

**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

**MEMORANDUM OF COUNSEL FOR NGĀ RŪNANGA RESPONDING TO COURT'S
DIRECTIONS DATED 5 AUGUST 2019 REGARDING THE DEVELOPMENT OF
INDICATORS OF ECOLOGICAL HEALTH OF WATERBODIES**

23 AUGUST 2019

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MAY IT PLEASE THE COURT

1. This memorandum of counsel is filed on behalf of Waihopai Rūnaka, Hokonui Rūnaka, Te Rūnanga o Awarua, Te Rūnanga o Oraka Aparima, and Te Rūnanga o Ngāi Tahu (collectively Ngā Rūnanga). It responds to the directions of the Court dated 5 August 2019 inviting parties to identify data, facts and information relevant to the development of indicators of the ecological health of waterbodies.

Te Mana o Te Wai and Ki Uta Ki Tai

2. The NPSFM mandates that Te Mana o te Wai is integral to the management of freshwater, and in the Plan, it is bound by the Ki Uta Ki Tai environmental management framework.¹ Together these concepts:
 - (a) provide the overarching lens and framework of the Plan - they are not merely Māori values;
 - (b) must continue to be the approach to freshwater management throughout the FMU process, and after that process is complete; and
 - (c) must be genuinely incorporated into the Plan, including into the framework of ecological indicators of health and thresholds.
3. Te Mana o te Wai acknowledges and protects the mauri of the waterbody, and the health of the environment and the people. The management outcome is hauora (wellness, vitality).
4. Ki Uta Ki Tai means that all receiving environments (from headwaters to estuaries) need to be considered together in their management. It requires an integrated approach to be taken when developing thresholds for ecological indicators of health (and ecological thresholds); an approach that looks across interconnected water bodies² and connected ecological processes and species (including mahinga kai species).³

1 Paragraph 3 of the Preamble and 'Te Mana o Te Wai' section of the Plan, pages 5-6 [Decisions version].

2 Including rivers, groundwater/springs, wetlands, lakes, ICOLLs, estuaries and coastal waters.

3 In both Joint Witness Statements, it was agreed that an integrated approach is required in considering ecosystem health. See the Rivers and Wetlands Statement at paragraph 25; Lakes, ICOLLs and Estuaries Statement at paragraphs 19 and 20.

5. The interconnection of the land is also required to be considered within the Plan and the development of ecological indicators of health (and ecological thresholds). This includes consideration of soil health and how contaminants move through the landscape. Ngā Rūnanga's position is that the concept of physiographics is very useful for understanding these pathways and the sensitivities of different environments.
6. As the receiving environment at the bottom of catchments, the needs of estuaries must be a focus of Ki Uta Ki Tai. The wellbeing of estuaries is a key indication for what action is needed for what action is needed to address the health and needs of the waterbodies that feed into them.
7. Ki Uta Ki Tai and Te Mana o te Wai provide direction for appropriate spatial scales that need to be considered. More specifically, these concepts require that the framework for indicators and any identification of degradation is at a waterbody scale.
8. It is crucial that the scientific experts understand, from a management perspective, what is required for a Te Mana o te Wai / Ki Uta Ki Tai approach to ecological indicators of health. As such, Ngā Rūnanga suggest that the scientific experts, at caususing on the 4 September 2019, would benefit greatly from Ms Cain's expertise, and respectfully request the leave of the Court for her to attend.

Further facts, information and data

9. In summary, Ngā Rūnanga's position largely accords with that set out in the Joint Witness Statements.
10. Both Joint Witness Statements relied on a number of key sources of information, data and facts. These are listed and detailed in the respective Statements. Ngā Rūnanga consider that these sources will be an important part of further work developing ecological indicators of health.
11. Further data sources were also identified by the experts, such work from Dr Death and from Environment Southland.⁴ Ngā Rūnanga also consider that analysis of this work will be useful in developing indicators.

4 See Rivers and Wetlands Statement at paragraph 49.

12. Both Joint Witness Statements highlighted additional information and attributes for further analysis and work and Ngā Rūnanga's position is that these may warrant incorporation into the development of ecological indicators.⁵ For example, the key gaps in information identified by the experts included deposited fine sediment, stream and riparian habitat, Dissolved Oxygen, temperature and fish.⁶

DATED this 23rd day of August 2019



J G A Winchester / S K Lennon
Counsel for Ngā Rūnanga

5 See the Rivers and Wetlands Statement at paragraphs 42-43, 49, 81 and 86. See the Lakes, ICOLLs and Estuaries Statement at paragraph 36
6 See the Rivers and Wetlands Statement at paragraph 42-43.