

BEFORE THE CANTERBURY REGIONAL COUNCIL

IN THE MATTER of a proposed plan
change under Schedule
1 to the Resource
Management Act 1991

AND

IN THE MATTER of a submission by
NGĀI TŪĀHURIRI
RŪNANGA on
PROPOSED PLAN
CHANGE 7 ON THE
CANTERBURY LAND
AND WATER
REGIONAL PLAN

**SUMMARY OF EVIDENCE OF RAWIRI TE MAIRE TAU ON BEHALF OF NGĀI
TŪĀHURIRI RŪNANGA**

30 NOVEMBER 2020

 **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 / sal.lennon@simpsongrierson.com
DX SX11174 PO Box 2402
SOLICITORS
WELLINGTON 6140

INTRODUCTION

1. My full name is Rawiri Te Maire Tau.
2. I am Upoko (appointed traditional leader) of my hapū Ngāi Tūāhuriri. As Upoko I have the responsibility to ensure our tikanga is observed and the values and practices of our tīpuna are maintained. I am also Co-Chair of Te Kura Taka Pini, the body instituted by Te Rūnanga to progress Ngāi Tahu rangatiratanga over freshwater.
3. I give my evidence with the support of Ngāi Tūāhuriri Rūnanga and Te Rūnanga o Ngāi Tahu.
4. I am aware of the evidence given by other Ngāi Tahu experts and have concentrated my oral evidence today on matters not referred to by others.

TE TIRITI O WAITANGI, RANGATIRATANGA AND PARTNERSHIP

5. The contemporary relationship between the Crown and Ngāi Tahu is defined by three core documents: Te Tiriti o Waitangi, the Ngāi Tahu Deed of Settlement 1997 and the Ngāi Tahu Claims Settlement Act 1998 (**Settlement Act**).
6. Importantly, the Settlement Act recognised Ngāi Tahu rangatiratanga and committed the Crown to entering a new age of co-operation with Ngāi Tahu. As rangatiratanga is central to Te Tiriti o Waitangi, section 8 of the Resource Management Act 1991 (**RMA**) needs to be read in conjunction with the Settlement Act. Rangatiratanga includes our authority to regulate in co-operation with the Crown.
7. Ngāi Tūāhuriri is of the view our rangatiratanga has been diminished, while the co-operation promised has not eventuated.

NITRATES

8. While the submission by Ngāi Tūāhuriri does not substantively address nitrate levels I would note that the matters being raised by Christchurch City Council about nitrates in drinking water highlights substantive concerns that Environment Canterbury's current approach to freshwater does not

properly value our freshwater resources and their importance to the health and wellbeing of our people. I am greatly concerned that acceptable nitrogen levels are set far too high and do not reflect or account for the negative impacts of excess algal blooms on aquatic life or on human health. When it comes to setting limits for water quality we cannot be too careful.

9. From 1994 to 2017, there was a 500% increase in the number of dairy cows in Canterbury. This significant change in land use vastly increased fertilizer and irrigation inputs resulting in nitrate-nitrogen leached from pastures into waterways and aquifers. Nitrate-nitrogen loss to the environment increased 117 percent from 15,000 tonnes in 1990 to 33,000 tonnes in 2017. This nitrogen leached from pastures increased nitrogen loads in waterways by 257 percent.
10. Because Canterbury drinking water comes from these aquifers this has become a threat to human health. Evidence is emerging on the relationship between water contamination and chronic human health conditions. For example, elevated nitrate concentrations well below the current regulatory limits in New Zealand, have been linked with an increased risk of colorectal cancer in at least seven studies summarised in 2019 recent meta-analysis. Worldwide, colorectal cancer is the third most prevalent form of cancer and the second highest contributor to cancer deaths.
11. This meta-analysis estimated elevated nitrate concentrations could be responsible for up to 8% of colorectal cancers in the United States. This would equate to 280 colorectal cancer cases per year in New Zealand. New Zealand has some of the highest colorectal cancer rates in the world, with the highest incidences in South Canterbury and Southland. These areas also have high levels of nitrate in aquifers. In Tuahiwi most of our people take their water from private shallow wells which Environment Canterbury warned were a health risk on 28 April 2020.
12. The primary duty of all Upoko and rangatira is to ensure the wellbeing of the people. This is a critical aspect of 'rangatiratanga', which the Crown is obliged to recognise and provide for under Te Tiriti o Waitangi and the Ngāi Tahu Settlement Act.

- 13.** The 1848 Canterbury Purchase (Kemp's Deed), alienated Ngāi Tūāhuriri from the majority of their lands. However, the deed also guaranteed our kainga nohoanga (places of residence) and mahinga kai (food gathering places) forever. Furthermore, under the Fenton Reserves a provision was made for fresh flowing water in the streams running through our reserves so we could fish and live off the land. It follows that our people have the right to clean water, both to drink and to sustain mahinga kai. The obligation is on the Crown and Environment Canterbury to ensure nitrate standards protect against all known risks.
- 14.** Besides concern for my people, I am also concerned for our birdlife, fish and flora. The current water quality limits have set maximum concentration levels based on toxicity which is the concentration level directly lethal to aquatic life. The Canterbury Water Management Strategy (CWMS) sets a limit of 3.8 mg/L and the NPSFM 2020 a standard of 2.4mg/L.
- 15.** Yet, nitrogen concentrations many times less than toxic levels are lethal to aquatic life through secondary effects of excess algal growth. Prior to the CWMS and the NPSFM guidance for setting nitrate limits in freshwater the Australasian Water Quality Guidelines established limits to protect aquatic ecosystem health. These guidelines provide that 0.44mg/L nitrate-nitrogen is the concentration level at which sunlight and warm water cause excess algae to grow (known as an algal bloom) resulting in secondary impacts on aquatic life - predominantly cyclic oxygen variation leading to hypoxia.
- 16.** For Ngāi Tahu water species are taonga which we rely upon for mahinga kai. The importance of mahinga kai cannot be overstated; it is the essence of Ngāi Tahu identity and whanaungatanga. The loss of our mahinga kai has had a profound cultural, social and economic impact on Ngāi Tahu.
- 17.** Nitrate limits which do not provide for the health of aquatic life do not meet the priorities of Te Mana o te Wai.
- 18.** In 2018, a water taskforce was established to examine, among other things, nitrogen limits for freshwater. In 2020, after 2 years of extensive research, the Minister for the Environment was advised that precise nutrient limits are

necessary to protect drinking water quality and the ecological health of waterways. A nitrogen bottom line of 1 mg/L was recommended.

19. At a minimum, Te Mana o te Wai requires that a nitrogen bottom line of 1 mg/L be set.

MINIMUM WATER FLOWS

20. Our traditions on the mana of rivers are based on strength of river flows. When Kaiapoi fell to Ngāti Toa, the pepeha was, 'Ko te wai anake o Whakahume te au ana'. This means that regardless of people the mana of the river remains. This mana is represented in the strength of the river flow.
21. If we are committed to Te Mana o te Wai then we need to regulate water flow and extraction based on environmental limits premised from hydrological data. Takes must be established which put the needs of the environment first.

CONCLUSION

22. In my view, this plan does not deliver on the NPSFM 2020 and Te Mana o te Wai as it fails to recognise and provide for Ngāi Tahu mana and that of our waterways. In order to provide for Te Mana o te Wai in this Plan Change at a minimum Environment Canterbury should:
 - (a) Set appropriate standards for nitrate levels (maximum of 1 mg/L) to protect our rights to clean water and sustain our mahinga kai; and
 - (b) Apply Te Mana o te Wai to the ecological needs of freshwater, including water flows and ground water use; and
 - (c) Recognise our mahinga kai rights as guaranteed under Kemp's Deed and the Fenton orders by providing for mahinga kai enhancement allocations, even in over-allocated catchments; and
 - (d) Provide greater improvements in minimum water flows; and
 - (e) Include strong provisions restricting stock from accessing waterways; and

- (f) Rebuild our mahinga resources through the inclusion of the Ashley Estuary (Te Aka Aka) and Coastal Protection Zone. The importance of this area for mahinga kai cannot be understated and it is critical we have protections for our remaining taonga.