

**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

**WILL-SAY STATEMENT OF DR JANE CATHERINE KITSON
ON BEHALF OF NGĀ RŪNANGA**

5 NOVEMBER 2021

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INTRODUCTION

1. My full name is Dr Jane Catherine Kitson.
2. My whakapapa, qualifications and experience are set out in my statement of evidence (Topic A), dated 15 February 2019. As an update to those matters, I am now a co-lead in the Biological Heritage National Science Challenge for the Empowering Kaitiakitanga and Environmental Stewardship programme (SO2), and the Ministry of Business, Innovation and Employment (**MBIE**) funded *Fish futures: preparing for novel freshwater ecosystems*. I have also been appointed to the Our Water and Land National Science Challenge Science and Stakeholder Advisory Panel and I am co-chair for the Rakiura Tītī Island Administering Body.
3. I have been asked by Ngāi Tahu to provide this will-say statement, participate in expert conferencing and provide evidence in relation to water quality and freshwater ecosystem health with respect to the Topic B provisions of the Proposed Southland Water and Land Plan (p**SWLP**).

CODE OF CONDUCT

4. 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 of evidence 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. The data, information, facts and assumptions I have considered in forming my opinions are set down below and in my evidence to follow.
5. As a member of the New Zealand Freshwater Sciences Society, a constituent organisation of the Royal Society of New Zealand - Te Apārangi, I also agree to be bound by the Royal Society of New Zealand Code of Professional Standards and Ethics in Science, Technology, and the Humanities.
6. I am a member of Te Rūnanga o Oraka-Aparima and also whakapapa to Te Rūnanga o Awarua and Waihopai Rūnaka. My expertise is partially derived from those cultural associations. I note that whilst I am of Ngāi Tahu descent, I am required to be impartial and unbiased in my professional opinions expressed.
7. For the avoidance of any perceived conflicts, I advise that my husband, Zane Moss, is the manager of Fish and Game New Zealand- Southland Region.

WILL – SAY

8. As part of Topic A, the parties and witnesses agreed that the pSWLP “embodies ki uta ki tai and upholds Te Mana o Te Wai and they are at the forefront of all discussions and decisions about water and land.”¹

9. The Environment Court summarised its understanding of Te Mana o te Wai as:²

When we speak about Te Mana o te Wai we are referring to the integrated and holistic wellbeing of a freshwater body. Upholding Te Mana o te Wai acknowledges and protects the mauri of water. While mauri is not defined under the NPS-FM...the mauri of water sustains hauora (health): the health of the environment, the health of the waterbody and the health of the people. As a matter of national significance the NPS-FM requires users of water to provide for hauora and in so doing, acknowledge and protect the mauri of water.

10. My evidence will cover the following themes:

- (a) The connections between Topic B and the Topic A decisions around the foundational elements of ki uta ki tai/Te Mana o te Wai and the requirement for movement towards hauora for Southland waterways.
- (b) The degraded state of hauora in Southland waterways.
- (c) The assessment of hauora requires Ngāi Tahu Indicators of Health, and the interaction of a combination of attributes.
- (d) To identify hauora requires consideration of the resilience of waterbodies.
- (e) Ngā Rūnanga appeal points, including in relation to: taonga species health and habitat, ephemeral streams and the Waiau Catchment.

11. In relation to the themes that my evidence will address as outlined in the preceding paragraph, it is my opinion that:

- (a) For the matters in Topic B that Ngā Rūnanga has an interest in, the connections between those matters and the Topic A decisions regarding the foundational elements of ki uta ki tai/Te Mana o te Wai and the requirement for movement towards hauora for Southland waterways, need to be clarified and strengthened to ensure that the Topic B provisions achieve the intentions of the Court’s Topic A decisions.

1 pSWLP Interpretation Statement; *Aratiatia Livestock Limited and Ors v Southland Regional Council* [2020] NZEnvC 93 at [9].

2 *Aratiatia Livestock Limited and Ors v Southland Regional Council* [2019] NZEnvC 208 at [17].

- (b) It is clear that many waterways in Southland are in a degraded state, and require significant improvements such that they move towards a state of hauora. The achievement of hauora could take several generations even with an appropriate set of Topic B provisions which properly reflect the foundation concepts of Te Mana o Te Wai and ki uta ki tai.
- (c) The inclusion of Ngai Tāhu indicators of health in Topic B provisions is required to implement Te Mana o te Wai and monitor the progress towards the state of hauora.
- (d) Te Mana o te Wai puts the mauri and the needs of the waterbody first. Te Mana o te Wai then moves to providing for Te Hauora o te Taiao, Te Hauora o te Wai, and Te Hauora o te Tangata. As stated 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.

- (e) To achieve hauora requires an understanding of the resilience of a waterbody, using environmental science and Ngai Tāhu indicators of health. Achieving the state of hauora requires moving beyond technical discussions on what is degraded or not, to discussions about what healthy and resilient waterbodies are. In my opinion, the relief sought by Nga Rūnanga in relation to the rules takes into account the need to move towards a state of hauora.
- (f) The general permissive nature of the rules in the pSWP does not take into account Te Mana o te Wai, which puts the mauri and needs of the waterbody first. Rather, as they stand, the rules prioritise use - whether it is farming, drain maintenance, lack of consideration of the impact on ephemeral watercourse to the overall health of waterbodies, or hydro-generation. The permissive nature of the current rule structure will not achieve or enable movement towards hauora, and thereby Te Mana o te Wai.



Dr Jane Catherine Kitson

5 November 2021