

**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

AFFIDAVIT OF TREENA LEE DAVIDSON

AFFIRMED / 06 /2020

 **Simpson Grierson**
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I, Treena Lee Davidson of Christchurch, Planner, affirm:

Introduction

1. My full name is Treena Lee Davidson.
2. I am a Senior Environmental Advisor with Te Rūnanga o Ngāi Tahu.
3. I assisted Ngā Rūnanga with drafting its submission on the review of the Proposed Southland Water and Land Plan (**pSWLP**) and oversaw the further submission process on the pSWLP. I gave expert planning evidence for Ngā Rūnanga at the Council hearings and the Topic A Environment Court hearing on the pSWLP.
4. I am authorised by Ngā Rūnanga to make this affidavit on their behalf and I make this affidavit in support of Ngā Rūnanga's notice to be heard on the motion by Ballance Agri-Nutrients Limited, Federated Farmers of New Zealand (Southland), Horticulture New Zealand and Ravensdown Limited.
5. The notice of motion raises issues in relation to my statement of evidence dated 17 April 2020 (**my evidence**).

Reasons for support

6. I prepared my evidence based on my understanding of the Court's directions contained within the Interim Decision and the Record of Pre-Hearing Conference (14 February 2020). I noted the relevant directions in paragraphs [4]-[6] of my statement.
7. I understand that the concepts of Te Mana o Te Wai and Ki Uta Ki Tai in the pSWLP primarily relate to Objectives 1 and 3 respectively.
8. However, I understood the Court was not only requesting assistance on Objectives 1 and 3. My understanding was that the Court was concerned with the degree to which the Topic A provisions gave effect to the NPS-FM and Te Mana O Te Wai. As such, in my evidence, I addressed what I believe to be consequential issues related to the architecture and drafting of Topic A provisions.



9. In my evidence, I acknowledged that some of my suggested drafting and relief is beyond the scope of appeals. However, my understanding was that at this stage in the process, the Court was more concerned with the degree to which the Topic A provisions give effect to the NPSFM and Te Mana o Te Wai, rather than with scope issues.
10. It is my opinion that the issue of whether the pSWLP gives effect to the NPSFM and Te Mana o Te Wai can only be discussed and determined with reference to the Topic A provisions as a whole. Confining the discussion of Te Mana o Te Wai and ki uta ki tai to Objectives 1 and 3 in my opinion is artificial. The Topic A provisions will be read and will operate as a whole and as such, regard must be had to the consequences on the plan architecture, particularly if Objectives 1 and 3 are to be made korowai objectives.
11. I believed that the Court shared this understanding, and I believed this to be the reason why, in its directions, the Court provided for parties to address not Objectives 1 and 3, but "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".¹
12. I provided my evidence in accordance with my understanding of the Court's directions, and sought advice about this approach from counsel for Ngā Rūnanga.
13. In accordance with the Court's directions,² it was the expectation of both me and Ngā Rūnanga that all matters within my evidence would be heard at the hearing set down for 15 June 2020, and that the Court would determine any scope issues following that.
14. In light of the notice of motion I have been reflecting on the question of scope in terms of what I included in my evidence. I have reviewed the Ngā Rūnanga notice of appeal and submissions.
15. While I indicated in my evidence that some of the drafting and relief was beyond the scope of appeals, I am of the view that most of my evidence outlines relief (including consequential relief) which is within scope.

¹ Interim Decision at [347].

² Recrd of Pre-Hearing Conference pSWLP (TOPIC A) (14 February 2020) at [7].



16. More specifically, I have suggested the necessary consequential amendments if Objectives 1 and 3 were to be korowai objectives. In looking at objectives such as Objectives 2 and 18, I have queried whether or not the specific policy is necessary if you have provided for the mana of the water first and the remaining Objectives refer in one way or another to use. In Objectives 6, 9 and 9A my intent was to identify the implications applying a korowai of hauroa might have on the Objective. The amendment to Objectives 8 is, I consider, a structural change.

Davidson

T D Davidson

SWORN at
before me:

this *4th* day of *JUNE* 2020

[Signature]

A Solicitor of the
High Court of New Zealand

Michael Andrew Gibbs
Solicitor
Christchurch