IN THE WAITANGI TRIBUNAL	**WAI 2660** **WAI 2612**
IN THE MATTER OF	The Treaty of Waitangi Act 1975
AND	
IN THE MATTER OF	The Marine and Coastal Areas (Takutai Moana) 2011 Inquiry
AND	
IN THE MATTER OF	A claim by Ngati Te Wehi Cluster (Wai 1448, 1495, 1501, 1502, 1592, 1804, 1899, 1900, 2125, 2126, 2135, 2137 & 2183) **(Wai 2612 a claim by Ian Shadrock)**

BRIEF OF EVIDENCE OF IAN SHADROCK
DATED 10 AUGUST 2020

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MAY IT PLEASE THE TRIBUNAL

1. My name is Ian Shadrock.

2. I am a customary kaitiaki for Ngāti Te Wehi. This is not an appointment made by the Crown, such as the Department of Conservation, but an appointment made by the people of Ngāti Te Wehi.

3. I have given evidence for Ngāti Te Wehi before Judge Ambler in the Wai 898 Te Rohe Pōtae Inquiry. My evidence concerned our relationship with the harbour at Aotea and our harvesting of kaimoana, including our tikanga and kaitiakitanga. I have also given evidence in Stage One of this Inquiry. It is with this back ground that I provide my knowledge in relation to Ngāti Te Wehi and our connection with the te moana tapu o Aotea.

Ngāti Te Wehi

4. I am giving evidence to discuss the Marine and Coastal Area (Takutai Moana) Act 2011 ("The MACA act") and it's effect on Ngāti Te Wehi as a coastal iwi that has made an application, as well as it's effect on the interests of Māori in the takutai moana.

5. Ngāti Te Wehi are the tangata whenua of the Aotea Harbour, the surrounding lands and waterways, including the marine and coastal area on the West Coast of the North Island between Raglan and Kāwhia ("Aotea").

6. Ngāti Te Wehi have exercised our customary interests in Aotea for countless generations, and regard it as our greatest taonga. Aotea continues to be a kāpata kai of considerable resources, not only for us as Ngāti Te Wehi, but also for the inland peoples of Tainui and Te Rohe Pōtae. Historically, we as Ngāti Te Wehi controlled access to Aotea, and permission was required from us to gather kai from Aotea.

7. We have provided extensive oral and written evidence to the Waitangi Tribunal as part of the Wai 898 Te Rohe Pōtae hearings. A considerable part of our evidence concerned our connection with Aotea including my brief of evidence.[1]

8. We have also gathered further evidence as part of our High Court application under the MACA act that we are yet to file. This evidence illustrates beyond any doubt our mana whenua, mana moana, kaitiakitanga and tino rangatiratanga at Aotea stretching back centuries.

9. We acknowledge the customary interests of our neighbouring hapū in the Aotea and Kawhia area, namely Ngāti Patupo, Ngāti Mahanga, Ngāti Hikairo, and Ngāti Mahanga.

10. We have held and continue to hold the strongest presence at Aotea Harbour as tangata whenua since the establishment of our iwi in the 1700's.

11. Our whakapapa in the area extends back to the fifteenth century when the Aotea waka first landed in New Zealand at Te Tauranga-ō-Aotea. We have lived in this area ever since our tipuna first made land in New Zealand on the Aotea waka for which the harbour is named.

12. We are kaitiaki not only of Aotea and its resources, but of our ancestral waka, Aotea, which is said to be buried at Raoraokaurere/Oioroa at the head of Aotea harbour. This area is a significant waahi tapu for us.

13. We also have whakapapa links to the Tainui waka, which finished its last voyage at Kawhia harbour and was then taken inland to be buried.

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[1] Wai 898 #N027

14. Ngati Te Wehi acknowledges Kawhia and their ancestral link to Kawhia where Ngati Hikairo and Ngati Mahuta reside. Kawhia is the birth place of their eponymous tupuna, Te Wehi. It is also the location of many wahi tapu

15. Ngāti Te Wehi have five marae on the northern shares of Aotea harbour. The principal being Ookapu together with Matokotako, Te Papatupu, Te Tiihi o Moerangi and Makomako.

16. We have continued to occupy Aotea harbour for generations while others have come and gone. We have held our Mana Whakahaere over our rohe against conflicts from other iwi prior to 1840 and subsequently against the Crown from 1840. And we have always acted to address concerns directly with the Crown.

Tino Rangatiratanga at Aotea

17. Aotea is a taonga that was guaranteed to Māori in Article II of both the English and Māori texts of Te Tiriti o Waitangi. The relationship that Māori share with their respective moana and the rights they held as kaitiaki were recognised and affirmed at the signing of the Treaty.

18. Three Ngāti Te Wehi rangatira signed the Treaty of Waitangi in February 1840, namely Te Aoturoa and Te Noke who signed the Te Reo version and Hako, who signed the English version.

19. Since 1840, we have never waived or extinguished our rights to the takutai moana. We have never consented to the Crown assuming control over Takutai Moana ō Aotea under legislative programmes related to fishing or harbour management. Instead we have always actively exercised our mana over Aotea as best as we can.

20. I described in my brief of evidence in the Wai 898 Te Rohe Potae inquiry that we have held Aotea as a kapata kai in accordance with our tikanga thereby illustrating our

connection to our marine rohe.[2] We have done so since time immemorial. And we continue to do so to this very day.

21. Since the signing of the treaty we have attempted to assert our rangatiratanga as much as is possible under colonial power structures. As the Crown's legal regimes began to encroach on our tikanga, customary practices and land tenure, we have attempted to resist and have always asserted the existence of our rights in the moana.

22. Ngāti Te Wehi tikanga was one of silence and non-participation in interactions with the Crown until the early 20th century. However, in a bid to have our mana whakahaere recognised, we have been approaching the government to assert our Treaty rights in the moana from as early as the 1920's.

23. We have constantly petitioned the Crown throughout the 20th century in an effort to have Aotea reserved from commercial interests.

24. Our efforts have been met with resistance by the Crown but this has never discouraged us, and my Wai 898 Te Rohe Potae evidence and indeed that of all of Ngāti Te Wehi illustrates our resistance and struggles. I compiled the complete list of evidence filed as and attached it as the appendix to my previous brief of evidence in the 2660 inquiry.[3] This evidence is extensive and is over 5,000 pages long.

25. The crown inspector agreed to reserve Aotea as a fishing reserve for Māori, but the promise was never fulfilled.

26. Despite our protests the Crown allowed commercial fisherman to pillage our harbour throughout the 20th century depleting our fish stocks.

27. Our calls to be recognised as Kaitiaki was finally heard when Aotea was established as a Mataitai reserve in 2008, with Ngāti Te Wehi tangata appointed as Kaitiaki over the moana.

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[2] Wai 898 #N027

[3] Wai 2660, #A28(a)

28. Mataitai reserves are only granted to tangata whenua over areas in their moana rohe that contain traditional fishing grounds with special significance to tangata whenua. However, as I spoke to in my brief of evidence to the Te Rohe Pōtae inquiry, the Mataitai reserve came too late and does not give us sufficient power to exercise our kaitiakitanga and rangatiratanga. [4]

The MACA act and Te Tiriti

29. When our tipuna signed the Treaty, they believed they were protecting Aotea and everything that comes with it: waahi tapu, mana, mana whenua, mana moana, mana awa, kaitiakitanga, kaapata kai, mana motuhake and tino rangatiratanga. But these things have been constantly thwarted as the Crown has failed to uphold its promises.

30. The MACA act is another one of the long list of breaches and a continuation of the Crown belittling our rights in relation to Aotea, which we have experienced since the signing of the treaty.

31. The MACA act ignores our ancestral connection to Aotea, and under it we may not be recognised by the Crown as tangata whenua and mana whenua and as tangata kaitiaki for Aotea. If that occurs, then we will be unable to assert our rights over Aotea. If that occurs, then we will have lost everything.

Stage Two

What framework does the MACA act create to recognise and provide for Māori interests in the takutai moana?

32. Stage Two of the Wai 2660 Marine and Coastal area/Takutai Moana Inquiry is to inquire

[4] Wai 898 #N027

into the extent that the MACA Act and Crown policy and practice are inconsistent with the Treaty in protecting the ability of Māori holders of customary marine and coastal area rights to assert and exercise those rights.

The Framework

33. The Crown has provided two avenues by which Māori can apply to have their customary and rights recognised:

    a. An application for direct engagement with the Crown through the Office of Treaty Settlements ("OTS"); or
    b. An application for a recognition order by the High Court.

34. Groups can apply to be recognised as holding customary marine title over a certain area or they can apply to have specific customary rights recognised.

35. The High Court or OTS will apply the statutory tests from s58 or s51 of the Act and if applicant groups are deemed by the Crown to have met the test they will have their rights recognised by the Crown.

36. Ngāti Te Wehi has applied for customary marine title with both the High Court and OTS. Due to a wish to have our application processed faster Ngāti Te Wehi prioritised their High Court Application.

37. We are still waiting to have our High Court Application heard as we do not have a priority application and due to the large number of overlapping applications in the area, it may be a number of years before we are heard. It is a frustrating wait for our application to be heard.

38. Our current application map overlaps with the applications of Ngāti Hikairo, Ngāti Mahuta and the claim of Glen Tootill on behalf of Kawhia Tangata, Aotea Whenua and Whaingaroa Moana. Overlapping applications and the need to prove exclusive use causes

significant issues for us for reasons of tikanga, whakapapa and whanaungatanga.

In developing the policy that underpins the MACA Act, what considerations did the Crown take into account? To what extent did the Crown consider the findings and recommendations of the Wai 1071 Foreshore and Seabed Tribunal and Ministerial Review Panel?

39. The Crown was pressured to respond to the Treaty breaches identified by the Waitangi Tribunal and negative criticism regarding the 2004 Act when they created the 2011 Act. To be clear, the Waitangi Tribunal found that the 2004 Act breached the Treaty.

40. I believe the Crown never really wanted to provide a pathway for Māori to assert their interests in their moana. For evidence of this, how many Māori have real tino rangatiratanga over their moana? That's certainly how we as Ngāti Te Wehi have always perceived the actions and intentions of the Crown.

41. The Act is in essence not very much different from the 2004 Act. Despite the recommendations made by the Waitangi Tribunal, this is history repeating itself.

Consultation

42. We were never consulted about the Act. No one came to Aotea. We did not know about the change in legislation and did not have a chance to provide our korero. I don't think the whakaaro and input of Māori groups was a key consideration.

43. The Crown knew it would be nearly impossible for most Māori to prove "exclusive use" without "substantial interruption" and I believe one of the Crown's considerations was implementing a test that would exclude the majority of Māori from gaining rights under

the Act.[5]

44. The Crown knew they were setting the test at an extremely high threshold that only a very limited amount of Māori groups would be able to pass. It is well-known that it is Māori tikanga to share resources such as their respective moana with neighbouring hapu and iwi. But this very tikanga is what could prevent iwi from getting a customary title.

45. I understand that we all have to prove "exclusive use" without "substantial interruption".[6] Does that include the substantial interruption that the Crown has caused? Also, we would continue to have "exclusive use" if the Crown had not taken our land. How much of our land has been taken and how much of our "exclusive use" has been interrupted because of public works takings, or because of Habour Boards acting in our place, or because Pakeha wanted to fish our waters and to control over waters to our exclusion? Does any of this count? How ironic it is for us to prove these things in light of everything the Crown has done to us.

46. How many Māori have to put up signs saying 'no motor access' or 'no bikes' – which we consider to be 'substantial interruption", yet we can't do anything about it. The law allows these people to rip our waahi tapu yet when we want to do anything, we're powerless to do it.

What is the effect of the MACA Act on Māori interests in the takutai Moana?

Customary Marine Title

47. The Act has huge ramifications for our interests at Aotea. Under the MACA act, when a group is found to have customary marine title over an area, they are conferred a number of significant rights under s62 of the act, including:
    a. The right to protect wāhi tapu;
    b. An RMA permission right;

5 Marine and Coastal Area(Takutai Moana) Act 2011 s58(1)(b)

6 Marine and Coastal Area(Takutai Moana) Act 2011 s58(1)(b)

c. A conservation permission right;
d. Marine mammal watching permits;
e. The process for preparing, issuing, changing, reviewing or revoking a New Zealand coastal policy statement;
f. The prima facie ownership of newly found taonga tūturu;
g. The ownership of certain minerals; and
h. The right to create a planning document.

The effect of the test

48. Rights in the takutai moana are only recognised when groups can pass the tests under the MACA Act.

49. The tests under the Act impose a foreign framework that does not align with tikanga, and are thus set at an unreachable threshold.

50. The test under s58 requires proof of "exclusive use and occupation" of an area "without substantial interruption since 1840".[7] This is a euro-centric concept: Māori do not use the moana exclusively; and because of this we are disqualified from having our interests recognised.

51. Ngāti Te Wehi has not used Aotea exclusively. We have shared Aotea with neighbouring hapu and iwi as is custom. This is because of mana, whakapapa, whangaungatanga and tikanga. We now face the problem of overlapping application areas with these groups that we share Aotea with.

52. Our application area overlaps with Ngāti Mahuta, Ngāti Hikairo and Glen Tootill's claim. Because of this it may be found that we do not hold customary marine title.

7 Marine and Coastal Area(Takutai Moana) Act 2011 s58(1)(b)

53. The substantial interruption clause also severely affects our ability to have our interests recognised. We have had our use of Aotea interrupted by the effects of colonisation and the resulting infrastructure. This means we may not be able to pass the substantial interruption test.

54. What makes this worse is that the substantial interruption is the fault of the Crown. When we as mana whenua experienced "substantial interruption" we acted to get rid of that interruption, but the law was against us. We saw Pakeha commercial fishermen as one "substantial interruption", but we were powerless to do anything. When the Crown bulldozed our waahi tapu, we saw that as "substantial interruption" and our Kuia stood in front of the bulldozers but got pushed out of the way. We saw that as "substantial interruption". When Pakeha developers were digging up our koiwi, we saw that as "substantial interruption" but it continued. All this evidence was part of our evidence to help substantiate our Wai 898 Te Rohe Potae claims, all of which demonstrates the high level of Mana Whakahaere we hold over Aotea. Despite this evidence, the narrow, euro-centric and tikanga devoid test that fails to recognise colonial history means that we will find it difficult to get marine title and the benefits it brings.

55. This is the effect of the act on Māori interests: it sets such a strict test that interests are very unlikely to be recognised.

Protection of Wāhi Tapu

56. Under the Act, protection of wāhi tapu is something that is only afforded to a group when it can be proved that they have customary marine title. Due to the requirement to prove exclusive use without substantial interruption, title is likely to only be found over a relatively small area.

57. When we applied for Customary Marine Title with the High Court, we claimed the area covering both Aotea and Kawhia harbour. This would allow us to protect our wāhi tapu in both of the harbours. Because of the test we now may be required to amend our map to only include Aotea as there are many overlapping claims in Kawhia harbour. This will

mean we will be unable to protect our wahi tapu in Kawhia harbour. This includes wāhi tapu that are very significant to us including Tangi te Korowhiti, the site where the Tainui waka last landed before it was hauled ashore toward its final resting place. As well as Motutara, the cliff area that is the final resting place of Pakaue, father of Te Wehi, the namesake of our iwi.

Effect on Treaty Settlements

58. Another key effect is on the possibility of remedies under a treaty settlement. After the creation of the Act, the rights that can be granted when a group is found to have marine title can only be granted to those who are found to have marine title. These rights or rights that are similar cannot be given to Māori groups in treaty settlements or other Crown negotiations. We have not yet reached a Treaty settlement with the Crown, so this significantly limits what we will be able to gain under negotiation with the Crown.

Effect on Mana

59. The Act also has a huge effect on mana. There is now a level of mana associated with receiving a Crown derived customary marine title. This mana infers upon those who have received it, a recognition that they are in effect the mana whenua and have all the corresponding rights including kaitiakitanga and the ability to instigate tikanga. Accordingly, if we as Ngāti Te Wehi do not receive a Crown derived customary marine title, we are effectively seen as not being the mana whenua of our rohe.

To what extent, if at all, are the MACA Act and Crown's policy and practice inconsistent with the principles of Te Tiriti?

The Principle of Partnership

60. The principles of reciprocity and partnership require the Crown to develop the MACA act in a way that gives meaningful effect to our tino rangatiratanga and under this principle each party has a duty to work in partnership with the other and act reasonably and in good faith. But the tests set out under the MACA act fail to acknowledge what has happened to us in the past, and fails to give effect to these basic Treaty principles.

61. I understand that the Crown now has to give effect to tikanga, and if that is correct, then the test set up under the MACA act must be removed, and concepts such as tikanga including whakapapa, whanaungatanga must be given effect to.

Exclusive Use

62. The first problem with s 58 is it's requirement that we must prove that we have "exclusively used and occupied the area since 1840."[8] The notion of exclusivity in the takutai moana is an entirely western construct that is fundamentally incompatible with tikanga Māori. The majority of Māori groups will now be disqualified because they share their respective moana.

63. The MACA act framework is retro-active and requires historical rights to fit within a modern non-Māori framework.

64. At Aotea, indeed for all Māori, marine rights are complex and are often shared between whanaunga and neighbouring hapu. In our case we share Aotea with our whanaunga of Ngāti Hikairo, Ngāti Patupo and Ngāti Mahanga. We are now forced to compete against Ngāti Hikairo and Ngāti Mahanga as they have overlapping claims. This is a breach of our tikanga, particularly our whanaungatanga.

65. We have filed notices of intention to appear in six other applications under the MACA act which have neighbouring or overlapping interests. The assertion that our rights do

[8] Marine and Coastal Area (Takutai Moana) Act 2011, s 58(1)(b)(ii)

not exist because we shared the moana with our whanaunga is ridiculous. Shared usage of the moana does not mean that our rights do not exist, quite the opposite. Shared use of the moana and relationships of mutual respect are key parts of the system of tikanga under which mana whakahaere is exercised.

66. This excerpt from Te Whata Ahuru Te Rohe Pōtae report describes how hapū and iwi in the Kawhia and Aotea harbour area held their rohe and customary rights in accordance with tikanga:

> " The harbours and surrounding area were, unsurprisingly, also some of the most heavily contested locales in the district and many different iwi and hapu claimed interests to them. These interests, along with their associated rights, obligations, and relationships, were guided by tikanga, as claimant Thomas John Moke of Ngāti Mahuta explained:
>
> 'many hapū and iwi of the Tainui waka had the ability in traditional times to utilise the resources that flourished in the Kāwhia Harbour. Use rights were common and these arrangements were clear and understood and controlled by tikanga. Post 1840, these rights were placed in a foreign context relating to absolute ownership and control, that compromised these historical use rights, creating conflict, mistrust and tension.'"[9]

67. The Crown has a duty to act reasonably. I do not understand in what way it could be reasonable that our rights are denied because they are forced to fit within a retro-active framework that has nothing to do with how we exercised our customary rights in te ao Māori.

68. The Crown is failing to uphold the principle of partnership good faith by setting up a regime to assert Māori customary rights that is based on western concepts, does not align with tikanga and in turn excludes many Māori groups.

Substantial Interruption

9 Wai 898, Te Mana Whatu Ahuru Report: Part IV, page 593 at 22.5.3

69. The second reason that the test is a breach is that it requires us to prove "use without substantial interruption since 1840"[10]. This is not substantial interruption of the mana moana over an area, but includes any use by a third party of an area. The problem with this clause is that the only reason the use of our rohe has been interrupted is because of Treaty breaches by the Crown and the effects of colonisation. The fact that the Crown is using their own breaches to justify denying us our customary rights is a severe failure of the duty to act reasonably and in good faith.

70. Since 1840 the Crown and it's agents by way of Treaty breaches have alienated much of the land surrounding Aotea from our tīpuna. Since this land had passed out of our hands, we have been unable to exclude people from using the harbour.

71. Throughout the 20th century the Crown in breach of the Treaty allowed commercial fishermen to enter our harbour and pillage our fisheries despite our constant protests and petitioning. This could now be seen as interruption.

72. Public access is granted to the harbour through lands that were alienated by fraudulent acts of the Crown. Under New Zealand law boats have free-reign to enter the harbour mouth. How are we meant to have stopped this interruption? There is no legal way to prevent third party use of the harbour and we have simply been forced to accept it.

73. There is now a town at Aotea. The public use the harbour for recreational fishing, there is a mussel farm there: none of this was the doing of Ngāti Te Wehi. Yet, under the MACA act this third party use may cancel out our customary rights.

74. The Act presupposes that if there has been an interruption, that it was our fault. That simply wasn't the case. Ngāti Te Wehi never walked away from their lands, or willingly abrogated themselves from their Treaty rights, particularly over Aotea. If there was any interruption as evidenced in our Wai 898 Te Rohe Potae evidence, it was because the Crown and the public not only completely ignored our rights, but actively campaigned to

[10] Marine and Coastal Area (Takutai Moana) Act 2011, s 58(1)(b)(i)

remove them. Denying us our customary rights because of substantial interruption when the Crown is the one who facilitated the interruption is the Crown using one Treaty breach to justify another.

Ownership of abutting land

75. There is a further breach in s59(1)(a), which states that ownership of abutting land is a key consideration in deciding whether customary marine title exists. Māori have lost 95% of their lands. The majority of this land loss was not a situation of willing seller willing buyer. The history of Māori land loss in New Zealand is well known by the Tribunal: it's been hearing this evidence since 1973. For the Crown to use land ownership as a means to prove customary title when the Crown actively and forcibly alienated that land is again, the Crown using one Treaty breach to justify another.

The Principles of Active Protection and redress

76. The Crown's duty of active protection is a central treaty principle. In the words of the tribunal, "The principle encompasses the Crown's obligation to take positive steps to ensure Māori interests are protected".[11] This means the Crown is required to actively protect Māori interests and the promises made under the Treaty. These promises include our ability to assert tino rangatiratanga over our rohe and the ability to protect Aotea. This also includes the promise to give us full, exclusive and undisturbed possession of our lands and fisheries.

77. The Principle of Redress is another key principle of the Treaty. It requires fair and reasonable recognition of and recompense for wrongdoing by the Crown. The Crown has continually breached the treaty by failing to allow us our rangatiratanga and kaitianga rights over Aotea. They now have a duty to redress these failings by providing us with these rights in the modern day.

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11 New Zealand. *(2001). He tirohanga ō kawa ki te Tiriti o Waitangi =: A guide to the principles of the Treaty of Waitangi as expressed by the Courts and the Waitangi Tribunal.* Wellington, N.Z: Te Puni Kōkiri.

78. In the context of this Act, this means that in order to actively protect our rights and give recompense for past wrongdoings the Crown must give us a fair test to pass to gain customary marine title. The test under s58 is a breach of the principle of active protection because at a practical level we will be unable to pass it.

The s58 test and Exclusivity

79. As I have explained in the partnership section, there is a huge problem with the exclusive use clause of s 58. Because of the issues with s58, despite our whakapapa and deep connection with Aotea, according to the test we may not receive customary marine title because of the shared use of Aotea. This means that the Crown is not actively protecting our ability to exercise the tino rangatiratanga and the kaitiakitanga rights promised to us in the treaty.

Substantial Interruption

80. The substantial interruption clause is another vehicle by which the Crown can exclude us from our interest in Aotea, and other Māori from their interests in their moana. Substantial Interruption is set at a very low bar. It does not have to do with substantial interruption of mana moana or whether an area is held under tikanga, but includes any use by a third party of an area. Aotea harbour is open to public use. Boats can launch there; people can use the beaches; and foreshore and marine mussel farming goes on at Aotea. But this doesn't mean that we are not the mana whenua. But it may mean that we do not receive customary title. Nearly every corner of the coastline of New Zealand has been settled and used by the public. If this disqualifies an area from customary marine title then nearly every area that is not completely remote will be found to be excluded. This is a significant limitation on Māori and their ability to protect their interests and in turn a breach of the principle of active protection.

To what extent does the MACA act recognise and provide for tino rangatiratanga and Māori interests in the takutai moana?

81. If Ngāti Te Wehi are unable to satisfy the tests set up under the MACA act, then Ngāti Te Wehi could lose their mana moana and tino rangatiratanga over Aotea. The MACA act then has potentially devastating implications for Ngāti Te Wehi.

82. The MACA act process was created solely by the Crown. It was done in a rushed process with their interests at the forefront and without sufficient consultation of Māori. In doing so they undermined the Tino Rangatiratanga and Mana Motuhake of Ngāti Te Wehi as tangata whenua and as mana moana. Similarly, the Crown alone decides whether applications for direct negotiation are successful, and in doing so undermine the Tino Rangatiratanga and Mana Motuhake of tangata moana.

To what extent, if at all, do the MACA Act and the Crown's policy and practice prejudicially affect Māori, including in relation to:

a) the statutory deadline for filing an application on or before 3 April 2017; and

83. The statutory deadline for making applications was 3 April 2017. We had no idea that there was a statutory deadline. Were it not for being notified by our counsel, we would not have filed in time and would not have been able to have our claim heard before the court.

84. The Act was only passed in 2011 so we were only given six years in order to organise and apply for claims. This is far too short of a time period to make a detailed application under this act. This is particularly important due to the nature of the act, which requires groups to consider overlapping applications and discuss these with whanaunga and neighbouring groups. We did not have time to discuss applications with the neighbouring hapu and iwi who have interests in our rohe.

85. The importance of our rights in the harbour to us cannot be overstated. The Act provides the final pathway for claimants to have any recognition of their customary interest in the

takutai moana. It should not have had such a short window to make applications. The deadline operates to exclude Māori groups from protecting their rights and interests in the takutai moana.

b) dissension caused, if any, between Māori, between the public, and between Māori and the public?

86. The MACA act creates competition and divisions amongst applicants who have overlapping interests. As I have explained, tikanga means that several iwi often share a resource such as a moana. Because of this, there are many applicants who are claiming the same areas in their applications. This has caused competition between applicant groups and has caused significant dissension between Māori groups.

87. In our case there are several claims that have overlapping interests. If groups cannot agree, the claimants must compete with each other for recognition of their interests despite the fact they may have shared the use of the moana in perfect harmony under tikanga for generations.

Dated this 10th day of August 2020,

IAN SHADROCK