

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

AT CHRISTCHURCH

ENV-2018-CHC-26 - 50

IN THE MATTER

of the Resource Management Act 1991

AND

of an appeal under clause 14 of the First
Schedule of the Act

BETWEEN

**WAIHOPAI RŪNAKA, HOKONUI RŪNAKA, TE
RŪNANGA O AWARUA, TE RŪNANGA O
ORAKA APARIMA, and TE RŪNANGA O NGĀI
TAHU (collectively NGĀ RŪNANGA)
(ENV-2018-CHC-47)
Appellants**

AND

**Southland Regional Council
Respondent**

**STATEMENT OF EVIDENCE IN REPLY OF LINDA ELIZABERTH KIRK
FOR DIRECTOR-GENERAL OF CONSERVATION/TE TUMUAKI AHUREI
AS A SECTION 274 PARTY**

Dated 13 May 2020

Department of Conservation

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<u>Table of Contents</u>	<u>Page</u>
Introduction	3
Code of Conduct	3
Scope	4
Executive Summary	6
Principles of Te Tiriti O Waitangi/Treaty of Waitangi	7
How Treaty Principles have been taken into account in the pSWLP Processes and drafting	10
“Te Mana O Te Wai” and “Ki Uta Ki Tai” in the Interim Decision	12
Consideration of Specific Provisions in the Interim Decision	14
Korowai Objectives 1 and 3	14
Objective 2	16
Objective 4	16
Objective 5	17
Objective 6	17
Objective 7	19
Objective 8	20
Objectives 9 and 9A	21
Objective 10	23
Objective 11	24
Objective 12	24
Objectives 13, 13A and 13B	25
Objective 14	26
Objective 15	27
Objective 16	27
Objective 17	28
Objective 18	28
Conclusion	30
Appendix 1	31
Appendix 2	33

Introduction

1. My full name is Linda Elizabeth Kirk. My experience and qualifications are set out in my evidence in chief dated 15 February 2019 on behalf of the Director-General of Conservation.
2. I reiterate that while I am employed by the Department of Conservation, and the Department has an advocacy function under the Conservation Act 1987, my role in preparing this statement of evidence is as an independent planning expert. In my role with the Department, I am required to ensure that my advice is in accordance with recognised standards of integrity and professional competence. As well as having a duty to the Court (and I have noted below that I agree to abide by the Environment Court Code of Conduct for Expert Witnesses), I also have a duty to my profession.
3. In providing this evidence, I have been authorised by the Department of Conservation to provide any evidence that is within my planning expertise which goes outside the Department's advocacy function.

Code of Conduct

4. I confirm that I have read the code of conduct for expert witnesses as contained in section 7.1 of the Environment Court's Practice Note 2014. I have complied with the practice note when preparing my written statement of evidence and will do so when I give oral evidence before the Court.
5. The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the evidence to follow.
6. Unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope

7. I have been asked to provide planning evidence in relation to the matters raised by the Environment Court in its Interim Decision of 20 December 2019¹ (the Interim Decision) and its Record of Pre-Hearing Conference pSWLP (Topic A) of 10 February 2020.

8. In the Interim Decision², the Court directed the following:

“Specifically, the parties are to address the interpretation and implementation of Te Mana o te Wai and ki uta ki tai in this plan and any other matter they consider relevant to the scheme of the plan in general. Secondly, the parties are to address how the plan is to take into account the principles of the Treaty. Note the key documents you have used in forming your view and whether you have relied on any other witnesses while preparing your brief of evidence.”

9. Further, in its Record of Pre-Hearing Conference, the Court indicated that³:

“Before [it] can make its final decision on [the higher order provisions of the pSWLP], it must reach a settled view on the interpretation of the plan’s provisions. We have set out our interpretation of the National Policy Statement for Freshwater Management, and in particular Te Mana o te Wai and ki uta ki tai, in the pSWLP. If our interpretation is not available and/or the scheme of the plan does not implement the National Policy Statement-Freshwater Management in

¹ Aratiatia Livestock Ltd v Southland Regional Council [2019] NZEnvC 208.

² At [347] in Aratiatia Livestock Ltd v Southland Regional Council [2019] NZEnvC 208.

³ Record of Pre-hearing Conference pSWLP (Topic A) (10 February 2020) at [4] - [5].

the manner we suggest, this has implications for the drafting of the higher order provisions which are in many respects weakly drawn. In addition, we have asked the parties how the pSWLP takes into account the principles of the Treaty of Waitangi.”

10. In preparing this evidence, I have read and considered the documents as outlined in my evidence in chief of 15 February 2019 as well as the following additional documents:
- (a) Interim Decision of the Court: Aratiatia Livestock Ltd v Southland Regional Council [2019] NZEnvC 208;
 - (b) Record of Pre-Hearing Conference pSWLP (Topic A) of 10 February 2020;
 - (c) Statements of evidence prepared for Ngā Rūnanga by Ms Ailsa Margaret Cain and Ms Treena Lee Davidson, dated 17 April 2020;
 - (d) Statement of evidence prepared for the Southland Regional Council by Mr Matthew McCallum-Clark, dated 17 April 2020;
 - (e) *“Te Tangi a Tauira – the Cry of the People”*, Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan, 2008;
 - (f) Cabinet Office (Oct 2019) Te Tiriti o Waitangi / Treaty of Waitangi Guidance [CO (19) 5] (source: <https://dpmc.govt.nz/publications/co-19-5-te-tiriti-o-waitangi-treaty-waitangi-guidance>); and
 - (g) Te Puni Kōkiri, 2001, “He Tirohanga o 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 (source: <https://www.tpk.govt.nz/en/a-matou-mohiotanga/crownmaori-relations/he-tirohanga-o-kawa-ki-te-tiriti-o-waitangi>); and
 - (h) Te Rūnanga o Ngāi Tahu, 2019, “Ngāi Tahu Rangatiratanga over Freshwater” (source: <https://ngaitahu.iwi.nz/wp-content/uploads/2019/11/Wai-Maori-Strategy-web.pdf>)
11. Like Ms Davidson, I also wish to acknowledge that I also am aware some of the drafting and amendments recommended in this statement may be beyond the scope of the appeal and s274 notices of the Director-General of Conservation and could raise jurisdictional issues. I have discussed and confirmed my approach with legal counsel for the Director-General of

Conservation. Our understanding is the same as Ms Davidson's⁴ *"that the Court⁵ has sought evidence which addresses the substance of its questions about Te Mana o te Wai and Ki uta ki tai, [and how the proposed Plan takes in to account the principles of the Treaty of Waitangi], rather than necessarily being constrained by questions of scope."* Like Ms Davidson, I also accept that the Court may dismiss parts of this evidence on the basis that it is beyond scope.

EXECUTIVE SUMMARY

12. In summary, my evidence focuses on the two key matters that the Court has sought assistance on in its Interim Decision⁶ with respect to how the proposed Southland Water and Land Plan (the Plan or pSWLP):
 - i. interprets and implements Te Mana o Te Wai and ki uta ki tai and whether any additional drafting/wording is needed; and
 - ii. takes into account the principles of the Treaty of Waitangi/Te Tiriti o Waitangi.
13. I consider that Ti Tiriti O Waitangi/Treaty of Waitangi Principles of partnership, Tino Rangatiratanga, active protection, reciprocity and mutual benefit are applicable to both the RMA process and to the plan provisions.
14. I agree with the Court that the Korowai Objectives of Ki uta ki tai and Te Mana o Te Wai provide the fundamental management lens/paradigm to apply to all provisions in the pSWLP.
15. I consider that Objectives 1 and 3 should be elevated above the other objectives and "korowai" should be identified as a method of plan interpretation with some minor rewording to some objectives as a result.

⁴ At [10] in Davidson, 17 April 2020.

⁵ At [347] in Aratiatia Livestock Ltd v Southland Regional Council [2019] NZEnvC 208.

⁶ At [347] in Aratiatia Livestock Ltd v Southland Regional Council [2019] NZEnvC 208.

PRINCIPLES OF TE TIRITI O WAITANGI/TREATY OF WAITANGI

16. I wish to confirm that I am not an expert on interpretation of Treaty of Waitangi obligations, or of the nature of the wider relationship between Ngāi Tahu, local Rūnanga and the Council. The scope of my evidence here is to describe the principles of the Treaty of Waitangi and how they have been implemented in the pSWLP from a planning perspective.
17. In 2019, Cabinet provided guidance, which includes a range of questions to be answered, for policy-makers when considering the Treaty of Waitangi (the Treaty) in policy development and implementation⁷.
18. In summary, Te Tiriti o Waitangi consists of a preamble and three Articles which must be considered ‘on the whole’⁸ meaning that “no article of the Treaty stands apart from the others”⁹:
- Article One - essentially the government gained the right to govern
 - Article Two - the Crown promises that Māori will have the right to make decisions over resources and taonga which they wish to retain.
 - Article Three - the Crown promises that its obligations to New Zealand citizens are owed equally to Māori.
19. While the Cabinet paper does not go into detail on the Principles of the Treaty, I have relied on Te Puni Kōkiri’s 2001 guidance, “*He Tirohanga o 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*”¹⁰.

⁷ Cabinet Office (Oct 2019) Te Tiriti o Waitangi / Treaty of Waitangi Guidance [CO (19) 5] (source: <https://dpmc.govt.nz/publications/co-19-5-te-tiriti-o-waitangi-treaty-waitangi-guidance>)

⁸ At [4] and [9] *ibid*.

⁹ At [9] *ibid*.

¹⁰ Te Puni Kōkiri, 2001, “*He Tirohanga o 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 (source: <https://www.tpk.govt.nz/en/a-matou-mohiotanga/crownmaori-relations/he-tirohanga-o-kawa-ki-te-tiriti-o-waitangi>)

20. I note that Te Puni Kōkiri guidance¹¹ says the following [footnotes removed for sake of brevity]:

*“Treaty principles are therefore informed by various sources, including the literal terms of both texts, the cultural meanings of words, the influences and events which gave rise to the Treaty, as far as these can be determined from historical sources, as well as contemporary explanations and legal interpretations. These principles interpret the Treaty as a whole, including its underlying meaning, intention and spirit, to provide further understanding of the expectations of signatories. In the view of the Courts and the Waitangi Tribunal, **Treaty principles are not set in stone. They are constantly evolving as the Treaty is applied to particular issues and new situations.** [my emphasis added]. Neither the Courts nor the Waitangi Tribunal have produced a definitive list of Treaty principles. As President Cooke has said: “The Treaty obligations are ongoing. They will evolve from generation to generation as conditions change”.*

21. As can be seen from the different approaches to stating Treaty Principles from various parties in the following paragraphs 23-26 and 29, it is clear that the Treaty Principles are evolving, are not mutually exclusive, and that this current process is part of that evolution in the context of the pSWLP.

22. Section 8 of the RMA, requires Treaty principles to be “taken into account”:

“In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).”

23. The Court in its interim decision,¹² has identified the following three Principles of the Treaty that are relevant to the pSWLP:

¹¹ At [77] in Te Puni Kōkiri, 2001.

¹² At [30-32] in Aratiatia Livestock Ltd v Southland Regional Council [2019] NZEnvC 208.

- Partnership;
 - Active protection; and
 - Rangatiratanga.
24. I agree with the summation by Davidson¹³ that “*the Principles of the Treaty, in the RMA context, relate to both RMA processes and to plan provisions, with some Principles (e.g. partnership), being more important in relation to processes*” and that the Principles of Tino Rangatiratanga and active protection have direct relevance in terms of plan provisions.
25. Mr McCallum-Clark¹⁴ identifies the following principles for Councils when taking into account the principles of the Treaty, as required by Section 8 of the RMA:
- *enable active participation by tangata whenua in resource management decision-making;*
 - *engage with tangata whenua in good faith;*
 - *seek reciprocity and mutual benefit;*
 - *endeavour to protect resources of importance to tangata whenua from adverse effects; and*
 - *take positive action to protect tangata whenua interests.”*
26. Ms Cain¹⁵ identifies the following principles:
- a. *“duty to act in good faith and in partnership;*
 - b. *protection of Māori interests, taonga and development – the duty of the Crown is not just passive but extended to active protection of Māori people in the use of their lands and waters ‘to the fullest extent practicable’;*
 - c. *the Government must be able to make informed decisions;*
 - d. *to remedy past Treaty of Waitangi grievances; and*
 - e. *the Government has the right to govern in exchange for the exercise of rangatiratanga over resources listed in Article 2 without unreasonable and undue ‘shackles’.”*

¹³ At [15-16] in Davidson, 17 April 2020.

¹⁴ At [43] in McCallum-Clark, 17 April 2020

¹⁵ At [54] in Cain, 17 April 2020.

27. I consider that Treaty Principles identified by Mr McCallum-Clark, Ms Davidson and Ms Cain in paragraphs 22 to 24 above are consistent in terms of their application in the RMA context, except for “*to remedy past Treaty of Waitangi grievances*” as put forward by Ms Cain. It is not appropriate for me to say whether this is accurate or inaccurate in its application in the RMA context, I am just noting the difference and similarities of the Treaty Principles and that they are not mutually exclusive of each other.
28. In Appendix 1, I briefly discuss the Treaty Principles that I consider are applicable in the RMA context – both in its processes and its planning provisions.
29. In my opinion, it is the Principles of partnership, Tino Rangatiratanga, active protection, reciprocity and mutual benefit, that are particularly relevant to those matters in sections 6(e), 6(f), 6(g) to be “recognised and provided for”, and when having particular regard to other matters in section 7 such as kaitiakitanga in section 7(a), in resource management planning.

How Treaty Principles have been taken into account in the pSWLP processes and drafting

30. In the following, I set out my opinion on how the Treaty Principles have been taken into account in the pSWLP processes, and the drafting that has been undertaken.
31. I agree with Mr McCallum-Clark¹⁶ that “*active protection is evident in the Plan, particularly at an objective and policy level, with specific recognition of concepts such as ki uta ki tai, Te Mana o te Wai, and cultural indicators of health; acknowledgement of the importance of a range of cultural practices such as mahinga kai; and recognition of particular resources such as taonga species.*”

¹⁶ At [47] in McCallum-Clark, 17 April 2020.

32. From the Interim Decision¹⁷, and the evidence of Ms Cain¹⁸, Ms Davidson¹⁹ and Mr McCallum-Clark²⁰, I understand that the process of developing the pSWLP was undertaken in good faith, but that the Decisions Report by the Hearing Panel was not clear as to the reasoning behind their decisions that affected not only the interests of Māori, but also the underpinning approach of the pSWLP to Te Mana o te Wai and Ki uta ki tai. Davidson²¹ succinctly summarises the key change in the decisions version of the Plan from what was notified, being that Te Mana o te Wai and Ki uta ki tai have been inferred as *“ways of expressing a Ngāi Tahu perspective or as Māori concepts, rather than a key environmental management objective (mandated by the NPSFM) underpinning the proposed Plan’s approach”*. As a result, I consider that the Council has not clearly demonstrated how the Treaty Principles have been taken into account in the decision’s version of the Plan and that the Treaty Principles have been eroded in the planning provisions in the decisions version, from what was notified.
33. Going forward, the key issues of concern are how best to implement these matters in the drafting of the Plan structure at the Objective level. This will affect how the Treaty Principles are taken into account and implemented in the policies and methods of the pSWLP.
34. I agree with Ms Davidson²² that *“the pSWLP should show intent that Ngāi Tahu concerns have been taken into account in the way that the policies and rules are structured.”*
35. I agree with Ms Davidson²³ that the Treaty Principle of partnership will be important with regard to:
- (a) *the FMU process to come;*
 - (b) *ensuring monitoring of the effectiveness of the Plan includes incorporation of Mātauranga Māori and Ngāi Tahu indicators of health; and*

¹⁷ At [30] in Aratiatia Livestock Ltd v Southland Regional Council [2019] NZEnvC 208.

¹⁸ At [59] in Cain, 17 April 2020.

¹⁹ At [22-33] in Davidson, 17 April 2020.

²⁰ At [40-48] in McCallum-Clark, 17 April 2020.

²¹ At [22] in Davidson, 17 April 2020.

²² At [16] in Davidson, 17 April 2020.

²³ At [82] *ibid*.

(c) processing of any resource consents required by this Plan.

36. I also agree with Ms Davidson²⁴ that the Treaty Principles of rangatiratanga and active protection have direct relevance in terms of the plan provisions.
37. I support considering further suggested amendments of the objectives in the pSWLP based on these Treaty principles, for the reasoning that Ms Davidson provides at paragraphs [87-89].²⁵

“TE MANA O TE WAI” AND “KI UTA KI TAI” IN THE INTERIM DECISION

38. In its interim decision²⁶, the Court seeks that *“the parties are to address the interpretation and implementation of Te Mana o te Wai and ki uta ki tai in this plan...”*
39. I agree with the Court’s three key understandings in its Interim Decision:
1. *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.²⁷ 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.²⁸*
 2. *As a matter of national significance, the health and wellbeing of water are to be placed at the forefront of discussion and decision-making. Only then can we provide for hauora by managing natural resources in accordance with ki uta ki tai.²⁹*

²⁴ At [83] in Davidson, 17 April 2020.

²⁵ At [87-89] *ibid*.

²⁶ At [347] in *Aratiatia Livestock Ltd v Southland Regional Council* [2019] NZEnvC 208.

²⁷ At [17] *ibid*.

²⁸ At [17] *ibid*.

²⁹ At [59] *ibid*.

3. *The NPS-FM makes clear that providing for the health and wellbeing of waterbodies is at the forefront of all discussions and decisions about fresh water.*³⁰

40. I consider that the Court has articulated Te Mana o te Wai and Ki uta ki tai as it was intended by both Ngā Rūnanga and Council during the drafting of the pSWLP.
41. I agree with the Court's³¹ posit in its Interim Decision that *"the provisions of the Plan are to be interpreted and applied in a manner that gives effect to Te Mana o te Wai and implemented in accordance with Ki uta ki tai"*, and agree with Davidson³² that this intention has not been realised in the decisions version.
42. I agree with Davidson³³ that identifying Objectives 1 and 3 as the strategic or Korowai Objectives will drive the step changes in the philosophy and management approach for fresh water as was intended by Ngā Rūnanga and the Council in their drafting of the Plan, and as is required by the NPSFM. In doing so, in my opinion, these Korowai Objectives will help demonstrate that the Treaty Principles of partnership, Tino Rangatiratanga, active protection, reciprocity and mutual benefit have been taken into account and will better enable the RMA matters in sections 6(e), 6(f), 6(g) to be "recognised and provided for" and particular regard be had to other matters in section 7 such as kaitiakitanga in section 7(a) in resource management.
43. As Davidson³⁴ considers, the effect of identifying Objectives 1 and 3 as the Korowai Objectives, will mean they have a priority status over the other objectives in the pSWLP. The other objectives should not be considered as having the same status as korowai, as all objectives need to "put the needs of the waterbody first".

³⁰ At [62] in *Aratiatia Livestock Ltd v Southland Regional Council* [2019] NZEnvC 208.

³¹ At [56] *ibid*.

³² At [21] in Davidson, 17 April 2020.

³³ At [36] *ibid*.

³⁴ At [36-39] *ibid*.

CONSIDERATION OF SPECIFIC PROVISIONS IN THE INTERIM DECISION

44. In Annexure 1 of the Interim Decision, the Court has set out its findings on the individual provisions and invited submissions on the scheme architecture and the proposed wording of some provisions³⁵. For the sake of completeness, I have considered all the objectives of the pSWLP with respect to the architecture of the Plan and Treaty Principles as appropriate.
45. The following provides my discussion with respect to the recommendations I have put forward on the respective provisions. Appendix 2 provides a summary table of my recommendations for ease of reference.
46. Please note that any changes are in respect of the Interim Decision using the following key:
- Underlining for insertions proposed by Ms Davidson;
 - ~~Strikethrough~~ for deletions proposed by Ms Davidson; and
 - Double-underlining / ~~striketrough~~ for any further amendments recommended by myself to wording proposed by Ms Davidson or the Court in its Interim Decision.

Korowai Objectives 1 and 3

47. I support the elevation of Objectives 1 and 3 and Ms Davidson's amendments including a statement about the meaning of the Korowai Objectives and providing the respective titles to Objectives 1 and 3 as shown.
48. I recommend amending the Korowai statement as suggested by Ms Davidson to provide greater clarity that the Korowai Objectives provide the fundamental management lens to apply to all provisions in pSWLP and that Objective 3

³⁵ At Annexure 1 in Aratiatia Livestock Ltd v Southland Regional Council [2019] NZEnvC 208.:

"If a provision has been "confirmed" or "amended", subject to submissions on the scheme architecture, the decision is final.

For some provisions the court has proposed alternative wording, in which case we indicate that the provision is "proposed to be amended." The parties are invited to respond to the same while respecting the court's findings in relation to the wording proffered by the parties."

applies to all water as intended by the Court, and to identify korowai as a method of plan interpretation.

49. Providing an overarching statement and identifying “korowai” as a method of plan implementation, goes some way to meeting the suggested wording put forward by Mr McCallum-Clark³⁶:

“The korowai is always to be considered during resource consent decision-making and the development of future plan changes; and the subsequent objectives are to be interpreted in the context of this korowai.”

50. **Recommendations:**

1. Amend the Korowai Objectives 1 and 3 from the Interim Decision and provide an overarching statement as follows:

KOROWAI OBJECTIVES

These objectives are a korowai, meaning they provide a cloak or overarching statement on the management of land and water that must be considered when ~~considering the Objectives implementing the Provisions of this Plan.~~

Objective 1 Korowai - Ki uta ki tai

Land and water and associated ecosystems are sustainably managed as integrated natural resources, recognising the connectivity between surface water and groundwater, and between freshwater, land and the coast.

Objective 3 Korowai - Te Mana o te Wai

The mauri of water will be acknowledged and protected so that it provides for te hauora o te taiao (health and mauri of the-environment) and te hauora o te wai (health and mauri of the waterbody) and te hauora o te tangata (health and mauri of the people).

³⁶ At [33] in McCallum-Clark, 17 April 2020.

2. Identify korowai as a method in plan interpretation to provide certainty to the Plan user that its application is across the pSWLP.

Objective 2

51. I agree with the Court³⁷ that “primary production” is not needed in Objective 2 and that Objective 2 as proposed by the Interim Decision achieves recognition of water and land resources in meeting the Korowai Objectives such that:

“The objectives for Te Mana o te Wai and ki uta ki tai form the immediate context for Objective 2. Economic, social and cultural wellbeing are aspects of te hauora o te tangata (the health of the people). If the mauri of water is acknowledged and protected then it will provide for the health of the people (Objective 3), and integrated management of water and land will enable economic, social and cultural wellbeing of the region (Objective 2).”

52. **Recommendation:**

No change to Objective 2 in the Interim Decision, as follows:

Objective 2

Water and land are recognised as enablers of the economic, social and cultural wellbeing of the region.

Objective 4

53. I support no change in Objective 4 as this helps to take into account the Treaty Principles of partnership, Tino Rangatiratanga, and active protection.

54. **Recommendation:**

No change to Objective 4 as follows:

Objective 4

Tangata whenua values and interests are identified and reflected in the management of freshwater and associated ecosystems.

³⁷ At [88-89] in Aratiatia Livestock Ltd v Southland Regional Council [2019] NZEnvC 208.

Objective 5

55. I support no change in Objective 5 as this helps to take into account the Treaty Principles of Tino Rangatiratanga, and active protection.

56. **Recommendation**

No change to Objective 5 as follows:

Objective 5

Ngāi Tahu have access to and sustainable customary use of, both commercial and non-commercial, mahinga kai resources, nohoanga, mātaihai and taiāpure.

Objective 6 (Proposed to be Amended)

57. I understand that the expert witness caucusing on “degradation” is to provide the Court with attributes and thresholds that water quality is to be assessed against in terms of the NPSFM national bottomlines, not in achieving a state of hauora. The Court³⁸ has summarised this process as follows:

“[97] Expert conferencing is continuing as a matter of urgency given what we were told about the likely state of the environment in Southland. The experts are to report on (amongst other matters):

(a) a recommended classification systems for rivers, lakes and estuaries on an interim basis (pending the FMU processes to follow);

(b) attributes and thresholds to be used as the basis of defining degradation on an interim basis; and

(c) estimated levels of confidence in any recommended attribute thresholds.”

58. While I support the intent of Davidson’s³⁹ suggestion to focus Objective 6 on degraded water quality only, I consider that it is uncertain as to how it would be implemented.

³⁸ At [97] in Aratiatia Livestock Ltd v Southland Regional Council [2019] NZEnvC 208.

³⁹ At [49] in Davidson, 17 April 2020.

59. I consider the Interim Decision provides more clarity and certainty to the Plan user of what outcomes are expected prior to the FMU process. The work of the expert witness caucusing on “degradation” will help define what this means in more measurable terms.
60. I consider that Objective 6 provides a clear management lens to the Plan users that is aligned with the Korowai Objectives of Ki uta ki tai and Te Mana o Te Wai.
61. A short discussion on the wording of Objective 6 now follows
62. I agree with Davidson⁴⁰ and the Court’s⁴¹ rationale for removing the term “overall” and using “each freshwater body”, while providing for Objective 6 to “endure beyond the FMU processes”.
63. I suggest that to help Objective 6 to “endure beyond the FMU processes”, as well as to provide consistency with the Interim Decision of Objective 7(a) and to help give effect to RPS policies WQUAL.1 and WQUAL.2⁴², that clause 6(a) is amended to “or improved...” as follows:
- “(a) maintained or improved where the water quality is not degraded;
and”*
64. I also agree with Davidson⁴³ that the addition of estuaries and coastal lagoons in Objective 6 would show a clear alignment with the Korowai Objective of Ki uta ki tai and help reinforce the application of the fundamental management lens to the plan users, including consideration of the receiving waterbodies from catchments. This would be consistent with the higher order planning documents such that there is regard to “*the connections between freshwater bodies and coastal water*” as sought by Policy A1 of the NPSFM⁴⁴ and the consideration of improving integrated management including cumulative effects as required by the Objective C1 and Policy C1 of the NPSFM⁴⁵. In addition, this would help to maintain or improve water quality of all water

⁴⁰ At [53] in Davidson, 17 April 2020.

⁴¹ At [100-107] and [128] in Aratiatia Livestock Ltd v Southland Regional Council [2019] NZEnvC 208.

⁴² Please refer to the RPS in the common bundle of documents.

⁴³ At [54] in Davidson, 17 April 2020.

⁴⁴ Please refer to the NPSFM in the common bundle of documents.

⁴⁵ Please refer to the NPSFM in the common bundle of documents.

bodies as sought by Objectives WQUAL.1 and WQUAL.2, and Policies WQUAL.1 and WQUAL.2⁴⁶ of the Southland Regional Policy Statement 2017 (RPS).

65. In my opinion, these amendments better provide for the korowai of Ki uta ki tai and address the risk of “trade-offs” of water quality, and provide for Objective 6 to endure beyond the FMU processes.

66. **Recommendation:**

Amend the Interim Decision of Objective 6 as follows:

Objective 6

Water quality in each freshwater body, estuary and coastal lagoon, will be:

(a) maintained or improved where the water quality is not degraded;

and

(b) improved where the water quality is degraded by human activities.

Objective 7

67. I agree with the Court’s Interim Decision and consider that this is consistent with the Korowai Objectives and is clear to the outcomes sought after the FMU process.

68. **Recommendation:**

No change to Objective 7 in the Interim Decision as follows:

Objective 7

Following the establishment of freshwater objectives, limits, and targets (water quality and quantity) in accordance with the Freshwater Management Unit processes:

(a) where water quality objectives and limits are met, water quality shall be maintained or improved;

⁴⁶ Please refer to the RPS in the common bundle of documents.

(b) any further over-allocation of freshwater is avoided; and

(c) any existing over-allocation is phased out in accordance with freshwater objectives, targets, limits and timeframes.

Objective 8 (Proposed to be amended)

69. I agree with Davidson⁴⁷ that Objective 8 provides a clear minimum outcome sought for te hauora o te tangata under Korowai Objective 3. However, I suggest amending to bring the outcome sought for groundwater quality at the start of each clause as follows:

Objective 8:

The quality of groundwater:

(a) ~~The quality of groundwater is~~ maintained where it that meets both; and

(b) ~~The quality of groundwater is~~ improved where it that does not meet Objective 8(a)”

70. **Recommendation:**

Amend Objective 8 as follows:

Objective 8

The quality of groundwater:

(a) ~~The quality of groundwater is~~ maintained where it that meets both the Drinking Water Standards for New Zealand 2005 (revised 2008) and any freshwater objectives, including for connected surface waterbodies, established under Freshwater Management Unit processes ~~is maintained~~; and

(b) ~~The quality of groundwater is~~ improved where it that does not meet Objective 8(a) because of the effects of land use or discharge activities ~~is progressively improved~~ so that:

⁴⁷ At [57] in Davidson, 17 April 2020.

- (1) groundwater (excluding aquifers where the ambient water quality is naturally less than the Drinking Water Standards for New Zealand 2005 (revised 2008)) meets the Drinking Water Standards for New Zealand 2005 (revised 2008); and
- (2) groundwater meets any freshwater objectives and freshwater quality limits established under Freshwater Management Unit processes.

Objectives 9 and 9A (Proposed to be Amended)

71. I agree with the Interim Decision in the re-merging of Objective 9 and 9A and restoration of their prioritisation.
72. I support the further amendment proposed by Ms Davidson to align with the korowai objectives as I consider, as a general concept, that by incorporating relevant terms from the korowai objectives alongside existing terminology in any provision of the pSWLP where it may be deemed to be appropriate, will provide some certainty and clarity for end users of the plan. This will help in the change of behaviour for resource users and managers to overtly apply the overarching fundamental management lens of the korowai objectives.
73. I agree with the Interim Decision's deletion of 'and values' in clause 9(b). I note that this aspect was retained in Davidson's recommendation.
74. I consider both aquatic ecosystem health and life-supporting capacity to be encompassed under "te hauora o te wai (health and mauri of the waterbody)". Including terms with NPSFM terminology alongside existing terminology used in the pSWLP will provide greater clarity for the user of the Plan and reinforce that the Korowai Objectives are to be applied, aiding in the application of the fundamental management lens that is sought through this Plan. In any assessment of effects, relevant matters identified in the RMA such as aquatic ecosystem health and life-supporting capacity should be explicitly considered.
75. I consider that as the intent of Objective 9 is focussed on surface waterbodies, the term "te hauora o te wai (health and mauri of the waterbody)" is appropriate in this context, rather than "te hauora o to taiao". This would also align with the recommendations above to include a Korowai statement for Objectives 1 and 3 to provide clarity that the Korowai Objectives provide the

fundamental management lens to all provisions in pSWLP and to identify korowai as a method of plan interpretation.

76. Human health for recreation is a compulsory national value under the NPSFM and the proposed amendments to clause (b) provide clarity that integration between both water quantity and quality objectives are important. I consider it is appropriate to delete “and values” as put forward by the Interim Decision as it makes it clearer in intent. Again, having the Korowai Objectives and identifying korowai as a method of plan interpretation will assist.

77. **Recommendation:**

Amend the Interim Decision of Objectives 9 and 9A as follows:

Objectives 9 and 9A

The quantity of water in surface waterbodies is managed so that:

- (a) te hauora o te taiao-wai (including aquatic ecosystem health, life-supporting capacity), the values of outstanding natural features and landscapes, the natural character and historic heritage values of waterbodies and their margins are safeguarded;
- (b) there is integration with the freshwater quality objectives and values (including the safeguarding of human health for recreation): and
- (c) provided that (a) and (b) are met, surface water is sustainably managed, in accordance with Appendix K to support the reasonable needs of people and communities to provide for their economic, social and cultural wellbeing.

Objective 9B

78. I agree with the Interim Decision. The Court has reworded Objective 9B to clarify the importance of Southland’s regionally and nationally significant infrastructure is recognised and that the effects of any development, operation, maintenance and upgrading will still need to be considered due to the terms “sustainable and effective”. This alleviates my concerns with respect

to the term "enable" and substantiates what is "recognised and provided for" which were matters raised in my earlier evidence⁴⁸.

79. In line with the reasoning in the previous paragraph, I consider that the Interim Decision version of Objective 9B can be interpreted and applied in a manner that gives effect to Te Mana o te Wai and can be implemented in accordance with ki uta ki tai.
80. I consider the removal of "critical infrastructure" from Objective 9B is appropriate and that it is preferable to use consistent terminology with the RPS's "regionally significant infrastructure".
81. **Recommendation:**

No change to Objective 9B in the Interim Decision as follows:

Objective 9B

The importance of Southland's regionally and nationally significant infrastructure is recognised and its sustainable and effective development, operation, maintenance and upgrading enabled.

Objective 10

82. I agree with the Court⁴⁹ that the differences in drafting and interpretation of the outcomes sought under Objective 10 essentially come down to three points of view of the outcome sought in the objective. Is it:
1. the opportunity for Scheme enhancement; or
 2. outcomes for natural and physical resources were the Scheme to be enhanced; or
 3. to simply describe the Scheme?
83. I agree with Davidson⁵⁰ that adopting a korowai structure means that any consideration of a flow and level regime will also need to consider Te Mana o te Wai and Ki uta ki tai and that this could be done for any of the outcomes sought.

⁴⁸ At [44-48] in Kirk, 1 March 2019

⁴⁹ At [191 and 197] in Aratiatia Livestock Ltd v Southland Regional Council [2019] NZEnvC 208.

⁵⁰ At [63] in Davidson, 17 April 2020.

84. **Recommendation:**

No change to Objective 10 in the Interim Decision as follows:

Objective 10

The national importance of the existing Manapōuri hydro-electric generation scheme in the Waiau catchment, is provided for and recognised in any resulting flow and level regime.

Objective 11

85. I agree with Davidson⁵¹ that the Korowai Objectives can and should be applied to Objective 11 and no change in wording is needed.

86. **Recommendation:**

No change to Objective 11 in the Decision's Version as follows:

Objective 11

The amount of water abstracted is shown to be reasonable for its intended use and water is allocated and used efficiently.

Objective 12

87. I agree with Davidson⁵² that the Korowai Objectives can be seen to be applied to Objective 12 as currently worded with "sustainably managed" clearly encompassing the management lens of the Korowai Objectives. The lens then focuses on particular outcomes of "te hauora o te wai" in terms of "safeguarding the life-supporting capacity, ecosystem processes and indigenous species of surface water bodies where their flow is, at least in part, derived from groundwater", but it does not limit the outcome to these elements due to the term "including".

88. **Recommendation:**

No change to Objective 12 in the Decision's Version as follows:

⁵¹ At [66] in Davidson, 17 April 2020.

⁵² At [67-68] in Davidson, 17 April 2020.

Objective 12

Groundwater quantity is sustainably managed, including safeguarding the life-supporting capacity, ecosystem processes and indigenous species of surface water bodies where their flow is, at least in part, derived from groundwater.

Objectives 13, 13A and 13B

89. I agree with the Court⁵³ that the rephrasing to focus Objective 13 on the wellbeing outcomes being sought has greater resonance with Te Mana o te Wai than what was proposed in the Decisions Version.
90. The three wellbeing outcomes identified in Objective 13 are:
- i. the soil resource is not irreversibly degraded (Objective 13(a));
 - ii. the health of people and communities is safeguarded (Objective 13(b)); and
 - iii. ecosystems are safeguarded (Objective 13(c)).
91. In my opinion, these three wellbeing outcomes are provided for under the Korowai Objectives as follows:
- i. the soil resource is not irreversibly degraded: Ki uta ki tai; te hauora o te taiao (health and mauri of the-environment) and te hauora o te wai (health and mauri of the waterbody);
 - ii. the health of people and communities is safeguarded: te hauora o te tangata (health and mauri of the people); and
 - iii. ecosystems are safeguarded: Ki uta ki tai; te hauora o te taiao (health and mauri of the-environment) and te hauora o te wai (health and mauri of the waterbody).
92. I also consider that the Interim Decision gives effect to the objectives and policies in both the Rural and Urban chapters of the RPS⁵⁴. These provisions encapsulate the three wellbeing outcomes identified in Objective 13 and provide for the social, economic and cultural needs of current and subsequent generations while sustainably managing adverse environmental effects in

⁵³ At [252] in *Aratiatia Livestock Ltd v Southland Regional Council* [2019] NZEnvC 208.

⁵⁴ RPS Objectives RURAL.1 and RURAL.2, URB.1 and Policies RURAL.1 to RURAL.5 inclusive, and URB.1. Please refer to the RPS in the common bundle of documents.

relation to the land and soil resource. For example, the explanation/principle reasons for Policy RURAL.1 says:

“To give effect to Policy RURAL.1, decisions made relating to policies and rules intended to achieve sustainable management of Southland’s rural land resource, must recognise social, economic and cultural wellbeing, as well as sustainably managing adverse environmental effects.”

93. I do not consider that Objective 13 should be redrafted further at this stage of the process to be similar in intent of the redrafting of Objective 9 and 9A as I consider that management lenses of the Korowai Objectives are clearly provided for throughout the current drafting. I do not consider any further rewording would aid in consistency and clarity in applying the Plan, and would not reinforce the application of the fundamental management lens over and above what is currently drafted.
94. **Recommendation:**

No change to Objective 13 in the Interim Decision as follows:

Objective 13

Provided that

- (a) the quantity, quality and structure of soil resources are not irreversibly degraded through land use activities or discharges to land; and
- (b) the health of people and communities is safeguarded from the adverse effects of discharges of contaminants to land and water; and
- (c) ecosystems (including indigenous biological diversity and integrity of habitats), are safeguarded:

then land and soils are used and developed to enable the economic, social and cultural wellbeing of the region.

Objective 14

95. I agree with Davidson⁵⁵ that Objective 14 aligns with the Court’s third key understanding and also with Ki uta ki tai, by recognising that Southland

⁵⁵ At [70] in Davidson, 17 April 2020.

contains a range and diversity of indigenous ecosystem types and habitats and that their life supporting capacity or te hauora o te taiao (health and mauri of the-environment), be maintained or enhanced.

96. No amendments in wording are required.

97. **Recommendation**

No change to Objective 14 in the Interim Decision as follows:

Objective 14

The range and diversity of indigenous ecosystem types and habitats within rivers, estuaries, wetlands and lakes, including their margins, and their life-supporting capacity are maintained or enhanced.

Objective 15

98. I agree with the Court⁵⁶ and Davidson⁵⁷ that Objective 15 could be reworded to better reflect the Treaty Principle of active protection and I support the amendment that Davidson has proposed.

99. **Recommendation:**

Amend Objective 15 as follows:

Objective 15

Taonga species, as set out in Appendix M, and related habitats, are recognised and protected ~~provided for~~.

Objective 16

100. I agree with Davidson⁵⁸ that Objective 16 aligns with the Court's key understandings and the Korowai Objectives apply. No amendments in wording are required.

101. **Recommendation**

No change to Objective 16 as follows:

⁵⁶ At [32] in Aratiatia Livestock Ltd v Southland Regional Council [2019] NZEnvC 208.

⁵⁷ At [71-72] in Davidson, 17 April 2020.

⁵⁸ At [73] in Davidson, 17 April 2020.

Objective 16

Public access to, and along, river (excluding ephemeral rivers) and lake beds is maintained and enhanced, except in circumstances where public health and safety or significant indigenous biodiversity values are at risk.

Objective 17

102. I agree with Davidson⁵⁹ that Objective 17 aligns with the key understandings of the Court and the Korowai Objectives apply. I consider that the Interim Decision gives effect to section 6(a) of the RMA.⁶⁰ Appendix 2 of the RPS provides the significance assessment criteria in terms of s6(c). No amendments in wording are required.

103. **Recommendation**

No change in Objective 17 of the Interim Decision as follows:

Objective 17

Preserve the natural character values of wetlands, rivers and lakes and their margins, including channel and bed form, rapids, seasonably variable flows and natural habitats that are of significance to the region, and protect them from inappropriate use and development.

Objective 18

104. The Court⁶¹ states that the *“final determination of [Policies 4-12] is subject to Objective 18 which is directed (at least) towards improving existing land use and water management practice.”*

105. I consider that Objective 18 provides clarity and certainty to the Plan user as well as a direct link to Policies 4-12 in order to help implement the

⁵⁹ At [74] in Davidson, 17 April 2020.

⁶⁰ RMA s6(a): *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection from inappropriate subdivision, use and development.”*

⁶¹ At [319] in Aratiatia Livestock Ltd v Southland Regional Council [2019] NZEnvC 208.

Korowai objectives in the clear course of actions in Policies 4-12 as drafted by the Court⁶².

106. For example, “ki uta ki tai” is considered through the use of the risk-based approach in clause 1(i)-(iii) of Policies 4-12 as follows:

- i. *Identifying contaminant pathways to ground and surface water bodies;*
- ii. *requiring implementation of good management practices to manage adverse effects on water quality from contaminants transported via artificial drainage, and overland flow where relevant; and*
- iii. *having particular regard to adverse effects on water quality from contaminants transported via artificial drainage, and overland flow where relevant when assessing resource consent applications and preparing or considering Farm Environmental Management Plans.”*

107. The use of the risk-based approach in the management of contaminant risk requiring the resource user to identify the contaminant pathways within the respective physiographic zone, the implementation of good management practices and the Farm Environmental Plans provide clear demonstration tools of a person’s land use and water management practice. It is from these tools that an assessment can be made if a person’s land use and water management practice has met the other respective outcomes sought.

108. Therefore, I consider Objective 18 provides a clear outcome of applying the fundamental management lens intended to drive behaviour change and should be retained.

109. **Recommendation:**

No change to Objective 18 in the Interim Decision as follows:

⁶² At Annexure 1 in Aratiatia Livestock Ltd v Southland Regional Council [2019] NZEnvC 208.

Objective 18

All persons will demonstrate improved land use and water management practice.

CONCLUSION

110. I agree with the Court that the Korowai Objectives of Ki uta ki tai and Te Mana o Te Wai provide the fundamental management lens to apply to all provisions in the pSWLP. This means that Objectives 1 and 3 should be elevated above the other objectives and “korowai” should be identified as a method of plan interpretation with some rewording to some objectives as a result.
111. The Korowai Objectives provide the paradigm for the management of land and water resources in the Southland Region to be woven as the golden thread through the pSWLP. In doing so, the korowai paradigm aligns the management tools with tangata whenua and community values and aspirations to maintain and improve the connectivity between water, land and people. This aligns with the three key understandings of the Court and is more explicit in taking into account the Principles of the Treaty of Waitangi.

Linda Elizabeth Kirk

13 May 2020

APPENDIX 1 – Ms Kirk’s Understanding of Te Tiriti o Waitangi/Treaty Principles

The Principle of Partnership

1. Partnership is the concept to describe the relationship between the Crown and Māori and provides the overarching tenet from which other key principles have been derived⁶³. There is a duty on the parties to act reasonably, honourably, and in good faith. There is also a duty on the Crown to make informed decisions on matters affecting the interests of Māori. This may or may not require consultation with Māori.
2. As I understand, that while the Treaty is between the Crown and Māori, the relationship of tangata whenua with the environment is recognised in Part II of the RMA, including in sections 6(e), 6(f), 6(g), 7(a) and 8⁶⁴ and creates obligations on local government to demonstrate how the Treaty has been given effect to under section 8.

The Principle of Tino Rangitiratanga

3. Tino rangatiratanga, as I understand, is based on the concepts of guardianship or control. While I have not found a definition of Tino rangatiratanga, there are definitions of Rangatiratanga:
 - *“Rangatiratanga encompasses “chieftanship, the powers and qualities of chiefly leadership, and exercise of tribal authority. Self determination”⁶⁵*
 - *Rangatiratanga is about self-determination and statehood. Rangatiratanga is defined by the Waitangi Tribunal as “more than ownership: it encompassed the autonomy of the hapū to arrange and manage their own affairs in partnership with the Crown.” (Wai 2358, S2.8.3(1)).⁶⁶*

⁶³ After [77], Te Puni Kōkiri, 2001, “He Tirohanga o 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

⁶⁴ Please refer to the RPS in the common bundle of documents.

⁶⁵ At page 312, “Te Tangi a Tauira – The Cry of the People”

⁶⁶ At page 16 in Te Rūnanga o Ngāi Tahu, 2019, “Ngāi Tahu Rangatiratanga over Freshwater” (source: <https://ngaitahu.iwi.nz/wp-content/uploads/2019/11/Wai-Maori-Strategy-web.pdf>)

4. I consider that Rangatiratanga incorporates concepts of kaitiakitanga, tikanga Maori practices and values and taonga. As stated in the Treaty Guidance of the Cabinet⁶⁷, *“it is the duty of the Crown to respect the right of Māori to control decisions in relation to their lands and the things of value to them. These rights are exercised within the context of the Crown’s right to govern.”*

The Principle of Active Protection

5. Active protection encompasses the Crown’s obligation to take positive steps to ensure that Māori interests are protected.⁶⁸

The Principle of Reciprocity

6. The principle of reciprocity “captures the “essential bargain” or “solemn exchange” agreed to in the Treaty by Māori and the Crown: the exchange of sovereignty for the guarantee of tino rangatiratanga” with the following key concepts: the equal status of the Treaty partners, the Crown’s obligation to actively protect Māori Treaty rights, including the right of tribal self-regulation or self-management, the duty to provide redress for past breaches, and the duty to consult.⁶⁹

The Principle of mutual benefit

7. “An underlying premise is that both partners signed the Treaty expecting to benefit from the arrangement. This principle requires that *“the needs of both cultures must be provided for and compromise may be needed in some cases to achieve this objective”*”⁷⁰

⁶⁷ At [47] in Cabinet Office (Oct 2019) Te Tiriti o Waitangi / Treaty of Waitangi Guidance [CO (19) 5] (source: <https://dpmc.govt.nz/publications/co-19-5-te-tiriti-o-waitangi-treaty-waitangi-guidance>)

⁶⁸ At [93] in Te Puni Kōkiri, 2001.

⁶⁹ After [80] in Te Puni Kōkiri, 2001.

⁷⁰ At [82] in Te Puni Kōkiri, 2001.

APPENDIX 2 – Summary of Ms Kirk’s Recommended Amendments for the Objectives of the pSWLP

Note: Changes are based on the Interim Decision using the following key:

- Underlining for insertions proposed by Ms Davidson;
- ~~Strikethrough~~ for deletions proposed by Ms Davidson; and
- Double-underlining / ~~strikethrough~~ for any further amendments recommended by Ms Kirk to wording proposed by Ms Davidson or the Court in its Interim Decision.

Amend the Korowai Objectives 1 and 2 from the Interim Decision as follows:

1. Provide an overarching statement as follows:

KOROWAI OBJECTIVES

These objectives are a korowai, meaning they provide a cloak or overarching statement on the management of land and water that must be considered when considering the Objectives implementing the Provisions of this Plan.

Objective 1 Korowai - Ki uta ki tai

Land and water and associated ecosystems are sustainably managed as integrated natural resources, recognising the connectivity between surface water and groundwater, and between freshwater, land and the coast.

Objective 3 Korowai - Te Mana o te Wai

The mauri of water will be acknowledged and protected so that it provides for te hauora o te taiao (health and mauri of the-environment) and te hauora o te wai (health and mauri of the waterbody) and te hauora o te tangata (health and mauri of the people).

2. Identify korowai as a method in plan interpretation to provide certainty to the Plan user that its application is across the pSWLP.

No change to Objective 2 in the Interim Decision, as follows:

Objective 2

Water and land are recognised as enablers of the economic, social and cultural wellbeing of the region.

<p>No change to Objective 4 as follows:</p> <p>Objective 4</p> <p>Tangata whenua values and interests are identified and reflected in the management of freshwater and associated ecosystems.</p>
<p>No change to Objective 5 as follows:</p> <p>Objective 5</p> <p>Ngāi Tahu have access to and sustainable customary use of, both commercial and non-commercial, mahinga kai resources, nohoanga, mātaimai and taiāpure.</p>
<p>Amend the Interim Decision of Objective 6 as follows:</p> <p>Objective 6</p> <p><i>Water quality in each freshwater body, <u>estuary and coastal lagoon</u>, will be:</i></p> <p><i>(a) maintained <u>or improved</u> where the water quality is not degraded; and</i></p> <p><i>(b) improved where the water quality is degraded by human activities.</i></p>
<p>No change to Objective 7 in the Interim Decision as follows:</p> <p>Objective 7</p> <p>Following the establishment of freshwater objectives, limits, and targets (water quality and quantity) in accordance with the Freshwater Management Unit processes:</p> <p>(a) where water quality objectives and limits are met, water quality shall be maintained or improved;</p> <p>(b) any further over-allocation of freshwater is avoided; and</p> <p>(c) any existing over-allocation is phased out in accordance with freshwater objectives, targets, limits and timeframes.</p>

Amend Objective 8 as follows:

Objective 8

The quality of groundwater:

- (a) ~~The quality of groundwater~~ is maintained where it ~~that~~ meets both the Drinking Water Standards for New Zealand 2005 (revised 2008) and any freshwater objectives, including for connected surface waterbodies, established under Freshwater Management Unit processes ~~is maintained~~; and
- (b) ~~The quality of groundwater~~ is improved where it ~~that~~ does not meet Objective 8(a) because of the effects of land use or discharge activities is progressively improved so that:
- (1) groundwater (excluding aquifers where the ambient water quality is naturally less than the Drinking Water Standards for New Zealand 2005 (revised 2008)) meets the Drinking Water Standards for New Zealand 2005 (revised 2008); and
 - (2) groundwater meets any freshwater objectives and freshwater quality limits established under Freshwater Management Unit processes.

Amend the Interim Decision of Objectives 9 and 9A as follows:

Objectives 9 and 9A

The quantity of water in surface waterbodies is managed so that:

- (a) ~~te hauora o te taiao wai~~ (including aquatic ecosystem health, life-supporting capacity), the values of outstanding natural features and landscapes, the natural character and historic heritage values of waterbodies and their margins are safeguarded;
- (b) there is integration with the freshwater quality objectives and values (including the safeguarding of human health for recreation): and
- (c) provided that (a) and (b) are met, surface water is sustainably managed, in accordance with Appendix K to support the reasonable needs of people and communities to provide for their economic, social and cultural wellbeing.

<p>No change to Objective 9B in the Interim Decision as follows:</p> <p>Objective 9B</p> <p>The importance of Southland's regionally and nationally significant infrastructure is recognised and its sustainable and effective development, operation, maintenance and upgrading enabled.</p>
<p>No change to Objective 10 in the Interim Decision as follows:</p> <p>Objective 10</p> <p>The national importance of the existing Manapōuri hydro-electric generation scheme in the Waiau catchment, is provided for and recognised in any resulting flow and level regime.</p>
<p>No change to Objective 11 in the Decision's Version as follows:</p> <p>Objective 11</p> <p>The amount of water abstracted is shown to be reasonable for its intended use and water is allocated and used efficiently.</p>
<p>No change to Objective 12 in the Decision's Version as follows:</p> <p>Objective 12</p> <p>Groundwater quantity is sustainably managed, including safeguarding the life-supporting capacity, ecosystem processes and indigenous species of surface water bodies where their flow is, at least in part, derived from groundwater.</p>
<p>No change to Objective 13 in the Interim Decision as follows:</p> <p>Objective 13</p> <p>Provided that</p> <p>(a) the quantity, quality and structure of soil resources are not irreversibly degraded through land use activities or discharges to land; and</p> <p>(b) the health of people and communities is safeguarded from the adverse effects of discharges of contaminants to land and water; and</p> <p>(c) ecosystems (including indigenous biological diversity and integrity of habitats), are safeguarded:</p> <p>then land and soils are used and developed to enable the economic, social and cultural wellbeing of the region.</p>

<p>No change to Objective 14 in the Interim Decision as follows:</p> <p>Objective 14</p> <p>The range and diversity of indigenous ecosystem types and habitats within rivers, estuaries, wetlands and lakes, including their margins, and their life-supporting capacity are maintained or enhanced.</p>
<p>Amend Objective 15 as follows:</p> <p>Objective 15</p> <p>Taonga species, as set out in Appendix M, and related habitats, are recognised and <u>protected</u> provided for.</p>
<p>No change to Objective 16 as follows:</p> <p>Objective 16</p> <p>Public access to, and along, river (excluding ephemeral rivers) and lake beds is maintained and enhanced, except in circumstances where public health and safety or significant indigenous biodiversity values are at risk.</p>
<p>No change in Objective 17 of the Interim Decision as follows:</p> <p>Objective 17</p> <p>Preserve the natural character values of wetlands, rivers and lakes and their margins, including channel and bed form, rapids, seasonably variable flows and natural habitats that are of significance to the region, and protect them from inappropriate use and development.</p>
<p>No change to Objective 18 in the Interim Decision as follows:</p> <p>Objective 18</p> <p>All persons will demonstrate improved land use and water management practice.</p>