

**Iwi Leaders Statement on the
Repeal and Replace the Foreshore and Seabed Act 2004
26th August 2009**

Iwi Leaders

The Iwi Leaders present do not speak for all Iwi. We each represent Iwi with significant coastlines, and together hold mana whenua, mana moana over much of New Zealand.

Introduction

We commend this government, with the Māori Party, for having taken the first principled step of reviewing the Foreshore and Seabed Act. We support a considered approach to formulating the government's response to the Report of the Ministerial Review Panel and emphasise that there is a significant amount of work to be done.

The Foreshore and Seabed Act represents a dark period in our nation's contemporary history. The United Nations considered it was a time of escalating racial tension and found that the Act discriminated against Māori. The United Nations also called for dialogue between the Crown and Māori to find a way of lessening the discriminatory effects of the Act. We welcome this opportunity to begin that dialogue through direct engagement between the Crown and Iwi Leaders.

Te Tiriti o Waitangi underpins our relationship with the Crown and is the basis for our engagement on all issues over the foreshore and seabed. We consider there are two fundamental elements of the Treaty relationship that must be provided for in any fair and principled resolution of the foreshore and seabed issue;

- First, that Te Tiriti relationship is an active and collaborative partnership between the Crown and Iwi; and
- Second, that Te Tiriti affirms the relationship between Iwi/hapū and their rohe moana.

For Iwi and hapū, the marine environment is a taonga of paramount importance. Our relationship with our rohe moana is an ancestral inheritance that we are obligated to maintain and pass on to future generations. We are bound to the rohe moana through our waka, food gathering, and trade traditions, and our identity as tangata whenua.

Over the last two decades, our relationship with the rohe moana has been recognised in part in discrete parcels, through the fisheries and aquaculture settlements. Management of the marine environment has also become more complicated without delivering better environmental outcomes. The catalyst for the foreshore and seabed case, led by Te Tau Ihu iwi, was the recognition of our mana relationship with the rohe moana. The objective was, and remains, for the recognition of mana to contribute to better environmental outcomes in the marine environment.

The failings of the Act and the imperative of recognising the mana of iwi to their rohe moana have been well documented in the Ministerial Review Panel Report. This report is an important step in remedying the Act. We encourage this government to continue the leadership shown in commissioning the report, to develop a comprehensive and principled resolution for the foreshore and seabed in partnership with Iwi and Hapū.

Principles for Building a Solution

We seek agreement to the following principles in the government's response;

- That the negotiations with Ngāti Porou, Te Whānau a Apanui, Te Rarawa and Ngāti Pahauwera must be respected, as must Treaty of Waitangi Settlement negotiations touching on these

issues. Any resolution developed must at a minimum meet the agreements reached between Iwi and the Crown, and allow Iwi free choice over the expression of their mana;

- The principle that mana should be recognised and customary authority given effect to. We agree with the Review Panel that effective decision making responsibilities for Iwi and hapū are a fundamental element of expressing mana;
- The principle of environmental sustainability, meaning that any solution must contribute to better environmental outcomes for the marine environment; and
- The principle that any rights that the Act sought to extinguish must be revived as a matter of law.

Components of the Solution

The 'longer conversation' is the forum for considering the suite of policy options available enabling the Crown and Iwi to work collaboratively toward a fair, principled and robust solution.

We consider there are two fundamental elements to framing the response;

- First, there must be an integrated approach to building the solution. The Review Panel recommended an interim solution consisting of; the Act being repealed and title to the foreshore and seabed being held on trust, which is effectively an incremental approach to constructing a solution. What is required is an integrated approach whereby repeal of the Act, revival of the rights the Act sought to extinguish and the replacement regime are advanced simultaneously, with each contingent upon the other. We emphasise that the framework that replaces the Foreshore and Seabed Act must be developed by Iwi and hapū and agreed between Treaty partners;
- Second, the solution for the foreshore and seabed cannot be identified in isolation. The foreshore and seabed issue is intertwined with both the broader management of the marine environment and constitutional architecture of our nation.

Process Forward

Iwi and hapū are also pioneers of opportunity who have, and will, identify further practical and principled options. The longer conversation will allow for these models to be developed in collaboration and will be most productive if we are able to agree on;

- Engagement between Ministers and Iwi Leaders, supported by technical engagement between Crown officials and Iwi advisors;
- Access to reasonable information and resources; and
- Iwi and hapū building consensus amongst ourselves.

Conclusion

We therefore seek commitment from Ministers to the following:

1. Confirm that the Treaty of Waitangi underpins the relationship between Iwi and the Crown and is the basis for all engagement concerning the foreshore and seabed;
2. Acknowledge that the key principle underlying the government's response to the Ministerial Panel Review Report is to recognise and give effect to the mana of Iwi and hapū over the foreshore and seabed, including but not limited to, customary title or some other form of sui generis title;
3. Agree to adopt our integrated approach whereby repeal of the Act, revival of the rights the Act sought to extinguish and the replacement regime are advanced simultaneously, with each contingent upon the other;
4. Structured and principled engagement between Iwi Leaders and Ministers;
5. Agreement as to reasonable access to information and resources to support collaborative engagement with the Crown and consensus building amongst Iwi and hapū; and

6. Agreement as to structured work programme for advancing policy design and development.

Signed:

Mark Solomon
Te Runanga o Ngai Tahu



Tukoroirangi Morgan
Te Kauhanganui o Waikato Tainui



Archie Tairoa
Whanganui River Maori Trust Board



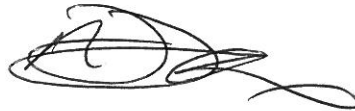
Rikirangi Gage
Te Runanga o Te Whanau



Matiu Rei
Te Runanga o Toa Rangatira



Raniera Tau
Te Runanga a Iwi o Ngapuhi



Ngahiwi Tomoana
Ngati Kahungunu Iwi Incorporated

