

**BEFORE THE ENVIRONMENT COURT  
I MUA I TE KOOTI TAIAO O AOTEAROA**

**ENV-2018-CHC-26 to 50**

**IN THE MATTER** of the Resource  
Management Act 1991

**AND**

**IN THE MATTER** of appeals under clause  
14 of Schedule 1 to the  
Act relating to the  
proposed Southland  
Water and Land Plan

**BETWEEN** **WAIHOPAI RŪNAKA,  
HOKONUI RŪNAKA,  
TE RŪNANGA O  
AWARUA, TE  
RŪNANGA O ORAKA  
APARIMA, and TE  
RŪNANGA O NGĀI  
TAHU (collectively  
NGĀ RŪNANGA)**

**Appellants in ENV-  
2018-CHC-47**

**AND** **SOUTHLAND  
REGIONAL COUNCIL**

**Respondent**

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**WILL-SAY STATEMENT OF AILSA CAIN  
ON BEHALF OF NGĀ RŪNANGA**

**5 NOVEMBER 2021**

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 **Simpson Grierson**  
Barristers & Solicitors

Simpson Grierson  
J G A Winchester/S K Lennon  
Telephone: +64-4-924 3503  
Facsimile: +64-4-472 6986  
Email: james.winchester@simpsongrierson.com  
DX SX11174 PO Box 2402  
SOLICITORS  
WELLINGTON 6140

## **INTRODUCTION**

1. My name is Ailsa Margaret Cain.
2. My whakapapa, qualifications and experience are set out in my statement of evidence for the Proposed Southland Water and Land Plan (**pSWLP** or **Plan**) appeals (Topic A), dated 15 February 2019.

## **CODE OF CONDUCT**

3. I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and I agree to comply with it. I confirm that the issues addressed in this statement are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
4. My whānau have long associations with Murihiku and I whakapapa to Waitaha, Kāti Mamoe and Ngāi Tahu. My expertise is partially derived from those cultural associations. I note that whilst I am Ngāi Tahu, I am required to be impartial and unbiased in my professional opinions expressed.
5. For the avoidance of any perceived conflicts, I advise that my husband, Ben Farrell, is providing planning evidence for Fish and Game New Zealand, and the Royal Forest and Bird Protection Society of New Zealand.

## **WILL-SAY**

6. The central point of my evidence for Topic B is that the rules and policies to be discussed are not predicated on the Topic A decision regarding ki uta ki tai and Te Mana o te Wai, or hauora. Many of the policies and rules, individually and collectively, do not consider how they improve or maintain the waterbody, catchment and region to, or in, a state of hauora.
7. It is my opinion that often these rules were written or are proposed to be amended in a way that is contrary to the Interpretation Statement in the Plan, or will make it very difficult to consider the rule within the context of the Interpretation Statement.

8. Many of the policies and rules are formulated to slow degradation and ‘hold the line’; a phrase commonly used by Environment Southland during the development of the pSWLP. Te Mana o te Wai and hauora have flipped that focus to instead be what are the bands (referred to as the hauora envelope in the *Draft Murihiku Southland Freshwater Objectives: Providing for hauora, the health and well-being of waterbodies in Murihiku Southland*) in which hauora can be achieved and maintained, thus, moving the purpose of the policies and rules away from considering degradation to that of hauora.
9. The policies and rules in the pSWLP encourage best practice as a way of slowing or halting decline, but they have not assessed what best practice is in the context of the Topic A decision and to improve and maintain water quality and quantity to hauora. As articulated in the JWS – Water Quality and Ecology (Rivers and Lakes), 3-4 September 2019:
- Hauora is not just a reference to one’s health but to a state of health. Hauora is defined in English as meaning ‘fit, well, healthy, vigorous, robust.’ A human analogy for hauora is that you can take a knock, such as have a cold, and have the resilience to bounce back to a healthy and vigorous state.
10. Policy and rule development should reflect the intent of the Topic A decision, ki uta ki tai and Te Mana o te Wai. To do so includes utilising tools already in the pSWLP, such as Ngāi Tahu Indicators of Health, and demonstrating how any amendments to the policies or rules provide for hauora.
11. To articulate these points, in my evidence, I will:
- (a) Provide commentary on what matters could be considered in the policy and rule development to progress towards hauora.
  - (b) Consider Te Mana o te Wai as both a process and outcome, long-term visions, and ki uta ki tai.
  - (c) Continue to support my earlier evidence, that through the recognition of ki uta ki tai and Te Mana o te Wai, the Plan is predicated on an integrated and holistic approach, and that the policies and rules should support this approach.<sup>1</sup>

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1 Statement of Evidence of Ailsa Cain (15 February 2019) at [18].

12. My examples and explanations will draw on:
- (a) the Ngāi Tahu ki Murihiku understandings of ki uta ki tai, hauora, and water as a taonga;
  - (b) cultural contexts and concepts;
  - (c) Ngāi Tahu Indicators of Health;
  - (d) nohoanga, mātaihai, tōpuni and statutory acknowledgements, tribal properties, and ancestral lands, water, sites, wāhi tapu and other taonga;
  - (e) the intent of the pSWLP and its perceived weaknesses/misalignments;
  - (f) the Interpretation Statement and 'korowai objectives' in the pSWLP; and
  - (g) Treaty Principles.
13. In my evidence, I will refer to, amongst other things, the:
- (a) Final report on cultural indicators of health (29 November 2019);<sup>2</sup>
  - (b) Draft Murihiku Southland Freshwater Objectives: Providing for hauora, the health and well-being of waterbodies in Murihiku Southland, 2020;
  - (c) He Huarahi mō Ngā Uri Whakatupu The Charter of Understanding, 2016;
  - (d) Ngāi Tahu ki Murihiku Environmental and Resource Management Plan, 2008 (also referred to as *Te Tangi*);
  - (e) Ngāi Tahu Freshwater Policy; and

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<sup>2</sup> The report was Appendix A to a memorandum of counsel for Nga Runanga, filed on 29 November 2019.

- (f) Evidence and reports from WAI27 and Te Tiriti o Waitangi redress.



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**Ailsa Cain**

**5 November 2021**