Submission on the Foreshore and Seabed Act 2004

I request that (b) the Foreshore and Seabed Act 2004 should be **iv**. repealed but replaced with something new, such as a new kind of title or investigative process; (notation as in the Issues paper http://www.justice.govt.nz/ministerial-review/issues%20Paper.pdf)

· This, finding "something new", needs to take a lot longer than the Foreshore and Seabed Bill (2004) took.

· My opinions on building a lasting agreement on such whenua-based stuff, were summarised in the Report of Parliament's Constitutional Arrangements Committee - http://www.elections.org.nz/files/constitutional_review_2005.pdf - (on page 138) as:

> "David MacClement emphasises the need for time to consider these issues. He submits that existing arrangements are not sufficiently based on the Treaty, and that there needs to be improvement by a "good-will-based accommodation between kāwanatanga and rangatiratanga ("joint protection under the law but separate sovereignty over assets and taonga")".
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> My April 2005 original is at: http://www.converge.org.nz/pma/cadmc.htm It begins:
>
> "... I believe we must start as we mean to go on. Not rushing something which began 165 years ago, and which a big minority of NZers (most Maori and a great many Pakeha) are currently dissatisfied with."
>
> · The time constraint put on the Review Panel by the terms of reference is far too short - six weeks is simply not sufficient time.
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> *** The Review process mirrors the unfortunate haste with which the original foreshore and seabed legislation was enacted, consequently a process of full and proper consultation with hapu and iwi should be a primary recommendation of the Review report.***
>
> · I am a (Pakeha) individual, but I'm not alone; the Waitangi Tribunal's first recommendation about the foreshore and seabed was the need for a longer conversation:
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> "It may be that the conversations would be long ones, and would take place over an extended period. We think that is appropriate. The issues are complex. The rights being interfered with are important ones."
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> The need for dialogue with Maori to seek ways to mitigate the discriminatory effects of the Foreshore and Seabed Act was also recommended by the UN Committee on the Elimination of Racial Discrimination in 2005 and 2007.
>
> · And the terms of reference for this Review state that the Panel is asked to provide independent advice on: "c) Whether the Foreshore and Seabed Act 2004 effectively recognises and provides for customary or aboriginal title and public interests ... in the coastal marine area, and maintains and allows for the enhancement of mana whenua".
>
> In my opinion, the FSA-2004 did the direct opposite of this.
>
> · Again, as a (Pakeha) individual, I am not qualified to suggest alternatives which might be included in this Review Panel's report.

The best I can do is to echo the Green Party's:

"... the Foreshore and Seabed Act 2004 fails to provide environmental protection and was a confiscation of Maori customary title.
- “The Green Party has advocated from the beginning that Te Ture Whenua Maori Act should be amended to prevent the conversion of foreshore or seabed customary land into freehold title thereby ensuring that the land can never be sold.

This was one of the key concerns of the pubic and the Government” ...

“Public access is already ensured through existing regulation and law and was never a real issue.” - presented to the Review Panel at Omaka Marae, Blenheim, 10 am today (Tuesday, 19 May).

· And to repeat that existing arrangements are not sufficiently based on the Treaty, and that there needs to be improvement by a “good-will-based accommodation between kāwanatanga and rangatiratanga (“joint protection under the law but separate sovereignty over assets and taonga”)”.

Submission by:
David MacClement