

**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

**SUPPLEMENTARY STATEMENT OF EVIDENCE OF TREENA LEE DAVIDSON
ON BEHALF OF NGĀ RŪNANGA ON POLICIES 15A AND 15B**

Planning

20 May 2022

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INTRODUCTION

1. My full name is Treena Lee Davidson.
2. My qualifications and experience are set out in my statement of evidence (Topic A), dated 15 February 2019, and updated in my statement of evidence (Topic B) dated 20 December 2021.

CODE OF CONDUCT

3. 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 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.
4. I note that whilst I am engaged by Te Rūnanga o Ngāi Tahu, I am bound by the Code of Conduct and professional ethics of the New Zealand Planning Institute (NZPI) and am required to be impartial and unbiased in my professional opinions expressed.

SCOPE OF EVIDENCE

5. This statement of evidence responds to the Court's directions at paragraph 14(b) of the Minute dated 2 May 2022.
6. This evidence will address Policies 15A and 15B.
7. In preparing this evidence I have reviewed:
 - (a) The supplementary statement of evidence of Mr McCallum-Clark in response to the Court's minute dated 25 March 2022 (dated 6 April 2022);
 - (b) The Court's minutes, dated 10 March 2022 and 25 March 2022;
 - (c) The supplementary statement of evidence of Dr Jane Kitson (dated 20 May 2022);

- (d) Relevant hearing transcripts;
- (e) The Joint Witness Statement - Planning (12 December 2021) and attachments B2, B3 and B5 (**Planning JWS**); and
- (f) My statement of evidence for Topic B (dated 20 December 2021).

Policies 15A, 15B and 16A – Background and implications

- 8. I agree with Mr McCallum-Clark at paragraphs [7] – [17] of his supplementary statement, which set out the background to Policies 15A and 15B.
- 9. I consider the Objectives of particular relevance to Policies 15A, 15B and 15C are Objectives 2 and 6:
 - (a) Objective 2 anticipates that the mauri of the water provides for te hauora o te taiao, te hauora o te wai and te hauora o te tangata.
 - (b) Objective 6 anticipates that where water bodies are not degraded water quality is maintained and where it is degraded by human activities water quality is improved.
- 10. Having the policy direction and methods to achieve intent of these objectives were central to the Ngā Runanga appeals on Policies 15A, 15B and 15C.

Defining and using the term ‘minimise’

- 11. I agree with the replacement of the terms ‘remedy or mitigate’ in Policies 15A and 15B with use of the term ‘minimise’. I consider ‘minimise’ provides certainty of outcomes. Using the term mitigation could involve a range of proposals, none of which minimise adverse effects.
- 12. I agree with Mr McCallum-Clark (at paragraph [25]) that if ‘minimise’ is to be used in the policies, rather than ‘remedy or mitigate’, then a definition is required in the Plan. I do not have a preference for either definition Mr McCallum-Clark provides in paragraph [24] of his evidence. I would note however, that for consistency, reference to ‘the smallest amount reasonably practicable’ rather

than “to the least practicable degree or amount” is more consistent with terminology already used within the Plan. Therefore, that definition might better assist with the further drafting changes to Policy 15B.

Policy 15A – maintain water quality where standards are met

13. I generally agree with Mr McCallum-Clark’s proposed rewording of Policy 15A (at paragraph [21]). The proposed rewording meets the intent to maintain water quality where it meets Appendix C.
14. However, I suggest the words ‘including by’ in the chapeau may not be necessary. These words potentially reflect the situation of where there were two clauses to Policy 15A rather than a single statement.

Policy 15B – Improve water quality where standards are not met

15. I agree with the Court’s Minute dated 10 March 2022 (at paragraphs [40] – [42]) that the intent of Policy 15B is to apply where water quality standards are not met.
16. I further agree with the Court that, on reflection, the wording agreed in mediation does not provide clarity as to how improvement of water quality is actually implemented. I also agree with the Court that the wording could suggest one of two outcomes: water quality is to be improved or water quality overall need not be improved. I do however, appreciate the challenges Mr McCallum-Clark raises in his supplementary evidence (at paragraphs [14] and [15]), that the improvement of water quality does fall to existing activities.
17. I further agree that it is unreasonable to expect that a new discharge will lead to an improvement in water quality- as Mr McCallum-Clark points out, almost all discharges will add contaminants. However, because of the degraded nature of much of the water in Southland, as has been recognised in Dr Kitson’s evidence, the Topic A decisions and various science/ecology joint witness statements, I consider that the wording of Policies 15A and 15B must clearly reflect the intent of Objective 6, which is to improve water quality where it is degraded.
18. I therefore generally support the intent of Mr McCallum-Clark’s proposed redrafting (at paragraph [26]). I am however concerned that the suggested

redrafting has become confusing and wordy. I propose, in **Appendix A**, suggested rewording that might better assist plan users.

19. For clarity of my proposed redrafting in **Appendix A**, I have removed reference to the zone of reasonable mixing. This is because both Appendix C and E in the Plan refer to the guidelines and standards applying after the zone of reasonable mixing and I do not consider the reference needs to be repeated in Policy 15B.
20. I have similarly removed specific reference to “water quality or sediment quality” from clauses 15B(1) and (1a) as I consider it is clear in the chapeau that the clauses relate to water quality and sediment quality.

Policy 15C

21. I agree with Mr McCallum Clark (at paragraph [9]) that Policy 15C has been superseded by the NPSFM 2020 requirements and it was therefore agreed in the Planning JWS that Policy 15C is deleted in its entirety.

Policy 16A – Industrial and trade processes that may affect water quality

22. I agree with the wording Mr McCallum-Clark provides at paragraph [31] of his evidence. I am of the same opinion as Mr McCallum-Clark (at paragraphs [29] – [30]) that the proposed rewording provides a clear linkage to and consistency with Policies 15A and 15B, and clearly sets out the expectations for the application of best practicable option. I also agree that Policy 16 should apply to a wider range of waterbodies than Policies 15A and 15B, as this better provides for a ki uta ki tai approach.

Treana Davidson

20 May 2022

Appendix A

Suggested redrafting of Policy 15B

My changes are shown in Blue underlined or struck through text. I have not specifically shown the changes tracked changes made by Mr McCallum Clark (at paragraph [26] of his supplementary evidence) but have incorporated them into the suggested reformatting of the provisions.

Policy 15B – Improve water quality where standards are not met

Where existing water quality does not meet the Appendix E Water Quality Standards or bed sediments do not meet the Appendix C ANZECC sediment guidelines, ~~improve water quality including by:~~

1. ~~For new point source discharges to surface water, water quality is maintained by avoiding any adverse effects of new point source discharges on water quality or sediment quality that would exacerbate the exceedance of those standards or guidelines beyond the zone of reasonable mixing;~~
 - 1a. ~~For new discharges to land, new discharges to groundwater or new diffuse discharges to water, water quality is maintained by any avoiding where reasonably practicable and otherwise minimising any adverse effects on water quality or sediment quality from new discharges to land, new discharges to groundwater or new discharges to water_ so that the exceedance of those standards or sediment guidelines, is, as a minimum, not exacerbated.~~
2. ~~Improved by requiring any application for~~ For any application for the replacement of an expiring discharge permit, or the varying or seeking of a different discharge permit for an existing activity, it must be demonstrated how and by when ~~adverse effects will be avoided where reasonably practicable and otherwise remedied or mitigated so that water quality will be improved to assist with meeting those standards or sediment guidelines (beyond the zone of reasonable mixing for point source discharges)~~ water quality will be improved by avoiding adverse effects where reasonably practicable or otherwise remedying or mitigating to assist with meeting those standards or guidelines.