

## Project

### A. TITLE OF PROJECT

Whaia te Mana Māori Whakahaere Tōtika ki Tangaroa – In Pursuit of Māori Governance Jurisdiction Models over Marine Resources

### B. IDENTIFICATION

**Project Leader:** Dr Robert Joseph (Ngāti Maniapoto, Ngāti Raukawa, Ngāi Tahu, Kahungunu, Rangitāne), Te Mata Hautū Taketake – the Māori and Indigenous Governance Centre (“MIGC”), Te Piringa – Faculty of Law, University of Waikato, Private Bag 3105 Hamilton 3240

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#### Investigators

Professor Jacinta Ruru (Ngāti Raukawa, Ngāti Maniapoto, Ngāti Ranginui), Ngā Pae o te Māramatanga (“Ngā Pae”) and Faculty of Law, Otago University,

Dr Tom Roa (Ngāti Maniapoto, Waikato), Faculty of Māori and Indigenous Studies; and Waikato University,

Dr Michael Ross (Ngāti Haua), Te Kawa a Maui – School of Māori Studies and Law Reader Catherine Iorns-Magallanes, Faculty of Law, Victoria University,

Ms Sascha McMeeking, (Ngāi Tahu), Aotahi: School of Māori and Indigenous Studies, Canterbury University,

Mr Jonathan Kilgour, (Ngāti Rereahu, Maniapoto and Nga Rauru), Waikato-Tainui College for Research and Development, Ms Mylene Rakena (Ngāti Kahungunu, Ngapuhi) MIGC,

PhD student Ms Adrienne Paul (Ngāti Awa),

MIGC, Waikato University and student researchers: Mary Jones (Ngāti Tama, Ngāti Rarua, Te Ati Awa, Ngāti Kahungunu, Ngāi Tahu), Hemi Arthur (Ngāti Toarangatira and Ngāti Koata), and Apirana Daymond (Ngāti Mutunga (Chatham Islands) and Ngāti Porou).

#### Advisory Assistance

Professors Linda Tuhiwai Smith, Barry Barton, Al Gillespie, Pou Temara and Trevor Daya-Winterbottom

Te Rōpu Manukura, Kaitiaki of the Treaty of Waitangi for the University of Waikato.

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### C. ABSTRACT

Te Mata Hautū Taketake – the Māori and Indigenous Governance Centre (MIGC) at the University of Waikato - in collaboration with other institutions and Te Tau Ihu Māori groups in the Tasman Golden Bay area - will co-develop and co-produce cutting edge research on 21<sup>st</sup> century Māori governance jurisdiction models, frameworks and best practices to support an ecosystem based management (EBM) approach to our marine resources that works within cultural, environmental, economic and biological constraints. The project will explore and develop innovative governance tools while at the same time enhancing the partnership and leadership relationships between Māori, the Government and industry. The successful inclusion of Māori and other Indigenous communities in an EBM approach to governing and managing marine resources will be world leading as well as enabling strong management and responsible development of our marine resources.

## D. INTRODUCTION

In the second decade of the new millennium and as we approach the 10<sup>th</sup> anniversary of the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP), Indigenous rights and responsibilities enjoy nearly universal rhetorical support, but *how* they are to be implemented in practice remains contested.<sup>1</sup> Under the direction of Dr Robert Joseph and in collaboration with other institutions and Te Tau Ihu Māori groups, Te Mata Hautū Taketake - the Māori and Indigenous Governance Centre (MIGC) at the University of Waikato will co-develop and co-produce cutting-edge research on 21<sup>st</sup> century Māori governance jurisdiction models and best practices that enhance the utilisation of our marine resources within cultural, environmental, economic and biological constraints<sup>2</sup> as envisaged in the Treaty of Waitangi and UNDRIP.<sup>3</sup> The project will explore these innovative Māori governance tools that enhance the partnership and leadership relationships between Māori, Government and industry in the Tasman Golden Bay case study area. We will develop a framework for EBM with embedded cultural, environmental and economic factors that will also be customisable for other parts of Aotearoa New Zealand (NZ) and will have relevance internationally.

The objective of the Sustainable Seas *Ko ngā moana whakauka* National Science Challenge (“the Challenge”) is to enhance the utilisation of our marine resources within environmental and biological constraints.<sup>4</sup> The proposed research will support the Challenge’s focus on the development of an EBM approach<sup>5</sup> to “promote both sustainable use and conservation in an equitable way (p. 12).”<sup>6</sup> In particular, we will “work collaboratively with Māori and a wide range of stakeholders to develop and trial processes, frameworks and tools to support an EBM approach to managing our marine estate in a holistic way” and to “provide processes, frameworks and tools that resource managers can use in an EBM approach to managing increased utilisation of our marine estate (p. 9).”

our marine resources which will in turn increase the potential for utilisation of our marine resources, will recognise the full array of interactions within an ecosystem including human interaction, and to achieve these outcomes, the 2015 National Science Challenge Research and Business Plan (“the Research and Business Plan”) seeks to, inter alia:

- work collaboratively with Māori and a wide range of stakeholders to develop and trial processes, frameworks and tools to support an EBM approach to managing our marine estate in a holistic way; and
- provide processes, frameworks and tools that resource managers can use in an EBM approach to managing increased utilisation of our marine estate.<sup>7</sup>

There is an urgent need then for a paradigm shift in the way New Zealanders view, govern and manage our marine estate if we are to achieve an appropriate balance between enhanced use of our marine resources and good environmental stewardship, while meeting the aspirations and rights of society, including Māori society.<sup>8</sup> This paradigm shift will need to merge policy, planning, regulation, science and mātauranga and tikanga Māori<sup>9</sup> with societal collaboration,<sup>10</sup> as well as to accommodate the plethora of national and international agreements,<sup>11</sup> and relevant legislation and governance and management agencies responsible for our coasts and ocean.<sup>12</sup>

This project will identify and develop innovatively improved pathways for Māori governance jurisdiction over marine resources to empower Māori to operate and participate as Māori, and as leaders and partners in marine management and decision making. Our MIGC researchers will moreover, collaborate with the 4 iwi and hapū groups in the Tasman Golden Bay case study area, as well as with key Government and industry stakeholders to develop these innovative EBM and cultural approaches for improved Māori partnership and participation in marine governance, management and decision making.

## E. AIM OF THE RESEARCH AND RELEVANCE TO OBJECTIVE

The aim of this project is to facilitate the EBM of Aotearoa New Zealand’s (NZ) marine resources by exploring and including appropriate Māori governance jurisdiction models, processes, frameworks and tools that can be used to govern and manage our marine resources more effectively and in partnership with Māori, the NZ Government,

industry, and other stakeholders. This aim aligns with the objective of the Sustainable Seas Challenge by researching how we can better conceptualize Māori governance roles, rights and responsibilities in NZ over marine resources in new, creative and innovative ways that fully respect the Treaty of Waitangi, UNDRIP and Māori aboriginal rights and responsibilities, and that innovatively improve collaborative EBM relationships with the Government and other key stakeholders.

Cutting-edge Māori governance jurisdiction research will be undertaken in direct partnership with Te Tau Ihu hapū, iwi and Māori entities (and with some other Indigenous groups and stakeholders) through a Kaupapa Māori co-development and co-production model that enables enduring relationships between our MIGC team and our Māori (and Indigenous), Government and industry groups to help develop and enhance effective Māori governance jurisdiction models over our marine resources as envisaged in Treaty of Waitangi and UNDRIP within Phase 1 of the National Science Challenge to 2019.

## F. PROPOSED RESEARCH

Māori governance jurisdiction describes the right and responsibility of Māori to govern themselves, to make decisions for the future, and to exercise a full range of political and legal power and authority over their people, land, and resources<sup>13</sup> including marine resources.<sup>14</sup> Māori communities could and should have governance jurisdiction to make laws governing certain areas within their communities.<sup>15</sup> Examples of current Māori governance jurisdiction models that Māori tribes could exercise include determining citizenship or membership of their respective community, passing laws regulating domestic affairs, property use, natural resource regulations and commercial activity. Some specific current examples include s 33, Resource Management Act 1991 (RMA) delegation of jurisdiction authority to Iwi Authorities over environmental resources, some current co-management and co-governance agreements, and if Māori coastal groups can successfully effect Customary Marine Title under s. 57, Coastal Marine Area (Takutai Moana) Act 2011.

Māori governance jurisdiction also includes the right and responsibility of Māori communities to keep order within their territories and to resolve disputes between their citizens which should include some type of adjudicatory power to resolve disputes within the community, and could include both criminal actions and civil disputes over marine resources. Regulatory jurisdiction authority includes the regulation of health and safety standards, customary rights such as to customary fishing and collecting of traditional medicines, zoning and environmental hazards.

Territorial jurisdiction includes the authority to enact laws and regulations that apply solely within a specified territory. It is authority exercisable over a specific geographical area such as the traditional rohe of a Māori whānau, hapū or iwi. Personal jurisdiction includes the authority to pass laws in relation to particular persons due to characteristics of those persons e.g. Iwi members 'poaching' undersized kai moana, and is exercisable over a particular people whether they are physically present in that tribe's rohe or not. Subject matter jurisdiction includes authority to pass laws on specified subjects but not others e.g. customary fishing rights and customary marine title.

Jurisdiction can also be either exclusive or concurrent: Exclusive jurisdictional authority is exercised by one Government, which, in Canada, can be an Aboriginal Government, Provincial or Federal Government while in the USA, it is either Tribal, State or Federal Government. In New Zealand, this would be Local and Regional Councils as well as National Government and Māori Tribal Authorities. Concurrent jurisdiction is shared and can be exercised by two or more Governments, be they Māori, Indigenous, Local, Regional, Provincial/State or Federal over the same geo-political space.

This research project will explore the historic and contemporary, inherent and delegated, exclusive and concurrent, adjudicatory and regulatory, legal (de jure) and factual (de facto) jurisdiction case studies of Māori governance jurisdiction and jurisprudence within the Te Tau Ihu area (and more broadly where relevant) as well as the effects of this jurisdiction on positive outcomes including balanced cultural, environmental, economic and biological constraints, as well as the development of EBM over marine resources.

MIGC will explore these themes through four case studies in the Te Tau Ihu case study area and by carrying out an extensive comparative analysis<sup>16</sup> of Māori and Indigenous governance jurisdiction models and best practices in the USA,<sup>17</sup> Canada,<sup>18</sup> Australia and NZ.<sup>19</sup> MIGC will also analyse Māori governance jurisdiction theory, conventions, legislation, case law, structures, policies and processes through a number of relevant overseas examples and the four local case studies.

A key question this research project asks is how much scope is there for more Māori adjudicatory and regulatory jurisdiction in 21<sup>st</sup> century NZ over marine resources as envisaged in the Treaty of Waitangi and UNDRIP, especially in light of the recent Kermadec Islands debacle, recent co-governance models<sup>20</sup> including over Te Oneroa-a-Tōhē (Ninety Mile Beach in the Far North), and the probability of some Māori groups gaining Customary Marine Title under the Coastal Marine Area (Takutai Moana) Act 2011?

We will undertake case study and comparative research through a Kaupapa Māori<sup>21</sup> co-development and co-production model that explores innovative Māori (and Indigenous) governance jurisdiction models and best practices that enhance the utilisation by identifying and developing current and innovatively improved Māori governance jurisdiction and jurisprudence models and pathways for Māori to operate and participate as Māori, and as leaders and partners in marine governance, management and decision making. MIGC will explore possible ways forward by focusing on:

- 1) Identifying what are the current de jure (legal) and de facto (factual) Māori governance jurisdiction and jurisprudence models<sup>22</sup> and best practices over our marine resources particularly over the four case studies in the Te Tau Ihu area, and
- 2) Identifying and developing other innovatively improved Māori and Indigenous governance jurisdiction and jurisprudence models and pathways in NZ, Australia and North America that enhance and strengthen the Te Tau Ihu Māori partnership with Government and key industry stakeholders over the marine governance, management and decision making of that area.

The overall vision of this research project is to assist with driving the transformation of NZ's marine economy through greater Māori and societal participation in marine governance and management within EBM frameworks to appropriately balance the aspirations, rights and responsibilities of Māori, communities and industry, and to build NZ's reputation as a world leader in the use and stewardship of our marine estate.

Once Māori and other Indigenous groups have governance jurisdiction in law over marine resources, they also need to exercise the right and responsibility effectively in fact through, inter alia, integrating cultural match,<sup>23</sup> good Indigenous governance principles,<sup>24</sup> human rights and the rule of law which require delicate balancing.

In terms of the potential research of this project for Phase 2 of the Challenge, the focus on exploring useful Māori and Indigenous governance jurisdiction models and frameworks over marine resources and how to implement them effectively in practice through integrated good Māori and mainstream laws and governance principles will contribute specifically to marine-based sectors, systems and groups of Māori society within the Te Tau Ihu area and more broadly to thriving culturally and economically. Indeed, the project will assist Māori groups to contribute efficaciously to the good governance, decision making and management over their respective marine areas of interest in a positive and proactive way towards the enhanced utilisation of marine resources where their operations are underpinned by mātauranga and tikanga Māori and are complimented by EBM to ensure environmental and biological constraints are protected. In effect, the research project will contribute significantly in Phase 2 of the Challenge to establishing viable solutions and options for innovatively improved partnership and leadership based Māori participation, along with Government, the community and industry, in marine governance, management and decision making as envisaged in the Treaty of Waitangi 1840 and UNDRIP 2007.

## G. ROLES, RESOURCES

Appropriate resources will be allocated to each of the MIGC project investigators commensurate with specified tasks as well as respective investigator expertise and experience which is noted in the proposed budget below. Some of the preliminary specific roles of researchers include:

1. Dr Robert Joseph, MIGC – project leader, networking, research and writing on Māori governance jurisdiction and jurisprudence models and frameworks, exploring Australian and North American Indigenous governance jurisdiction models.
2. Professor Jacinta Ruru, Otago University – advisory and networking, research and writing on Indigenous governance and jurisprudence, comparative analyses.
3. Dr Tom Roa, Waikato University – Kaumātua, advisory and networking, research and writing on Māori governance and jurisdiction, mātauranga, tikanga and te reo.
4. Dr Michael Ross, Victoria University – networking, research and writing on Māori governance jurisdiction models, mātauranga, te reo and tikanga.
5. Ms Sascha McMeeking, Canterbury University - networking, research and writing on Māori governance jurisdiction models, jurisprudence, Ngāi Tahu governance jurisdiction, mātauranga, tikanga and te reo, North American models.
6. Mr Jonathan Kilgour, Waikato-Tainui College for Research and Development – networking, lead researcher on Māori and Indigenous governance jurisdiction models.
7. Ms Mylene Rakena, MIGC – administration, networking, research and writing on Māori governance jurisdiction.
8. Ms Adrienne Paul, MIGC - PhD student Dissertation on the Rena Disaster and Māori governance jurisdiction options.
9. Mr Apirana Daymond – networking, student research assistant – Master Dissertation on ‘Rāhui over Marine Areas and Jurisdiction.’
10. Ms Mary Jones, MIGC – networking, student research assistant.
11. Mr Hemi Arthur, MIGC – networking, student research assistant.

### **Advisory Assistance**

MIGC, University of Waikato (UOW) Advisory assistance – Professor Linda Tuhiwai Smith, Professor Barry Barton, Professor Al Gillespie, Professor Pou Temara and Trevor Daya-Winterbottom. MIGC will also report on this research project to Te Rōpu Manukura, the official Māori committee that works in partnership with the University Council for the University of Waikato as Kaitiaki of the Treaty of Waitangi to meet the tertiary needs and aspirations of Māori communities.

Te Rōpu Manukura is currently made up members from over 20 different iwi within the catchment area of Waikato University from Hauraki to Ngāti Kahungunu; Ngāti Ranginui to Ngāti Porou, Te Arawa to Tuwharetoa; Waikato-Tainui to Whakatohea. Given the diverse representation of these iwi, MIGC believes they are an appropriate committee to report to on this research project in terms of advisory assistance at each of their quarterly meetings at Waikato University.

Te Rōpu Manukura, Kaitiaki of the Treaty of Waitangi for the University of Waikato.  
(<https://www.waikato.ac.nz/manukura/>)

## H. LINKAGES AND DEPENDENCIES

The research project has important linkages across a number of the other Challenge projects. The Tangaroa Project 3.3.1 and the broader Tangaroa project Theme 3.1: Kaitiakitanga in our marine environment, Theme 3.2: Kaitiakitanga and economic development, and Theme 3.3: Bridging the lore and law dynamic all align with the

current research project proposal on Māori governance jurisdiction models over marine resources particularly around the exercise of kaitiakitanga jurisdiction and more general mātauranga and tikanga Māori in law and fact. Our MIGC team will need to collaborate closely with these project teams particularly for inputs regarding:

- Accessible mātauranga and tikanga, particularly kaitiakitanga and its associated tikanga concepts, relating to the inshore and offshore marine areas to support more informed environmental management and use;<sup>25</sup>
- EBM solutions and practical support for case study iwi, hapū and whānau that supports flax roots kaitiakitanga;
- Assessments of the quantitative value of the Māori marine economy;
- A consolidated database and assessment report of the legal provisions of specific relevance to Māori in the marine environment and their relationship to the application of mātauranga and tikanga Māori law;

Conversely, the outputs of our MIGC Māori governance jurisdiction project will contribute to the 3.3.1 Kaitiaki project by providing:

- EBM solutions and practical support for case study iwi, hapū and whānau that supports flax roots kaitiakitanga;
- Information, resources and tools relevant to marine management and blue economy initiatives tailored specifically for iwi, hapū and whānau;
- Innovative marine management and decision making frameworks that enhance the partnership and leadership between Government, Māori and industry.<sup>26</sup>

In addition, our MIGC research project proposal aligns with other Sustainable Seas Challenge projects including the *Our Seas* projects 1.1.1: 'Reviewing existing Māori and stakeholder engagement in marine science and marine governance participatory processes,' and 1.1.2: 'Determining a suite of participatory processes for application in multi-use environments.' Our MIGC team will need to collaborate closely with these project teams particularly for inputs regarding:

- Social, cultural and economic indicators that build social licence are compiled and used in developing information requirements for marine resource management;
- Insights into how different sectors in society perceive and use science in decision making and how science can be used to inform the decision-making processes;<sup>27</sup>
- Participatory frameworks evaluated, revised and utilised in additional case study areas, fostering effective collaboration in the co-development of marine resource management;
- New techniques developed to effectively engage society in exploration of marine futures, options and choices that support paths to economic growth, sustainability and resilience;
- Social licence indicators trialled in decision-making processes in the focal region;
- Commonalities, critical issues in context, and unifying principles for navigating sustainable pathways for marine socio-ecological systems identified;
- Understanding of connections across multiple dimensions in socio-ecological systems used to inform the development of innovative EBM processes.<sup>28</sup>

Conversely, the outputs of our MIGC Māori governance jurisdiction project will be of value to the *Our Seas* projects 1.1.1 and 1.1.2 by contributing to:

- A database of national and international participatory processes, highlighting key attributes that are associated with success in enhancing marine management and decision-making;
- A new participatory framework developed and trialled in one case study area;
- Participatory frameworks evaluated, revised and utilised in additional case study areas, fostering effective collaboration in the co-development of marine resource management;
- New techniques developed to effectively engage society in exploration of marine futures, options and choices that support paths to economic growth, sustainability and resilience;
- Commonalities, critical issues in context, and unifying principles for navigating sustainable pathways for marine socio-ecological systems identified; and

- Understanding of connections across multiple dimensions in socio-ecological systems used to inform the development of innovative EBM processes.<sup>29</sup>

Consequently, our MIGC research team will liaise with and collaborate very closely with these Challenge project research teams.

## I. COLLABORATIONS

### National Collaborations

Our MIGC research team already has strong national networks (including through whakapapa links) to encourage local and national collaborations including with the Tasman Golden Bay case study tribes – Ngāti Rarua, Ngāti Tama, Te Ati Awa and Ngāti Koata, and more broadly within the Challenge focal area, and around the rest of the country. Our research team members with whakapapa links to the Te Tau Ihu and the wider Challenge focal area include Hemi Arthur (Ngāti Koata te Ati Awa and Ngāti Toarangatira), Mary Jones (Ngāti Rarua, Ngāti Tama and Te Ati Awa) and Apirana Daymond (Ngāti Mutunga); Dr Joseph (Ngāti Raukawa ki te Tonga, Ngāti Kahungunu ki Wairarapa and Ngāi Tahu), Sascha McMeeking (Ngāi Tahu), Dr Tom Roa (Ngāti Maniapoto) and Jonathan Kilgour (Ngāti Maniapoto and Rereahu). Whakapapa and good relationships will assist our MIGC research team to collaborate locally in Te Tau Ihu and nationally on this project.

MIGC is already collaborating with a number of tribal groups and Māori organisations on other projects that include Ngāti Maniapoto, Waikato-Tainui, Ngāti Toarangatira, Ngāti Pikiao, Ngapuhi, Ngāti Tuwharetoa as well as a number of Māori land trusts and incorporations as well as our direct access to tribal leaders in Te Rōpu Manukura.

Other MIGC researchers for this project moreover have strong networks with the New Zealand Māori Council, Te Runanga o Ngāi Tahu, Wakatu Inc., Te Ohu Kaimoana, the Ngāti Toarangatira Trust, Tiakina Te Taiao Ltd and the Iwi Leaders Forum.

### International Collaborations

In terms of important international collaborations, our MIGC research team members have strong international networks, inter alia, in the Pacific, Australia, Canada and the USA as noted in section J below. Our MIGC research team therefore has some very strong national and international collaborations to carry out this research project effectively.

## J. INTERNATIONAL LINKAGES

Depending on budgets, MIGC will collaborate with a number of these relevant international research programmes, institutions and key informants in Canada, USA and Australia to carry out the project. To this end, MIGC researchers will engage with relevant academic institutions, key informants and Indigenous groups with Indigenous governance jurisdiction models and framework experience who are enhancing the utilisation of the marine resources within cultural, environmental, economic and biological constraints to realise the value, increase use, and to maintain the ecosystem health of their oceanic and coastal assets as envisaged in UNDRIP. Such groups and institutions in Canada include the National Centre for First Nations Governance (Vancouver), Centre for Indigenous Governance at the University of Victoria on Vancouver Island, Haida Gwaii on Queen Charlotte Island, the Squamish, Tswawassen, Sechelt, Yale, Tla'amin, Nisga'a First Nations and others in BC; the Native Law Centre at the University of Saskatchewan; Mamawipawin Indigenous Governance and Community Based Research Space, University of Manitoba; the Institute of Governance in Ottawa, the Inuvialuit and Sahtu

Dene groups in the Northwest Territories, the Grand Council of the James Bay Cree in Quebec, and the Inuvialuit, Gwich'in and Nunavut Government groups as well as the Labrador Nunatsiavut Assembly.

Key Indigenous researchers in Canada include, inter alia, Professor Brad Morse, Thompson River Law School, Professors John Borrows, Jeff Corntassel, James Tully and Gerald Taiaiake Alfred, University of Victoria, Chris Turner, University of Northern B.C, Associate Professor Sheryl Lightfoot, First Nations and Indigenous Studies, University of British Columbia, Professors James Sákéj Youngblood Henderson and Ruth Thompson, University of Saskatchewan; Professor Kierra Lardner and Brenda Gunn, University of Manitoba; Professor David MacDonald, University of Guelph, and others at the Universities of Alberta, Ottawa, Guelph, Toronto, and the First Nations Information and Governance Centre, Ottawa.

Similar groups, institutions and key individuals in the USA include Professor Robert Williams, James E Rogers College of Law, University of Arizona, Professors Steven Cornell, Joe Kalt and Miriam Jorgensen at the Harvard Project on American Indian Economic Development at Harvard University and the University of Arizona, the Native Nations Institute also at the University of Arizona, Professor James Anaya, University of Colorado, the Native American and Indigenous Studies Association (NAISA), National Congress of American Indians, and Alaska Native Indigenous rights organisations and key informants such as Associate Professor Dr Dalee Dorough, University of Alaska, and groups in Hawaii such as Indigenous law experts Professors Melanie McKenzie & Kapua Sproat, Indigenous Politics, William S. Richardson Law School, at the Universities of Hawaii and others at BYU in Utah, as well as in California, Oregon, Washington State and the New England States including the Mashantucket Pequot in Connecticut.

Similar Indigenous experts in Australia include Professor Mick Dodson, National Centre for Indigenous Studies, Centre for Aboriginal Economic Policy Research (CAEPR), the Australian Indigenous Governance Institute and the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) at the Australian National University (ANU) in Canberra; Melissa Castan, Castan Centre for Human Rights Law, Monash University, Les Maelzer, National Congress of Australia's First Peoples, and Professor Megan Davis, the Indigenous Law Centre at the University of New South Wales, Professor Noel Pearson, Cape York Institute, Northern Queensland, Professor Margaret Stephenson, University of Queensland, and the Aboriginal Governance and Management Program, Alice Springs Professor Giselle Byrnes, Pro Vice-Chancellor, Faculties of Law, Education, Business and Arts, Charles Darwin University, and the Australian Indigenous Governance Institute in Sydney.

A number of members in our MIGC research team have strong international linkages to the above institutions and groups that are relevant to this project. Professor Jacinta Ruru has very extensive international linkages in North America and Australia that will contribute to the success of this research project. Dr Ruru was a Fulbright Māori scholar in 2012 and completed her PhD at the University of Victoria in BC, Canada. Ms Sascha McMeeking also has strong international linkages including as a Fulbright-Harkness New Zealand Fellowship recipient which included some research in North America and Australia where she developed tradition based values commercial decision making tools for Iwi and Māori. Dr Tom Roa also has strong linkages with Indigenous peoples in Hawaii having visited there a number of times. Ms Cathy Iorns and Jonathan Kilgour have both worked extensively on Indigenous projects in North America and Australia in the past and therefore have established firm international linkages that will contribute to the success of this research project.

In addition, Dr Joseph has established some strong international linkages to research programmes in North America and Australia that will contribute to, and we can leverage against, this research project. Dr Joseph secured a Fulbright Study Award to the value of \$20,000 in the USA to assist with carrying out parts of this research project exploring some of the comparative Indigenous governance jurisdiction models in North America from July-November 2017. Dr Joseph is being hosted by the Harvard Project on American Indian Economic Development, the Native Nations Institute and the James E. Rogers College of Law at the University of Arizona as well as the Harvard University Native American Programme at Harvard University in Boston. Dr Joseph will also be visiting with a number of Indigenous groups around North America as part of his Fulbright research award including Indigenous groups with interests in marine resources.

Dr Joseph has already been invited to present and will be delivering addresses and workshops at a number of important conferences and symposia in New Zealand, Australia and North America that will provide additional

linkages to international research programmes and will contribute to the success of this research project should it be funded. One conference in New Zealand was the He Manawa Whenua Indigenous Research Conference, 'Mana Motuhake – Indigenous Sovereignty' in Hamilton from 6-8 March 2017 which Dr Joseph and Dr Tom Roa presented at on this kaupapa. Another conference in Australia, which Dr Joseph, Mylene Rakena and Sascha McMeeking have been invited to present at, is the Common Roots, Common Futures 2 Conference: 'Governing for Self-Determined Development: Sharing Stories and Strategies for Success: An International Indigenous Conversation' in Brisbane from 27-30 March 2017.

Two further important conferences Dr Joseph has been invited to present at is the foremost legal gathering of Native American Law and Cultural issues symposium in the USA: 'The Sovereignty Symposium' at the Skirvin Hotel, Oklahoma City, Oklahoma from 7-8 June 2017; and the International Inter-Tribal Trade Symposium: 'Global Tribal Trade Mission and Symposium' at the University of Oklahoma College of Law, Norman, Oklahoma, 4-6 June 2017. Dr Joseph is steadily receiving additional invitations to workshops, symposia and conferences in North America as part of his pending Fulbright research trip that align with the objectives of this research project.

Our MIGC research team members therefore have very strong international networks and linkages to carry out this research project effectively and from which we may be able to leverage against.

## K. ALIGNED FUNDING AND CO-FUNDING

In addition to the Fulbright Research Award for \$20,000 noted above, MIGC has already secured additional funding that aligns with the project proposal. \$240,000 has been secured over 2 years for aligned aspects of this research project from Ngā Pae o te Māramatanga as part of the MIGC Whai Rawa Research Project from 2017-2019 which focuses on exploring Māori self-determination and self-governance models for wealth and well-being which includes exploring credible and relevant Māori and Indigenous governance jurisdiction models.

MIGC has also secured another funding contract for \$224,000 from the Sustainable Seas Challenge for the Tangaroa Project 3.3.1, 'Bridging the lore and law dynamic', which, as noted above, explores Indigenous Māori knowledge – mātauranga and tikanga Māori law – over marine resources and will focus on the positive and negative impacts of policy and legislation to the ability of Māori to apply their own mātauranga and tikanga Māori in the sustainable management of marine areas and resources.

MIGC is also seeking additional funding for complementary research from relevant National and Local Government Departments such as Te Puni Kokiri, the Office of Treaty Settlements, the Ministry for the Environment, Ministry for Primary Industries, Ministry for Social Development and Local and regional Councils, and through the Law Foundation, and some Māori and iwi organisations such as Te Ohu Kai Moana Trust and Waikato-Tainui Te Kauhanganui Inc.

In-kind co-funding will be provided by MIGC, Te Piringa and the Faculty of Māori and Indigenous Studies at the University of Waikato through the provision of advisory expertise, including korero with Te Rōpu Manukura, and manaaki assistance to support and carry out the project.

## L. VISION MĀTAURANGA (VM)

Research, science and technology is about knowledge creation and application activities that address the needs and challenges of our nation. The Whaia te Mana Māori Whakahaere Tōtika ki Tangaroa research project provides a great opportunity for Māori communities to make distinctive contributions to research, science and technology which lies in the innovation potential of Māori governance jurisdiction by co-developing and co-producing cutting edge effective research on 21<sup>st</sup> century Māori governance jurisdiction models, frameworks and best practices that develop and enhance an EBM approach to our marine resources and that enhance the partnership and leadership relationships between Māori, the Government and industry.

Vision mātauranga is about unlocking the innovation potential of tikanga and mātauranga Māori, resources and people to assist New Zealanders to create a better future. Māori communities possessed and continue to possess amazing creativity and innovation potential. One of their great strengths after European contact was their ability to adapt and innovate utilising historic and traditional as well as contemporary and future focused tikanga and mātauranga Māori. Tikanga and mātauranga Māori were not static and unchanging. While the principles and values are deeply embedded and enduring, they are always interpreted, differentially weighted and applied in practice in relation to particular contexts, giving ample scope for choice, flexibility and innovation. If anything can be identified as originating in and handed down from the pre-European Māori ancestors unchanged, it is not any particular social form, such as iwi, hapū, or whānau, or particular practices, such as a set type of Māori governance jurisdiction that includes mātauranga and tikanga Māori such as mana whakahaere tōtika (good governance), te mahi tahi (collaboration), whānaungatanga (inclusion) and kaitiakitanga (stewardship) but the principle of creative adaptation itself. Indeed, the New Zealand Law Commission noted that:

The culture of the people is not limited to historic conceptions. A credible [Māori governance jurisdiction] structure is one that conforms to the peoples' current understanding of themselves as a tribe or general Māori community, of where they have been as a people, of who they are now and where they seek to be.<sup>30</sup>

A dynamic society will evolve as it encounters other societies and other knowledge systems and there will also be ongoing maintenance of the customary traditional values and their relevance. Da Cunha's observations are germane in this respect:

Culture is production and not a product, we must be attentive in order to not be deceived; what we must guarantee for the future generations is not the preservation of cultural products, but the preservation of the capacity for cultural production.<sup>31</sup>

As in the past, Māori have survived dramatic changes of colonisation, urbanisation and now globalisation, individually and collectively, by deploying their capacity for adaptation; on the one hand modifying traditional forms (including Māori governance jurisdiction forms) to serve new functions (including EBM over marine resources) and on the other creatively adapting introduced forms to their own ends, transforming both in the process. Māori should however, be controlling or at the very least be involved in the processes of cultural change and adaptation including Māori governance jurisdiction models and frameworks over the marine area, rather than being controlled by Government policy, corporate aspirations and legislation hence the importance of the Whaia te Mana Māori Whakahaere Tōtika ki Tangaroa research project and its relevance to Vision Mātauranga.

The obvious Vision Mātauranga theme that the Whaia te Mana Māori Whakahaere Tōtika ki Tangaroa research project comes under is "Taiao: Achieving Environmental Sustainability through Iwi and Hapū relationships with land and sea." Whaia te Mana Māori Whakahaere Tōtika ki Tangaroa is about Māori and non-Māori aspiring to live in sustainable communities dwelling in healthy marine and coastal area environments that develop and enhance an EBM approach to our marine resources within cultural, environmental, economic and biological constraints and that enhance the partnership and leadership relationships between Māori, the Government and industry. Distinctive environmental research arising in Māori communities relates to the expression of iwi and hapū governance jurisdiction, tikanga and mātauranga knowledge, culture and experience over the marine area such as through rāhui, kaitiakitanga, mana whenua, mana moana, and matāwhanga in the sustainable use and restoration of the marine environment.<sup>32</sup> We will identify these Māori governance jurisdiction concepts 'in practice' through approaches that are based on tikanga, whakapapa and 'place based' values and perspectives which will unlock the science and innovation potential of Māori governance jurisdiction tikanga and mātauranga knowledge, frameworks and practices over the marine area which should lead to building synergistic environmental sustainability by combining the best governance jurisdiction models and frameworks of both founding cultures – Māori and New Zealand European - including governance philosophies, values, laws and institutions.

The other key Vision Mātauranga theme that the Whaia te Mana Māori Whakahaere Tōtika ki Tangaroa research project comes under is "Indigenous Innovation: Contributing to economic growth through distinctive research and development." As noted above, Whaia te Mana Māori Whakahaere Tōtika ki Tangaroa is about co-producing Māori governance jurisdiction models and best practices that develop an EBM approach to our marine resources and that enhance the partnership and leadership relationships between Māori, the Government and industry. The Vision Mātauranga Indigenous Innovation theme is concerned with the distinctive contribution that

Māori knowledge, people and resources might make to the economy, in particular, the discovery of distinctive Māori governance jurisdiction processes, systems and services that will arise from the innovation potential of exploring robust past, contemporary and future focused Māori and Indigenous governance jurisdiction processes, systems and resources over marine resources that will contribute to a cultural, environmental, economic and biological balance of interests in marine resources. Effective Māori governance jurisdiction coupled with appropriate Government and key stakeholder and sector participation, will help to improve business performance and hence, enhanced economic growth.

As noted above, our MIGC research team are acknowledged experts in their respective fields which include, inter alia, Māori, Indigenous and mainstream law and governance, environmental issues including over waterways and marine resources, mātauranga, tikanga and te reo Māori. The specific groups and organisations who our MIGC research team will work with in co-developing and co-producing these synergistic 'Taiao' and 'Indigenous Innovation' Vision Mātauranga themes for our project will obviously be the Māori case studies in Te Tau Ihu Tasman Golden Bay area including Tiakina te Taiao Ltd, the Ngāti Rarua-Te Atiawa trust, the Ngāti Koata trust, and the Ngāti Tama ki Te Waipounamu trust. It is anticipated that our MIGC team will also work more broadly with other relevant Māori groups and organisations within the broader Challenge focal region, and with a number of important Indigenous groups, institutions and individuals in North America and Australia as noted above.

## M. COMMUNICATION AND OUTREACH

As noted above, our MIGC research team will work very closely with and will establish reciprocal relationships with the other National Science Challenge Sustainable Seas projects that are relevant to our Whaia te Mana Māori Whakahaere Tōtika ki Tangaroa research project. In particular, MIGC will collaborate extensively with the other National Science Challenge *Our Seas* projects CP1.1: "Participatory Processes: Review existing Māori and stakeholder engagement in marine science and marine governance participatory processes"; the *Tangaroa* projects: CP3.1.1: 'Understanding Kaitiakitanga in our Marine Environment;' and 3.1.2: 'Kaitiakitanga and economic development;' and 3.1.3: 'Bridging the lore and law dynamic;' and the *Valuable Seas* projects: CP2.1.2: 'Mauri Moana, Mauri Tangata, Mauri Ora – documenting social values' which will all provide useful data and information on the existing and emerging literature on Māori governance over marine resources, stakeholder engagement, tikanga and mātauranga Māori elements; and information on case study area iwi to understand how Māori governance jurisdiction models and tikanga and mātauranga Māori contemporary practices over marine resources.

MIGC will also work closely with a diverse array of other important key stakeholders regarding outreach and communications opportunities that are essential to support EBM, effective Māori governance jurisdiction, and to gain social and cultural licence for increased economic use of our marine estate. To this end, MIGC will work closely, inter alia, with the Te Tau Ihu groups (principally but not exclusively through Tiakina te Taiao Ltd) and other Iwi Māori, as well as with key stakeholders in the public, private and not for profit sector groups listed in sections I-K. MIGC will also be working with the international collaboration networks listed in sections I and J which will provide additional context for co-developing and co-producing appropriate balanced and sustainable Māori governance jurisdiction models that integrate mātauranga and tikanga Māori with mainstream law and interests over the marine area. MIGC will also hold symposia, workshops and a conference and will co-develop and co-produce reports and academic articles on the research findings as a means of disseminating the key findings as broadly and effectively as possible in local, national and international fora as well as through social media.

## N. CAPACITY BUILDING

Potential formal educational and capacity building opportunities will directly flow out of Whaia te Mana Māori Whakahaere Tōtika ki Tangaroa through the involvement of Ms Mylene Rakena as a key researcher which will assist her with her PhD work, and the involvement of Ms Adrienne Paul who is already a Te Piringa UOW PhD candidate working on environmental challenges for her Iwi with the Rena disaster in her rohe which thesis is

directly relevant to this project. Dr Joseph has also approached a number of Masters Students to engage them in this research including Mr Hemi Arthur (Ngāti Toa, Ngāti Koata, Te Atiawa), Ms Mary Jones (Ngāti Rarua, Ngāti Tama and Te Ati Awa, Kahungunu and Ngāi Tahu) and Apirana Daymond (Ngāti Mutunga (Chatham Islands) and Ngāti Porou). Furthermore, the involvement of Te Tau Ihu representatives could result in MIGC approaching them to co-support their promising rangatahi to contribute to Whaia te Mana Māori Whakahaere Tōtika ki Tangaroa by enrolling students in graduate studies at the UOW (or other participating academies including Victoria, Canterbury and Otago Universities) where they can be engaged as a researcher for their Iwi and for MIGC and we may be able to co-fund a scholarship to this end.

## O. ETHICS APPROVAL

Yes ethics approval is required for this project. As noted in the research plan and methods, MIGC researchers will need to personally observe and interview Te Tau Ihu and other iwi (and Indigenous experts) and stakeholder key informants to obtain the required breadth and depth of information to successfully carry out the Whaia te Mana Māori Whakahaere Tōtika ki Tangaroa objectives. In order to do this effectively and to ensure that the interviews are conducted in an ethically safe and culturally appropriate manner, MIGC researchers will seek approval early to carry out this work from the Te Piringa-Faculty of Law Ethics Committee according to Te Piringa Ethics processes which are stringent and robust enough to ensure that the mana of the Te Tau Ihu, other Māori, Indigenous and key stakeholder informants remains intact as they engage throughout the entire Whaia te Mana Māori Whakahaere Tōtika ki Tangaroa research processes.

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<sup>3</sup> UNDRIP 2007, Articles 3-5, 18-20, 27 and 34.

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<sup>25</sup> This specific section also links in with the *Valuable Seas* Project Theme 1: 'Understanding how New Zealanders value our marine estate.' The specific area that links with our project is Theme 2.1.2: 'Mauri Moana, Mauri Tangata, Mauri Ora – Documenting social values' especially regarding the team's research questions: – How can tikanga Maori values such as kaitiakitanga (sustainable management), manaakitanga (care for the sea, care for people) and whānaungatanga (familial ties) inform non-monetary valuation of New Zealand's marine estate? and: What is the process or framework for non-monetary values and Maori values to work in conjunction with monetary valuation? Hence our MIGC research team will also liaise and collaborate closely with this research team.

<sup>26</sup> Above, n. 4, Sustainable Seas, at 41.

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