65. Not only does te Takutai Moana provide us with a bounteous food source, it is also a rich source of rongoa. When we are ill we go to Tangaroa and he massages our aches, reaching into our wounds removing imprity, cleaning and disinfecting as he aids in the restoration of our constitution.

66. How can this be continued with the abuse that is currently being meted out by the ministrations of those who seek to separate us from that which is ours. Are our shores to become like those of Hawaii, whose once beautiful waters now turn scratches into sceptic sores.

Conclusion

67. Our connections to Te Takutaimoana have been briefly outlined as part of this evidence by Sean Ellison. The urgency of this hearing has meant that our histories and our hurts have merely been alluded to. The description while indicative of our relationships are far from complete. They do however amplify the long enduring and multidimensional relationship we have with Te Takutai Moana at Whaingaroa.

68. When I affirm my connections with my tupuna the Whai, I do not go to the forest, I do not go to the river, I go where I always have, where my mother went, and hers before her, to Whaingaroa. He finds me in the same way. What will he think when next he arrives in the harbour to the stench of human waste. What will he think of me?

69. When our dunes are all fallen into the sea from the careless trampling of those who do not care for our whenua, when the contours of my ukaipo are altered to new forms, will the whai remember where we once met? Will he still come to this place that reeks of sewage and change. Will he need your permission?
70. When the cry of the Karoro and the roar of Ngataiwhakarongo are substituted by the screaming cacophony of uninvited intruding metal and machines, when our koiwi are ground to dust under the sandaled feet of sunseeking loiterers, when our taonga are replaced by barbeques on the beach and pavlova, when our right to commune with nature is substituted with the arduous neverending task of picking up rubbish; when our mother heaves in the knowledge that she is being used and not cared for by those she doesn't know, will the whai revoke the obligation of caring for Te Tai Ao that we have been entrusted with? Will he lament the fact we neglected the responsibility to protect and uphold our way of life from the thurdering cyclone of destruction that ravaged our spiritual corridors and pathways of our world?

71. These connections are fundamental to our way of life as a people. Much fuss is made of the principle of certainty in the proposed policy. If you remove the stingray from the sea, he will scald in the rays of the sun, his skin blistering and cracking as his gills collapse gasping for breath. Separated from his domain, he will surely perish in a world that is not his. No attempt to force the stingray to live in this foreign world will ease his suffering, he will still suffer he will still perish. It is against this that we must be protected.

It is against this that we will fight!

72. Whaingaroa is a special place. From our kainga at Te Kopua I purvey the panorama of our world, the mists of the past lifts clear and I see a ghostly host. I don't want to look at more poles and a television mast spoiling my dreams. I don't want to look at more developments that wreak destruction on our cherished memories. I want to look at Whaingaroa and believe I am walking over the silent hills of my childhood following in the footsteps marked by our ancestors to protect for our future generations.

Dated at Whaingaroa this 9th day of January 2004

Angeline Ngahina Greensill and Sean Dansey Ellison
A Submission on the Foreshore and Seabed Act 2004 to the Ministerial Foreshore and Seabed Review Panel.

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MIHI
E nga rangatira nga kai whakahaere kua tae mai nei i tenei po ki te whakarongo i tatou nawe e pa ana ki te marae o Tangaroa tena koutou. E tautoko ana ahau nga mihi kua mihia ki te rangi, ki te Whenua, ki te Kingi Maori ki nga tupuna kua tua o te arai, ki a tatou katoa te kanohi ora o nga tupuna no tena rohe no tena rohe. Tena koutou tena koutou tena tatou katoa.

Introduction
Ko Ngahina Greensill ahau. Kei te taha o toku whaea  
Ko Karioi te maunga, Whaingaroa te moana, Tainui te waka Tainui te iwi, Tainui te hapu, Tainui Awhiro ngunguru i te po i te ao.  
Kei te taha o toku papa Ko Hikurangi te maunga, Waiapu te awa, Ngati Porou te iwi,  
Ko Hunaara te whanau.

Introduction

This oral submission will briefly revisit the situation that lead to our being here tonight, and will introduce a few issues but because there are almost 200 sections and two schedules in this act the rest will be addressed in detail in a written submission which will be emailed in due course.

NATURE AND EXTENT OF THE MANA WHENUA AND PUBLIC INTERESTS IN THE CMA PRIOR TO THE 2003 CASE WAS EXTENSIVE.

We look after the kaimoana, seed pipi beds, do research, build beaches, fight in courts to stop pollution. Information on what we do is contained in the evidence presented by Sean Ellison and myself to the Waitangi Tribunal against the bill in January 2004 which i will table here.

Despite huge Maori and public opposition, the bill was passed and became law. OPTIONS AVAILABLE TO THE GOVT? THE SAME AS OTHER CITIZENS
TAKE IT TO THE NEXT COURT AND TRY YOUR LUCK.

Bad law made in haste failed to consider alternative courses, recommended by the Waitangi Tribunal such as ‘a longer conversation’.

Racist law that according to the United Nations Committee on the Elimination of Racial Discrimination found that the legislation appears ... to contain discriminatory aspects against the Maori, in particular in its extinguishment of the possibility of establishing Maori customary title over the foreshore and seabed and its failure to provide a guaranteed right of redress, notwithstanding the State party’s obligations under articles 5 and 6 of the Convention.

The committee urged the NZ government to resume a dialogue with the Maori community with regard to the legislation in order to seek ways of lessening its discriminatory effects, including where necessary through legislative amendment.


Discrimination is something we are used to but racial discrimination before the law in the 21st century by a so called western democracy and signatory to certain UN documents cannot be excused nor given credibility by being included in our laws.

**Our position. Repeal the act.**

The Foreshore and Seabed Act 2004 ignores our status as tangata whenua, undermines our relationship with our papamoana, ignores our mana as recognised in the Declaration of Independence and breaches te Tiriti o Waitangi.

We marched against the bill, we wrote submissions and presented evidence to the tribunal against the bill, we exercise customary rights that are possible to be exercised despite the Act, we voted for the Maori Party because they said they would repeal the bill, our position hasn’t changed. We oppose the Act and seek its repeal for three reasons.

It is as already mentioned discriminatory.

Section 3 states that the object of the Act is "to preserve the public foreshore and
seabed in perpetuity as the common heritage of all New Zealanders in a way that enables the protection by the Crown of the public foreshore and seabed on behalf of all the people of New Zealand, including the protection of the association of whanau, hapu, and Iwi with areas of the public foreshore and seabed.

The Act names papamoana the “public” foreshore, privileges private property owners by excluding them from the effects of this legislation, but fails to recognize our rights, in fact extinguishes in print our rights to the foreshore and seabed, rights which we enjoy through take tupuna, the common law and through our tupuna signing of te Tiriti o Waitangi. Kei whea te mana o nga tupuna inaianei. Kei whea te tino rangatiratanga, kei whea the rights of British subjects.

With just over 6% of the land in this country it is easy to see that we have been and continue to be discriminated against. So repealing this legislation will help begin a proper inclusive process based on respect for papamoana and the people who have inherited rights which are still practiced today throughout various rohe in breach of this legislation.

Secondly, the Act assumes ownership which is questionable, then impinges upon our relationship with Tangaroa, Papamoana and other Atua and our ability to assert our mana and practice tikanga when required for the protection of this space.

If we wish to have our rights recognized then we have to give up believing te taonga tuku iho no nga tupuna, and apply to the Crown through the courts for recognition of watered down rights which bring me back to the problem with the Act it ignores our status as tangata whenua, undermines our relationship with our papamoana, ignores our mana as recognised in the Declaration of Independence and breaches te Tiriti o Waitangi.

Finally, the foreshore and seabed is not being for future generations or for the public by the Government at the moment because the
Act allows Parliament to pass laws to alienate, sell, dispose of the "public foreshore and seabed. The Ministry of Economic Development has wide powers under the Mineral Acts to licence mining, gas and other global corporations to exploit these areas, for private shareholders around the globe. The effects of that is left with us, tangata Whenua.

We can't have a title even though we have looked after papamoana mai rano because we might sell it "Yeah right. But parliament can? Now that is just plain hypocritical. We know with the trade agreements and deals that are being carried out in the Economic Zone in Te Moana nui a Kiwa that every seamount every square metre of papamoana has been auctioned off for exploitation. I have dealt with countless attempts by mining companies to acquire the whole of the Tainui waka coastline for mining purposes. Unfortunately MED is going through the motions of encouraging this by dishing out cheap licences to explore prospect and next mine.

**Some Options I'd like to mention.**

Repeal the act and carry on a longer conversation with coastal whanau hapu and iwi which could look at the issues of Access to these areas.

Have the Crown prove that they own the foreshore and seabed and explain how they became the owners.

We need constitutional change in this country. It is unfortunate that we are dealing with piecemeal legislation instead of dealing with the setting up of a constitution founded on documents signed in good faith by our tupuna. I realise that that is on the government's calendar, the sooner the better.

**IN SUMMARY:**

The Act as it stands takes away the foreshore and seabed from Maori without consent while protecting the property rights of others. It is discriminatory and should be repealed.

It also mocks the politicians' comments about "one law for all" by creating a dishonest law that clearly reduces Maori rights and status to a lesser position.
The tests and procedures are inappropriate

Fisheries, RMA, Crown Minerals Act, Conservation are all acts that need an overhaul and need to be integrated.

Perhaps they can learn off Maori about inter relationships which work

Repeal the act but make sure what replaces it is treaty compliant.
Submission to the Special Rapporteur on Indigenous Peoples Rights

Professor James Anaya

Tainui o Tainui ki Whaingaroa

22nd day of July 2010
Introduction

1. My name is Angeline Ngahina Greensill. I am the environmental spokesperson for the Tainui Hapu of Whaingaroa, and the chairperson of the Tainui Awhiro Trust, and I make this submission for and on their behalf.

2. Tainui is made up of several coastal hapu: Tainui, Ngati Koata, Ngati Kahu, Ngati Tahau, Ngati Te Kore, Ngati Pukoro, Ngati Te Ikaunahi, Ngati Tira, Ngati Hounuku, Ngati Heke, Te Paetoka, Ngati Ruaaruhe and Ngati Te Karu. These hapu share a common whakapapa to “Tainui”. We are the people of the sea. We live on the shores of the Whaingaroa moana/Raglan harbour.

3. It is important to note that when the Waikato Confederation achieved a settlement, the Whaingaroa area was explicitly excluded. This was not to denigrate those who were seeking a settlement, but more to ensure our ongoing ability to exercise autonomous authority outside of the confines of the assimilated settlement group.
4. We stand before you in that capacity, while at the same time, the settlement group which we remained separate from, seeks to eradicate the autonomy and settle our claims from under us.

5. This is unconscionable in a number of respects, but in particular, it is a slight on those leaders who directly preceded us and I draw focus on two women who are not only inextricably linked to the essence of these lands, but also, the struggle that tangata whenua in this country have played to achieve the marginal status that we have. My mother Tuaiwa Rickard, and our Queen, Te Atairangikaahu.

**Historical Facts and Background to Present Position**

6. I have attached a copy of a powerpoint presentation as Appendix A to this submission which was made in the aftermath of the outrage that united Maori when the first Foreshore and Seabed Act 2004 was developed in the wake of the Ngati Apa decision of the Court of Appeal.

7. The actions of the government that followed polarised the nation on racial grounds.

8. The criticisms of Crown process that followed are important to consider. Firstly, there was the emotional outrage of Maori, but also those that ought to be considered to be objective. In these
regards, I direct attention to the findings of the Waitangi Tribunal.

9. When these criticisms compared to the contemporary situation now facing my people of Tainui Hapu o Tainui, it is clear that the government have learnt some important lessons about how to deal with Maori.

10. Of immediate significance, is the way that it has created and co-opted leadership structures to engineer Maori positions which does away with the need to deal with the wider Maori populous. This denial of participation by imposed representation has silenced the real Maori voice that tries to be heard but is denied entry into closed door, invitation only meetings.

11. It is in this context that the current National proposal has been purported to be endorsed by our people. The fact that it is essentially the same proposal that we marched against should indicate to the Special Rapporteur the extent to which the real Maori voice has been effectively excluded.

12. Our analysis of the legislation led us to the conclusion in 2005 that it denied Tangata Whenua like us human rights specified in international treaties and domestic law including:
a) The right of access to and the protection of the law;¹

b) The right to own property alone and in association with others and not be arbitrarily deprived of it;²

c) The right to freedom from racial discrimination;³

d) The right to enjoy their own culture;⁴

e) The right of all peoples to freely determine their political status and freely pursue their economic, social and cultural development.⁵

13. More significantly the present proposals by the State remain inherently racist and I believe they are intent on achieving a cultural genocide which will force us to surrender the last of our remaining cultural landscapes. It should be no surprise that the limitation on Maori in their ability to connect to the foreshore and seabed coincides with the recent Government actions which have seen the coastline tendered off for mineral exploration and extraction by international corporations.

¹ Article 7 Universal Declaration of Human Rights (UDHR), Article 26 International Covenant on Civil and Political Rights (CCPR) and Article 5 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); right to justice, NZ Bill of Rights Act (BORA) 1990 section 27.
² Article 17 UDHR and Article 5 ICERD; right to be secure against unreasonable seizure, BORA Section 21.
³ Article 2 UDHR, Article 2 CCPR and Article 2 ICERD; BORA Section 19 and NZ Human Rights Act 1993.
⁴ Article 27 CCPR; BORA Section 20.
⁵ United Nations Charter.
14. The present proposal must be seen in the further context that the State is also promoting other policy frameworks where renewable energy exploitation is to have priority over our environmental concerns and our relationship to our cultural space and the protection of our sacred sites and our wahi tapu.

15. In particular we highlight the recent developments overseen by the Ministry of Economic Development with respect to Block offer license applications for oil exploration and iron sand extraction and other minerals on the seabed and the Ministry of Fisheries proposals to coerce the participation of hapu with particular customary relationships to surrender their autonomy to Crown sanctioned corporate structures to develop management plans over all of the fisheries areas in our rohe.

16. This is a direct attack on our hapu rangatiratanga and wrongly assumes that recently created corporate entities are better placed to ensure sustainable development of the environment when in fact their very existence is driven by a profit motive as opposed to an approach based on the need for practices to ensure the protection of our traditional practices and the wherewithal to sustain this way of life for future generations.

17. This imposition is part of a continuum of colonisation which undermines Maori authority and is premised on the belief that
the Pakeha Law and any right obtained from such law is superior to that of Maori law. The fact that Maori law only becomes a practical expression if permitted by Pakeha law is perhaps the most stark illustration of such perceptions. This is despite the fact that it was Maori law that existed here in Aotearoa since time immemorial which maintained the riches that were extant when Pakeha first got here.

18. The maintenance of such perceptions of superiority and there promulgation in mainstream media is a complete denial of the constitutional arrangements promoted in Te Tiriti o Waitangi to which my ancestor Te Turi Te Patete was a signatory.

19. The repeal of the existing legislation and its replacement cannot be isolated from these wider legislative attacks on our rangatiratanga.

20. One particular recent case that we have recently been a party to in the Environment Court illustrates that these attacks are occurring in a number of areas. In this case there were objections by a single individual to the rights of one of our own to build a home on our ancestral land. It took almost 4 years of legal wrangling at huge expense to one of our whanau to secure this basic human right that tangata can live on our whenua where we
can then fully participate in the practices of kaitiakitanga and manaakitanga.

21. During the preparation for this case we became aware that the local municipal authorities in the name of the public benefit trespassed on our traditional homelands; installed a pipe to pump more effluent into our kai moana our food basket and which resulted in further spiritual and ecological degradation to the realms of Tangaroa our deity that protects those foodstuffs and our cultural practices.

22. This is part of an ongoing 40 year struggle we have had with authorities where a range of legislative mechanisms including the Public Works Act compulsory takings provisions saw the destruction of our whole papakainga; (village) and the dislocation of many of our people from their homelands to urban environments. It involved in the late 1970’s huge protests and saw my mother and 17 others arrested by the forces of the State.

23. Tainui have in fact made concerted efforts to retain our economic and cultural base since 1855 when Pakeha settlers first started to take our lands and are vigilant to ensure the meagre amounts of our tribal estates, approximately 800 acres, (which does not include the foreshore and seabed which in our traditions extend beyond the 200 mile limit) remain in our care and custody.
24. I wish now to turn briefly to the new proposal.

**The Options**

25. In its consultation document the Crown has canvassed four options for its replacement; to fully vest the foreshore and seabed in either the Crown or in Maori; create a radical title for the Crown subject to iwi and hapu rights; or finally create a ‘No ownership’ regime. We concur with many observers including the imminent Maori jurist Moana Jackson and the Iwi Leaders forum that an alternative approach is required if we are all serious as a nation in confronting this matter and finding durable solutions consistent with Tikanga Maori and Te Tiriti o Waitangi.

**The Crown preferred option: No ownership**

26. Of the four viable options tendered, the Crown’s preferred option is to create a ‘No ownership’ regime based on a public domain or takiwa iwi whanui.

27. The claimant hapu assert that ownership of the foreshore and seabed has sat firmly with them, inextricably linked to each through enduring whakapapa.

28. The Crown’s simplistic idea that no one owns the foreshore and seabed actively severs the relationship that Maori have in terms of their whakapapa to the whenua and diminishes the same to
the extent that at least in conceptual terms, it no longer exists in 'legal terms'. For one to suggest one does not own one's whakapapa is outrageous in itself. But then to further suggest that we share our whakapapa with the Crown and that is now to be shared with unknown third parties whom we have had no intimate relationship with undermines the very tenets upon which Tikanga Maori is built.

29. The notion that the foreshore and seabed belongs to nobody ousts tikanga in terms of tangata whenua whereby the people belong to the land and the land belongs to the people.

30. It is important to remember in the context of the present issues that iwi and hapu rights in relation to the foreshore and seabed are derived from our own traditions and law.

31. Those rights are based in whakapapa; are built on ancient foundations that have evolved to meet changing circumstances; precede Te Tiriti o Waitangi and the common law definitions of Maori Rights, which were introduced after 1840.

32. The starting point must therefore be that the foreshore and seabed are ours because of the whakapapa obligations that tie us to them. Our obligations and rights are neither those of mere guardians nor Crown approved users but are part of the sovereign responsibility we have as tangata whenua. They are
ours and can never be taken away or altered without our consent.

33. There are fundamental aspects of these practices that link to our whakapapa and thus our right to preserve our unique identity that can never be altered or changed. These matters were preserved by the guarantees in Te Tiriti o Waitangi and any attempts to manipulate or change these relationships is a denial of fundamental human rights and is a denial of who we are and where we come from.

34. Simply, if there is no ownership of the Takutai and Papamoana then there is no relationship either. This follows that there are no kaitiaki to fulfill the inherent obligations in terms of mana whenua and mana moana to nurture and sustain the foreshore and seabed for its future generations.

35. Ultimately, the notion of no ownership is a legal fiction that draws itself from an old discredited doctrine, terra nullius or the empty land, which was employed by colonisers to strip land from indigenous peoples on the basis that they were simply uncivilized peoples.

36. Further, the no ownership regime is in itself problematic as the Crown retains a right to control the foreshore and seabed and will continue to own nationalised minerals that may exist in it.
The Crown thereby supposes that no one owns the foreshore and seabed, though it determines and proscribes rights in its respect. What has really in effect occurred is that the term Crown ownership in the 2004 legislation has just been renamed Public Domain.

37. Hence, we consider the no ownership regime to be a step backward in terms of the application of discredited doctrines, totally misleading in that the Crown retains and proscribes what rights exist, and is contrary to the good faith obligations as provided for in Te Tiriti.

**Alternative**

38. We have had the opportunity of reading the Mokau ki Runga submissions of 21 July 2010 developed by a coastal peoples with similar traditions and experience of Crown confiscation and support their observations on the way forward. We do wish to emphasise however that if the Crown is really committed to resolving the substantive breaches of our Tikanga and Te Tiriti o Waitangi that have been occasioned since the first announcements on the foreshore and seabed matters then a new approach is required.

**Constitutional Change**
39. In the 2006 Report of the Special Rapporteur on the situation of
human rights and fundamental freedoms of indigenous people,
Rodolfo Stavenhagen made the following observations on
Constitutional Issues:

Constitutional issues

84. Building upon continuing debates concerning constitutional
issues, a convention should be convened to design a constitutional
reform in order to clearly regulate the relationship between the
Government and the Maori people on the basis of the Treaty of
Waitangi and the internationally recognized right of all peoples to
self-determination.

85. The Treaty of Waitangi should be entrenched constitutionally in a
form that respects the pluralism of New Zealand society, creating
positive recognition and meaningful provision for Maori as a
distinct people, possessing an alternative system of knowledge,
philosophy and law.

86. The MMP electoral system should be constitutionally entrenched
to guarantee adequate representation of Maori in the legislature
and at the regional and local governance levels.

87. Iwi and hapu should be considered as likely units for strengthening
the customary self-governance of Maori, in conjunction with local
and regional councils and the functional bodies created to manage treaty settlements and other arrangements involving relations between Maori and the Crown.

88. The Legal Services Act should be amended to ensure that legal aid is available to Maori iwi and hapu as bodies of persons so as to afford them access to the protection mechanisms of human rights, and in order to eliminate discrimination against Maori collectives.

40. While the Maori Party Relationship Agreement with the National party, negotiated since that time, includes provision for a constitutional review to focus on question of how to deal with the Maori seats, a proper constitutional review requires Māori to think hard about providing a central place for Te Tiriti o Waitangi and DRIP in the future constitutional arrangements for this country.

41. We do not believe that the relationship agreement at all deals with the meaningful engagement that Professor Stavenhagen’s Report has sign posted.

42. We have a government whose policies are guided by opinion polls and focus groups – an intrinsically bankrupt approach to nation building. Indeed, all the major political parties seem addicted to it and none shows any inclination to break that
addiction. The Maori Party’s own predilection to be lead by the Crown friendly Iwi Leadership Group is a cause for concern.

43. In this environment, the government’s proposed Treaty information process seems destined to fulfil a propaganda role, rather than a constructive contribution to informed debate on constitutional change.

44. We therefore urge the Special Rapporteur on this visit to bring forward once again these earlier observations from 2006 and ask for more meaningful application of these recommendations.

45. This is particularly required given that since that time the New Zealand Government has affirmed a commitment to the Declaration of Rights of Indigenous People.

46. We draw this submission to a close with the words of song from my late mother a great activist whose fight was to achieve progress for those she loved more than to oppose others who sought to exist in our spaces. This being said, it was important for her to ensure that our future, our identity, our very right to be, would not be endangered by the avaricious desires of those who would seek to deny our existence.

Dated at Whaingaroa this 22nd day of July 2010
Ko Karioi te maunga
Whaingaroa te moana
Whareiaia te tangata

Submission 2010
Submission
to the Special Rapporteur on
Indigenous Peoples Rights
Professor James Anaya

Tainui o Tainui ki Whaingaroa
(Tainui)
22 July 2010
Outline

- Who is Tainui?
- Brief History
- Legislation affecting Tainui
- What does the Foreshore and Seabed Repeal mean for Tainui?
- What is the proposed law?
- Who benefits and Who pays?
- How have Tainui responded?
- Recommendations

Tainui o Tainui ki Whaingaroa  Submission 2010
Tainui

- Ngati Koata     Ngati Kahu
- Ngati Tahau    Ngati Te Kore
- Ngati Pukoro   Ngati Te Ikaunahi
- Ngati Tira     Ngati Hounuku
- Ngati Heke     Te Paetoka
- Ngati Ruaaruhe Ngati Te Karu

These hapu collectively share common whakapapa as "Tainui", people of the sea who live 50km west of Hamilton on the shores of the Whaingaroa /Raglan harbour.
Historical Facts pre-1840

- Exercised absolute authority over Aotearoa
- Own laws to govern society
- Established relationships with neighbouring hapu
- Regulated and negotiated access and use rights
- Worked with the environment
  - Rested and restored degraded areas
  - Planted kai moana spat
  - Imposed rahui
- Allowed immigration
- Treated with manuhiri/pakeha/tauiwi/tangata tiriti

Tainui o Tainui ki Whaingaroa
Submission 2010
One hundred and sixty four years ago my tupuna te Patete signed te Tiriti o Waitangi. This covenant was supposed to establish an honourable relationship between hapu and the Crown.
Instead of honour we witnessed the escalating erosion of our tikanga and rights through the imposition of successive racist government laws. These laws have facilitated the almost complete destruction of our relationship with te Taiao (our environment) customs, laws, culture, language and society.

Tainui o Tainui ki Whaingaroa
Submission 2010
Native Land Court
Established

• To provide for alienable individual titles to Maori Land

• ..the extinction of Maori custom.

• Collective ownership not recognised.
Maori Land Holdings

<table>
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<tr>
<th>Year</th>
<th>Acres</th>
<th>Ha</th>
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<tr>
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<td>66,400,000</td>
<td>29,880,000</td>
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<td>1852</td>
<td>34,000,000</td>
<td>15,300,000</td>
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<td>1860</td>
<td>21,400,000</td>
<td>9,630,000</td>
</tr>
<tr>
<td>1891</td>
<td>11,079,486</td>
<td>4,985,000</td>
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<tr>
<td>1975</td>
<td>3,000,000</td>
<td>1,350,000</td>
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<tr>
<td>1986</td>
<td>2,626,091</td>
<td>1,181,740</td>
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<tr>
<td>1996</td>
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<td>1,515,071</td>
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</tbody>
</table>

Source: Durie, M. 1998: Te Mana, Te Kawanatanga
Fig. 2.3 The effects of European ways on old Maori society.
Brief Tainui History ....

- We are a coastal people whose lives were interrupted with the introduction of British law.
- In 1840 our tupuna signed te Tiriti o Waitangi and kept our side of the bargain.
- In 1851 our tupuna signed a Deed giving the British settlers land above high water mark for the township of Raglan.
- In 1855 we gifted Karioi te Queen Victoria and her descendants, reserving for ourselves 1400 acres of coastal land.
- In 1863 the Crown ordered the Raupatu of our lands at Te Akau and Horea.
Brief History ....

- In 1941 the government ordered the destruction of our papakainga for an airfield.
- In 1978 arrests of 17 people on our urupa.
- In 1992 the government extinguished our fishing rights & gave us TOKM.
- In 1995 the government compensated WRLT for Raupatu of 1.2 million acres.
- Despite all of this we have survived and maintained our relationship with Whaingaroa.
- In 1996 proclamation of te Whenua Motuhake o Whaingaroa.
- In 2004 the Crown will extinguish our inherited rights and relationship with our
Why change the Law

• 1997 – Te Tau Ihu asked the Maori land court to consider whether the foreshore and seabed of the Marlborough Sounds was Maori customary land. The court agreed.
• High Court Appeal – Te Tau Ihu lost
• Court of Appeal
Ngati Apa & Others
Court of Appeal June 2003

- Ruled that “… seabed and foreshore is “land” for the purposes of s129(1) of Te Ture Whenua Maori Act 1993 …………

- I consider that an investigation and grant of coastal land cannot extinguish any property held under Maori custom in lands below high water mark. Whether there are such properties is a matter for the Maori Land Court to investigate in the first instance as a question of tikanga”.

- CJ Elias
Minister's Responses

• "Steps will be taken to confirm absolute Crown title over the foreshore....."

  Prime Minister 20 June 2003

• "Ownership of the foreshore and seabed has long been considered to lie with the Crown ."

  Attorney General 22 June 2003
Ministers Responses

• “The land wars are over, so the consent of the tangata whenua is required before customary title cane be extinguished. Otherwise it is a confiscation and is likely to breach international law”.

   Minister of Maori Affairs   25 June 2003
Additionally, the Christchurch Press have reported on the 18th of July that Kupu Tahu has claimed customary ownership of a large part of the South Island's eastern coastal waters and foreshore. However, as yet we are not aware of a formal claim being lodged in the Marine Land Court.

Tainui o Tainui ki Whaingaroa
Submission 2010
Ministers Responses

“We are at a very early stage of discussions, but what I can say is that there is no intention to use legislation to prevent Māori from establishing customary rights.”

Hon Michael Cullen 26 June 2003
Parliament
PROTECTING PUBLIC ACCESS AND CUSTOMARY RIGHTS

GOVERNMENT PROPOSALS FOR CONSULTATION
Te Tiriti o Waitangi and Principles

- Treaty contained guarantees which affirmed Maori rangatiratanga over resources and decision making about their use and management.
- It paved the way for a collaborative approach to managing our country and environment.
- No treaty principles have been included. Why? If no principles then base this proposal on the Treaty itself.
Crown Principles - C.R.A.P.

• There should be information for those who use and administer the foreshore and seabed about the range of rights that are relevant to their actions.

• The Crown is responsible for the use of the foreshore and seabed, on behalf of all present and future generations of New Zealanders.

• The foreshore and seabed should be public domain, with open access and use for all New Zealanders.

• Processes should exist to enable the customary interests of whanau, hapu and iwi in the foreshore and seabed to be acknowledged, and specific rights to be
What is the proposed law

• The Crown proposal extinguishes inherited rights and authority by defining them as customary rights under the common law.

• Inherited tupuna rights and responsibilities being confiscated legislatively.

• Tangata Whenua have to prove ancestral connection and explain customary activities.
Consultation Process Labour Party 2004

• Totally inadequate, Midweek
• Short timeframe
• Information booklets not available until the hui
• Acted in haste, not in good faith
• More time needed to educate people around the country
• Public assumed rights are protected and certain while the full extent of our rights are once again denied.
Protecting public access & customary rights?

This is about:

- Assumed power
- Fettering rangatiratanga and tiakitanga
- No access to justice, and unjust treatment
- Displacement of whanau, hapu and iwi
- Severing whakapapa relationships
- Disinheriting people of rights and responsibilities
- Denial of treaty rights
- Failure to honour a contract
- Confiscation and Dispossession
- More legislative theft and plundering
- Shoddy consultation processes and inadequate timeframes
Applying the 4 Principles

Tainui hapu southern coastal area – Te Whaanga
Access

- Access to the foreshore and seabed at Whaingaroa is at the discretion of our various whanau and hapu, according to tikanga Maori.

- It is a privilege to come through te Whenua Motuhake o Whaingaroa, not a right.
Public parking on Tainui land, Te Kopua.
Trotters access beach through Tainui hapu land

Tainui o Tainui ki Whaingaroa
Submission 2010
Causes

- Natural – Tangaroa, Tawhirimatea
- Unnatural
  - Housing Development
  - Pedestrians
  - Children
  - Vehicles
  - Horses
- Destruction of dune vegetation
- Stormwater
- Hard surfaces
• 256 parcels of the foreshore and seabed that are currently in private title under the Land Transfer Act 1952.

• Approximately **12,000 privately owned parcels** which contain a small strip of foreshore, namely the foreshore between mean high water springs and mean high water mark.

• **Source:** LINZ, 2003.
Tracks used by trotters, bikes through WDC reserve (taken in 1962 from Tainui hapu).
Vehicle tracks and unfunded hapu efforts to retain the land and mitigate the impacts of erosion.
Regulation

- Our whanau and hapu are responsible for regulating the use of our adjacent foreshore and seabed in accordance with the principles of kaitiakitanga, for the benefit of living and future mokopuna.
- Local and Territorial governments have never shared power under section 33 RMA 1991.
- WDC pollutes and destroys our kaimoana, and impacts upon our ability to carry out kaitiakitanga responsibilities.
- Transfer powers of regulation to hapu
Tangata Whenua Role

- Rangatiratanga over hapu area
- Regulate harvesting and use
- Protection
- Restore and remedy - plant flora and fauna
- Negotiate with government agencies
- Ensure a healthy environment for the next generation
- Interact with the environment
Te Kopua, Whaingaroa

EXISTING 200mm PIPE
(TO BE REPLACED WITH 300mm PIPE)

PIPELINE ROUTE

NOTE:
Route of upgraded pipeline yet to be finalised.

Submission 2010
Protection

• Last night our hapu lost another 25 metres of whenua to Tangaroa.
• The problem is exacerbated by an uncaring public who have no respect for dunes or tangata whenua efforts to save them.
• Our hapu will continue to protect our lands from abuse and will if necessary restrict access to preserve and maintain our environment.
• Discourage walkways along vulnerable and fragile coastal land.
Public misuse of foreshore exacerbated by: Kā tamihia o Tāmihia ki Whāingaroa, Te Kōura (and now part of the WPA)
Kohanga Reo

- Whaingaroa Kohanga Reo children clean up after the public have used their ‘foreshore’.
- They presented their submission to Environment Waikato opposing the resource consent to discharge sewage into Whaingaroa harbour.
- They are nurtured today to be the environmentalists and kaitiaki of tomorrow.
Whanau and Hapu Today

- Our hapu practice kaitiakitanga within our rohe
- Monitor access, and use of resources
- Control and enforce our laws
- Regulate harvesting
- Invoke and lift Rahui
- Restore degraded areas
- Plant kai moana
- Reclaim whenua and re-inter koiwi
- Stabilise dunes
- Liaise with government agencies
- Educate the ‘public’.
Kaumatua monitoring the progress of dune reclamation
Tirohanga  Maori land
Tainui o Tainui ki Whaingaroa
Submission 2010
Waikeri within the Karioi Native Reserve. Hapu vigilance has ensured that this place remains undeveloped.
Tainui Hapu

• The Crown’s principles and processes in 2004 were deemed inadequate and the proposal in its current form is rejected.

• We support the Paeroa, Omaka, Te Tii and Kawhia Declarations.

• We call for an extension of time of up to two years for proper dialogue with whanau and hapu, the ahi kaa who look after the foreshore and seabed in our rohe.

• We support the calls for constitutional change, made at other hui.

• We call on Parliament to initiate an honest public education programme on this issue.

• We do not consent to any working party or Waikato Tainui making any decisions or signing away customary rights on behalf of the Tainui hapu of Whaingaroa.
Foreshore and Seabed Legislation

- Extinguishes Maori rights to the wet area
- Unjust, discriminatory, and contravenes Te Tiriti o Waitangi, UN conventions and the British common law.
- Individuals, whanau and hapu oppose the proposed legislation
Four Principles

- Certainty
- Regulation
- Access
- Protection
Now honour the Treaty
HIKOI SCHEDULE 2004

Auckland 26 April 2004

Huntly 28 April 2004

Ngaruwahia 29 April 2004

Hamilton 29 April 2004

Rotorua 30 April 2004

Taupo 1st May 2004

Whanganui 3 May 2004

Ngati Kahungunu 3 May 2004

WELLINGTON

Wednesday 5 May 2004

Far North 22 April 2004

South Auckland 28 April 2004

Wederesday 5 May 2004

Tainui o Tainui ki Whaingaroa Submission 2010