

BEFORE THE FAST-TRACK EXPERT PANEL

IN THE MATTER

An application for approvals under section 42 of
the Fast-track Approvals Act 2024 (“FTAA”)

AND

IN THE MATTER

Te Ākau Bream Bay sand extraction, a project
listed in Schedule 2 to the FTAA

STATEMENT OF FISHERIES SETTLEMENT EVIDENCE OF BRANDON PATUONE NEHUA FOR
NGĀTIWAI TRUST BOARD AND PATUHARAKEKE TE IWI TRUST BOARD

26 MAY 2026

1. INTRODUCTION

- 1.1 My name is Brandon Patuone Nehua.
- 1.2 I am the Chair of Ngātiwai Holdings Limited.
- 1.3 In this Statement of Evidence, I outline the structure of the Māori Fisheries Settlement, its significance to Ngātiwai and how granting this application would be inconsistent with that settlement and would impact negatively on Ngātiwai.

2. THE FISHERIES ACT 1996

- 2.1 The Fisheries Act 1996 (“Fisheries Act”) provides a framework for the management of fisheries resources and fishing through a Quota Management System (“QMS”). A key purpose of the Fisheries Act is to ensure sustainable utilisation of fisheries resources by controlling harvest levels for different species in designated geographical areas. Those geographical areas are called Quota Management Areas (“QMAs”) and are created for each species of fish that is a “stock” under the Fisheries Act.
- 2.2 The Minister for Oceans and Fisheries must set a total allowable catch (“TAC”) for each fish stock in each QMA. Once the TAC is set, it applies for each 12-month fishing year, unless it is varied. The TAC must be set at a level that either maintains or gets a stock to or above a level that can produce maximum sustainable yield.¹ *“Maximum sustainable yield, in relation to any stock, means the greatest yield that can be achieved over time while maintaining the stock’s productive capacity, having regard to the population dynamics of the stock and any environmental factors that influence the stock”.*² The TAC is set after consulting with people with various interests in the stock or effects of fishing on the aquatic environment.³
- 2.3 Having set the TAC for a stock, the Minister then sets the total allowable commercial catch (“TACC”), after making allowance for customary (non-commercial) and recreational fishing.
- 2.4 A total of 100,000,000 quota shares is issued for each stock. Those shares then generate Annual Catch Entitlement (“ACE”), which confer a right to harvest a proportion of the TACC. Owners of quota shares may choose to harvest their own ACE or may sell that ACE to others to catch.

3. TREATY OF WAITANGI (FISHERIES CLAIMS) SETTLEMENT ACT 1992

- 3.1 I understand that Te Ohu Kaimoana will provide its own comments on this application, and expect that those comments will outline various aspects of the Fisheries Settlement. Set out below is a brief explanation to provide context for the comments I will make from a Ngātiwai perspective.

¹ Fisheries Act 1996, ss 11 and 13

² Fisheries Act 1996, s 2

³ Fisheries Act 1996, s 12

- 3.2 The QMS was introduced in October 1986 and triggered litigation from Māori, resulting in an injunction against the Crown to prevent further fish-stocks from being introduced into the QMS until the issue of Māori rights had been resolved. That ultimately led to an interim settlement reached between Māori and the Crown in 1989. That interim settlement provided for 10% of quota shares for all fisheries in the QMS to be allocated to a newly-established Māori Fisheries Commission, to hold on behalf of Māori.
- 3.3 In 1992, a final settlement of Māori fisheries claims was agreed and given effect by a Deed of Settlement and the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. Under the 1992 Fisheries Settlement, the Crown:
- Provided funds to purchase 50% of Sealord Products Ltd
 - Committed to provide Māori with 20% of the quota for all stocks brought into the QMS after that time
 - Agreed to introduce regulations to provide for management of customary (non-commercial) fishing by Māori.
- 3.4 A key role for the Māori Fisheries Commission (renamed the Treaty of Waitangi Fisheries Commission in 1992, and now Te Ohu Kaimoana) was to develop a scheme for allocating the Fisheries Settlement assets to iwi. This was a long and fraught process, in which Ngātiwai played an active part. Eventually, in 2004, the Māori Fisheries Act 2004 (“MFA”) was passed, and allocation of assets to iwi could commence.
- 3.5 Key features of the MFA include:
- Quota shares for inshore fisheries stocks would be allocated to each iwi on the basis of the percentage of coastline within the relevant QMA that iwi holds, as agreed with its neighbours.
 - Quota shares for deepwater stocks would be allocated partly on the basis of iwi coastline and partly on the basis of iwi population.
 - Shares in Aotearoa Fisheries Ltd (which trades as Moana New Zealand and also owns 50% of the shares in the Sealord group) are allocated to iwi based on their population.⁴
 - The identification of 57 iwi that would receive settlement assets, provided that they meet strict governance and mandating rules. The legal entities that represent those iwi are referred to as Mandated Iwi Organisations (“MIOs”). The Ngātiwai Trust Board is a MIO.

⁴ Under the Māori Fisheries Act 2004, these were “income shares” only, entitling holders to a share of dividends. The nature of these shares will change to ordinary shares, conveying normal entitlements to voting rights and dividends when the Māori Fisheries Amendment Act 2024 comes into force in July 2026.

4. The Ngātiwai Trust Board and Ngātiwai Holdings Limited

- 4.1 Ngātiwai has used a trust structure to represent its interests since the 1940s. The current Trust Board was established in 1984 and was recognized as a MIO in late 2006. The Ngātiwai Trust Board has 14 Trustees (although some positions are currently vacant), elected by the 14 coastal marae communities of Ngātiwai, including Takahīwai. The Fisheries Settlement assets held by the Trust Board are held on behalf of the members of all Ngātiwai hapū, including Patuharakeke, wherever they reside. Patuharakeke therefore have the same interests in the Settlement as Ngātiwai.
- 4.2 Ngātiwai Holdings Limited was established as a wholly-owned subsidiary of the Trust Board in November 2006 to act as its Asset Holding Company (“AHC”) in terms of the MFA. As an AHC, Ngātiwai Holdings Limited holds Fisheries Settlement assets in the form of quota and shares in Aotearoa Fisheries Limited, namely:
- Aotearoa Fisheries Limited shares valued at \$0.97M
 - Settlement quota valued at \$7.5M.
- 4.3 In addition, Ngātiwai Holdings Limited holds non-settlement quota (i.e. quota purchased privately) valued at \$4.36M, and commercial property assets valued at approximately \$9.3M.⁵ It is important to note that these assets also, to some extent, flow from the fisheries settlement, as income derived from settlement assets has supported investment by Ngātiwai over the years.
- 4.4 In terms of settlement quota, we do not operate fishing vessels to catch this ourselves, but sell it to long-term partners who can maximise our returns and offer other benefits such as supporting Ngātiwai fishers.
- 4.5 Ngātiwai has not yet reached its own settlement of Treaty of Waitangi claims with the Crown. For many years, therefore, Fisheries Settlement assets have been an important source of income for the Trust Board; although those assets weren’t allocated to us until 2006, ACE from settlement quota held by Te Ohu (and its predecessors) was provided to Ngātiwai and other iwi from the late 1980s, so the Trust Board has derived income from those assets for several decades.
- 4.6 Iwi assets and income from them are not simply a matter of accumulation or balance sheets for Ngātiwai and other iwi. These provide the resources that the Trust Board uses to support scholarships and sponsorships, work on environmental projects and the development of iwi members in other ways.
- 4.7 Protection of the value of our fisheries settlement assets is of critical significance to us, both because of the important role those assets play in supporting iwi development and aspirations and – as a matter of principle – because it is essential that the integrity of the fisheries settlement be preserved and not be progressively

⁵ All values are at cost/book value as recorded in our annual report for the year ended 31 March 2025. That report also notes that an independent market valuation of the combined settlement/non-settlement quota package at that date put it at \$30.6M.

undermined by the cumulative effects of decisions taken outside of the QMS framework outlined above.

5. APPLICATION INCONSISTENT WITH FISHERIES SETTLEMENT

5.1 I believe that granting this application would be inconsistent with the fisheries settlement in three important respects:

- It would reduce or remove access to some fishing grounds.
- It would undermine customary fisheries management practices, including the gazetted rohe moana and legal rāhui that is in place over scallop beds on Marsden and Mair Banks.⁶
- It would potentially have adverse effects on fisheries and ecosystems well beyond the mining area.

5.2 The extent and scale of these effects may be contested, but the inconsistency with the fisheries settlement – as a matter of principle – cannot. Treaty settlements are supposed to be permanent, not to be devalued or undermined by later decisions taken in a manner not contemplated at the time of the settlement. That is the case here.

5.3 It is important to note that not every decision or Crown action that detrimentally impacts on settlement entitlements will automatically be inconsistent with that settlement. As I described above, TACs can change from year to year and that impacts on the value of settlement quota, but that process was contemplated in the fisheries settlement. Approving seabed mining through a process unconnected to the Fisheries Act was not.

Name

Brandon Nehua

⁶ Put in place under s186A of the Fisheries Act at the request of tangata whenua.