

**BEFORE THE HEARINGS PANEL
FOR THE CANTERBURY REGIONAL COUNCIL**

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of Plan Change 5 to the
Canterbury Land and
Water Regional Plan

**STATEMENT OF EVIDENCE OF TĀ MARK SOLOMON
ON BEHALF OF NGĀ RŪNANGA (TE RŪNANGA O KAIKŌURA, TE NGĀI
TŪĀHURIRI RŪNANGA, TE HAPŪ O NGĀTI WHEKE, TE RŪNANGA O
KOUKOURĀRATA, ŌNUKU RŪNANGA, WAIREWA RŪNANGA, TE TAUMUTU
RŪNANGA, TE RŪNANGA O AROWHENUA, TE RŪNANGA O WAIHAO AND TE
RŪNANGA O MOERAKI), NGĀI TAHU FARMING LIMITED, AND TE RŪNANGA O
NGĀI TAHU (TE RŪNANGA)**

22 July 2016

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1. INTRODUCTION

- 1.1 My name is Mark Solomon and I am of Waitaha, Ngāti Mamoe, Ngāi Tahu, Ngāti Kurī, Ngāti Irakehu, Kāti Huirapa, Ngāi Tūāhuriri and Ngāi Te Ruahikihiki descent. I am the Kaiwhakahaere (chairperson) of Te Rūnanga o Ngāi Tahu, a position I have held since 1998. As Kaiwhakahaere, I provide leadership of the tribe at a national level. I am also the elected representative on Te Rūnanga o Ngāi Tahu for Te Rūnanga o Kaikōura, a position I have held since 1995. I am also the Co-Chair of the Freshwater Iwi Leaders Group (**Freshwater ILG**) which is currently engaged with the Crown on Freshwater Reforms.
- 1.2 I have been involved with the community in many capacities, including as a trustee of Takahanga Marae, a school board trustee and I was on the board of the Museum of New Zealand Te Papa Tongarewa from 2001-2007.
- 1.3 I currently hold directorships on 13 entities, many with a heavy focus on environmental and resource management.

2. SCOPE OF EVIDENCE

- 2.1 I have been asked by Ngāi Tahu to prepare evidence for this hearing on Plan Change 5 to the Land and Water Plan (**PC5**), to emphasise the importance of addressing adverse effects on water quality across the Canterbury region and to highlight the significance of mahinga kai to Ngāi Tahu whānui.
- 2.2 My evidence covers the following aspects of the Ngāi Tahu story, as it relates to proposed changes in the management of farming activities within the region:
- (a) Te Tiriti o Waitangi and the Ngāi Tahu Settlement Act 1998;
 - (b) Rangatiratanga and the Ngāi Tahu Freshwater Policy; and
 - (c) Kaitiakitanga and Te Mana o Te Wai.

3. TE TIRITI AND SETTLEMENT

- 3.1 Evolution of resource management in the Canterbury region is directly linked to the evolution of the relationship between Ngāi Tahu and our

lands and waters. It is a history with Te Tiriti o Waitangi at the heart of it, and is a story of loss and restoration.

3.2 PC5 is the latest iteration of more recent regional planning in Canterbury. Our desire is that it advances the story of restoration, rather than exacerbating the story of loss for our people.

3.3 Te Tiriti is the origin of Ngāi Tahu expectations of kawanatanga, or governance, when it comes to resource management.

3.4 Within the extensive Waitangi Tribunal report on the Ngāi Tahu claim (Wai 27), this statement of an original claimant captures tribal interpretation of Article Two of the Treaty:

*"Article Two of the Treaty would give protection to the Maori and this was to include the protection of Maori property rights, i.e. Rangatiratanga over our mahinga kai that we desired to retain."*¹

3.5 That 1991 Report also records the following excerpt from the Court of Appeal ruling of Sir Robin Cooke:

*"The duty of the Crown is not merely passive but extends to active protection of Māori people in the use of their lands and waters to the fullest extent practicable"*²

3.6 The Treaty was an agreement between the Crown and iwi which established duties and responsibilities. The tenor of the statements made at the conclusion of the Ngāi Tahu claim process by the tribal leadership and the judiciary, recognised that active protection is a foundation stone of the Treaty relationship.

3.7 Our tribal structure is a direct consequence of the claims process, established to administer the Settlement with the Crown for countless accounts of the failure of the Crown to meet their Treaty responsibilities to Ngāi Tahu whānui throughout the whole of our tribal takiwā.

3.8 Our tribal council, Te Rūnanga o Ngāi Tahu, which I chair, consists of eighteen Papatipu Rūnanga or local councils, ten of which are affected by resource management decisions within the Canterbury region.

¹ Waitangi Tribunal, Ngai Tahu Land Report 1991, p14
² Waitangi Tribunal, Ngai Tahu Land Report 1991, p236

- 3.9** When we talk about mahinga kai in the context of this hearing process, we do so within the wider context of established Treaty principles, including active protection.
- 3.10** Mahinga kai was the "ninth tall tree", alongside eight land purchases, that formed the basis of the Ngāi Tahu claim. Through the Settlement process, mahinga kai was addressed by different mechanisms, including Statutory Acknowledgement Areas.
- 3.11** Reliance was placed at the time on a new co-operative approach to resource management, one that would ensure that what was valued by Ngāi Tahu would be protected for on-going use by mana whenua, in contrast to over a hundred and forty years of poor practice.
- 3.12** Here we are, eighteen years on from Settlement, talking about mahinga kai and whether or not farmers should be addressing effects on mahinga kai as part of their auditable farm plans. We would say, how can you actively protect mahinga kai without clear responsibility for managing impacts of farming activities on mahinga kai?
- 3.13** We are here talking about the relationship between farming activities and water quality across the region, how we define good management practice, and to what extent that makes a difference to water quality outcomes. Reducing adverse effects of diffuse pollution on water quality is a basic requirement if mahinga kai values are to be appropriately protected in line with Treaty responsibilities.
- 3.14** A decision on this plan change must be mindful of Treaty principles. We must be sure that there will be a measurable difference to water quality in the region as a consequence of new mechanisms, if they are to be adopted.
- 3.15** We need to know that recent sub-regional planning decisions that contain new limits for nutrient losses will not be undone by the introduction of this new regime.
- 3.16** When we consider good management practice and water quality outcomes through this planning process, we do not ask any more of the region's farmers than we ask of our own farming company.

4. RANGATIRATANGA AND NGĀI TAHU POLICY

- 4.1** Ngāi Tahu has worked since the introduction of the Resource Management Act (RMA) in 1991 and since the time of Settlement, to express tribal aspirations for freshwater management and mahinga kai.
- 4.2** Statements, in the Ngāi Tahu Freshwater Policy and iwi management plans, are a necessary platform for us to exercise rangatiratanga. We expect weight to be given to them in RMA decision-making, commensurate with their standing as statements of a Treaty partner.
- 4.3** Through all our policies and plans, we have had a consistent focus on what we know our tūpuna could access from our waterways to feed whānau, and where they harvested and the sustainable management of natural resources for future generations. What we know from our tūpuna shapes what we ask for today.
- 4.4** Much of what generations of our people relied upon to sustain them has been degraded, and what remains in the Canterbury we continue to cherish.
- 4.5** We cannot protect it alone or restore it alone. As far as we have come in our post-Settlement journey, we cannot stretch to all places where it matters. That is where regional council governance, representing the Treaty partner, must show leadership and give effect to the Treaty through ensuring the active protection of our natural resources.
- 4.6** We need landowners across the region to understand and take responsibility for their impact on the natural environment. This plan change provides an opportunity to incorporate our values into everyday farming operations and switch farmers, as custodians, on to their role in supporting protection and restoration of mahinga kai.
- 4.7** As we tackle this together, farmers will find that it is not so difficult to understand or to accomplish as a companion to good management practice and farm planning. We are working with our own farming company to put it in to practice in a measurable way.
- 4.8** Throughout our iwi management plans there are consistent statements around the maintenance and enhancement of water quality.

- 4.9** We have seen waterways degraded as a consequence of reduced flows and increased nutrient loads, and aquifers contaminated to a level that makes the water unsafe to drink. Despite the goal of a new co-operative approach post-Settlement, much of this degradation has occurred within the last eighteen years as farming activity has intensified across the Canterbury Plains.³
- 4.10** This is far from our stated expectations for freshwater management and the aspirations we have for intergenerational legacy – mō tātou, ā, mō kā uri, ā muri ake nei.
- 4.11** When we call for staged reductions in on-farm nutrient losses, when we challenge grandparenting and insist on hard limits, it is because it is our mana at stake and we understand that our relationship with the natural environment comes with rights and responsibilities.
- 4.12** What we leave for the next generation will be the mark of how well we have fulfilled our responsibilities as rangatira and tangata tiaki. We must be courageous, always seeking to improve and question the status quo.
- 4.13** We expect on-farm practices to contribute towards regional water quality objectives and result in a shift towards best practice. This will ensure that over time Ngāi Tahu aspirations for continued improvement in water quality throughout the Canterbury region.
- 4.14** Kawanatanga, as regional council decision-makers, means ensuring that active protection is provided for in line with Treaty principles. It means enabling Ngāi Tahu aspirations for improved water quality, drinkable water and swimmable rivers.
- 4.15** We can accept nothing less for our mokopuna, who will inherit the mahinga kai. If we have cannot pass on our practice and our knowledge, we face further cultural loss.
- 4.16** Loss of our mahinga kai will have a direct impact on cultural well-being, and is a direct consequence of failure to improve degraded water quality or to protect and restore mahinga kai through on-farm practice.

³ Dr Jane Kitson's report, *An overview of surface water quality changes in the Canterbury Region since the Ngāi Tahu Deed of Settlement 1997* gives a brief overview of the surface water quality in Canterbury over the period from 1998 to 8 July 2016 (the date of the report).

4.17 That is the responsibility you hold as decision-makers in this forum. The RMA's purpose and principles provide you with necessary reference points to help you make the right decision.

5. KAITIAKITANGA AND TE MANA O TE WAI

5.1 This forum is one of many in which I give the same messages on behalf of Ngāi Tahu whānui.

5.2 Through the Iwi Chairs Forum and the Freshwater ILG Ngāi Tahu work in partnership with other iwi towards full recognition of iwi rights and interests in freshwater.

5.3 Our position is that Ngāi Tahu continues to have a full range of rights and interests in freshwater as guaranteed under the Treaty of Waitangi. Those rights and interests are extant and have never been extinguished.

5.4 The technical working group supporting the Freshwater ILG worked with Crown officials to incorporate Te Mana o Te Wai into the National Policy Statement for Freshwater Management 2014 (Freshwater NPS). We continue to work on improvements to the Freshwater NPS and the framework of Te Mana o Te Wai.

5.5 When I spoke about the connection between tribal mana and the state of our waterways, that is Te Mana o Te Wai.

5.6 How we, as tangata tiaki, value, protect, maintain and enhance our waterways is how we reflect Te Mana o Te Wai.

5.7 To us, this is not an abstract concept, nor a legal requirement, it is a responsibility borne of whakapapa.

5.8 The Freshwater NPS provides for a shared responsibility, which we welcome.

5.9 We cannot walk away from our responsibilities to Canterbury aquifers and waterways. Wai is a taonga which we must look after - not to use up, but to pass on in as good a state or better to the next generation.

5.10 The nature and content of this plan change will be a measure that gives us confidence that this new regime for Canterbury will support kaitiakitanga and move us in the right direction.

5.11 We simply cannot afford further degradation and loss, or to take risks in a region that is suffering the effects of over-allocation and poorly managed intensification.

6. CONCLUSION

6.1 My closing remark is to urge you as decision-makers to reflect on the responsibility beholden to you to actively protect Ngāi Tahu rights and interests, as provided for in Te Tiriti o Waitangi and underlined by the Court of Appeal.

6.2 I ask on behalf of my whānau, my hapū and my iwi that you are certain that water quality will improve across the Canterbury region as a consequence of your decision and that our mahinga kai will be protected for future generations, in support of the cultural well-being of Ngāi Tahu whānui.

Tā Mark Solomon
22 July 2016