

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY**

**I TE KŌTI TAIAO O AOTEAROA
ŌTAUTAHI ROHE**

ENV-2020-CHC-128

UNDER the Resource Management Act 1991 (RMA)
IN THE MATTER of the Omnibus Plan Change - Plan Change 8, being part
of a proposal of national significance directed by the
Minister for the Environment to be referred to the
Environment Court under section 142(2)(b) of the RMA

AND

IN THE MATTER of an application under section 149T of the RMA

OTAGO REGIONAL COUNCIL

Applicant

**STATEMENT OF EVIDENCE OF JANA DAVIS ON BEHALF OF OTAGO
REGIONAL COUNCIL AND KĀI TAHU KI OTAGO AND NGĀI TAHU KI
MURIHIKU**

URBAN PROVISIONS: PARTS A AND G

11 February 2022

Applicant's Solicitor
PO Box 4341 CHRISTCHURCH 8140
DX WX11179
Tel +64 3 379 7622
Fax +64 379 2467

WYNNWILLIAMS

Solicitor: LF de Latour / M A Mehlhopt
(lucy.delatour@wynnwilliams.co.nz /
michelle.mehlhopt@wynnwilliams.co.nz)

MIHIMIHI

Tenei te mihi atu kia koutou,
 Ko Waitaha, Ko Kāti Mamoe, Ko Kāi Tahu kā Iwi
 Ko Takitimu tōku waka, takitmu te mauka
 Ko Aparima te awa
 Ko Ōraka-Aparima taku rūnaka
 Ko Takutai o te tītī tōku marae
 Ko Putauhinu tōku kāika
 Nō Tāhuna me Waihōhai ahau
 Ko Bill Davis tōku Poua – te upoko o Ōraka-Aparima
 Ko Jane Davis tōku Taua
 Ko Rewi Davis tōku Papa
 Ko Jana Davis tōku ikoa
 Tēnā koutou katoa

I wish to give special acknowledgement to the Environment Court and those undertaking the careful consideration of the proceedings which will affect our waters, our land and our children after us and note the importance of the duties entrusted in you to come to the agreed outcomes of today.

He taura whiri kotahi mai ano te kopuka tai no I te pu au, ki uta ki tai, from the source to the mouth of the sea all things are joined together as one.

Mō tatou a mō kā uri a muri ake nei, For us and our children after us.

Introduction

- 1 My full name is Jana Rewi William Davis.
- 2 I was born and raised in Tāhuna / Queenstown under our great mauka Kawarau and Pahaaraki, the Remarkables and Coronet Peak.
- 3 I affiliate to Te Rūnanga o Ngāi Tahu and I am a member of Te Rūnanga o Ōraka-Aparima who are one of the seven rūnanga from Murihiku and Otago who are mana whenua in the Queenstown Lakes District.
- 4 The takiwā of the Murihiku Rūnanga stretches from the southern Tītī/Crown islands up past Lake Hāwea. We share our kaitiaki role in the inland lakes and mountains and along the Mata-au (Clutha River) with the Otago Rūnaka.

- 5 I am Pou Tūraka / Chief Executive Officer at Te Tapu o Tāne Limited, a conservation organisation which is jointly owned by the four Papatipu Rūnanga o Murihiku. Our ikoa (name) means 'The Sacredness of Tāne and his tamariki' (the forest). Our goal is to grow and plant quality native trees and plants and to restore the mauri of our whenua (land) and awa (rivers) by undertaking catchment rehabilitation from a te ao māori perspective.
- 6 We take direction from the Murihiku Rūnanga to act as a tangible source of collaboration on the ground for catchment restoration projects that reduce human impacts on te taiao (the natural environment) and create employment pathways for rangatahi. Our vision is to connect mana whenua and the community through restoration projects and to increase awareness of the importance of a climate resilient community.
- 7 I am also a member of the Waiwhakaata Lake Hayes Strategy Group representing the community voice of mana whenua. I sit on this group with a member of Puketeraki Rūnanga, and representatives of Otago Regional Council, Department of Conservation, Queenstown Lakes District Council and Friends of Lake Hayes.
- 8 I am a very active member on the ground for restoration projects and I advocate for the absolute protection of our most valuable resource, the mauri of wai māori. I believe that the land and water will not be healed until the people are healed by becoming educated and informed champions of their area.
- 9 I am here to speak on behalf of my tūpuna before me and my mokopuna after me.

Mauri ora!

- 10 I have been asked to give this evidence on behalf of:
- (a) Te Rūnanga o Moeraki, Kāti Huirapa Rūnanga ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga (collectively Kāi Tahu ki Otago); and
 - (b) Waihōpai Rūnanga, Te Rūnanga Ōraka Aparima and Te Rūnanga o Awarua (collectively Ngāi Tahu ki Murihiku).

11 I also understand that this evidence is being presented on behalf of the Otago Regional Council in support of the mediated agreement reached between all parties to the provisions for discharges from reticulated stormwater and wastewater systems in Part A of proposed Plan Change 8 (**PC8**) to the Regional Plan: Water for Otago (**RPW**), and by Otago Regional Council, the Kāi Tahu parties and others¹ to the provisions for sediment discharges from earthworks from residential development in Part G of PC8. My evidence particularly focuses on the need for effective management of sediment discharges from earthworks in the Queenstown Lakes District.

Scope of evidence

- 12 My evidence will address the following matters:
- (a) Kāi Tahu values and relationship with wai māori, taoka manu, and taoka tīpu, connections to the Mata-au/Clutha system and, in this context, my concerns about how land and water use are impacting on wai māori;
 - (b) My experience of addressing the existing degradation of Waiwhakaata Lake Hayes, and the risk to this mahi if the effects of urban development are not well managed;
 - (c) The importance of a united ki uta ki tai approach, accountability for the effects of development and effective management of these effects to achieve restoration of Waiwhakaata and to protect the mauri of all our water bodies.
- 13 In preparing my evidence I have reviewed the following documents and evidence:
- (a) The mediation agreements for Part A (urban topics) and Part G of PC8, including the provisions that are the subject of this agreement;

¹ For clarity, the Kāi Tahu parties support the position that the proposed earthworks rules (Rules 14.5.1.1 and 14.5.2.1) should apply across the whole region, and do not support the position of RCL Henley Downs Limited, Remarkables Park Limited, Vivian and Espie Limited and Willowridge Developments Limited that these rules should not apply in the Queenstown Lakes District.

- (b) Relevant sections of the plan architecture evidence of Felicity Boyd, dated 17 December 2021, describing the concerns that Part G of PC8 is intended to address;
- (c) The evidence of Edward Ellison for Kāi Tahu ki Otago; and
- (d) The evidence of Dean Whaanga for Ngāi Tahu ki Murihiku.

Executive Summary

- 14 Kāi Tahu have a deep and enduring connection with wai māori and the plants and animals it supports, as described by Mr Ellison and Mr Whaanga in their evidence. That connection gives rise to both rakatirataka rights and kaitiakitaka obligations to protect the mauri of all water bodies.
- 15 The health of our wai plays an important role in the balance of ecosystems and the abundance and resilience of mahika kai. We understand that what occurs in the headwaters affects all life all the way down to the coast. It affects our kaimoana, our fisheries and plants, our birds and ultimately our cultural identity.
- 16 My mahi is driven by the need to stand up for the mauri of wai māori from the mountains to the sea, and I have spent the last three years campaigning for restoration of Waiwhakaata / Lake Hayes, which I have seen become degraded in the space of my lifetime. I represent Ngāi Tahu ki Murihiku on the Waiwhakaata Lake Hayes Strategy Group and have also been involved in progressing catchment restoration work through the Lake Hayes Vision Programme.
- 17 The changes that we are seeing in Waiwhakaata because of the impacts of land uses in the catchment are startling, including reduced eel numbers and bird counts, episodic fish kills and algal blooms. I am greatly concerned about the additional impacts that ongoing sediment discharges from urban development will have on the lake.
- 18 Success in the Waiwhakaata catchment requires all parties to be working together for the good of the catchment. This stems from the principle of manaaki – if you take something from the whenua or the wai, you must give something back. The mahi that has been done so far to improve the health of Waiwhakaata could be undone if developers are

not required to manage the effects of their activities on the lake and the water sources that feed it.

- 19 An approach that sets different rules in different parts of a catchment such as the Mata-au does not align with the Kāi Tahu understanding that all parts of te taiao are connected ki uta ki tai. The health of wai māori will only be restored by an integrated approach with regional standards to protect the wai for future generations.

Kāi Tahu values and relationship with wai māori, taoka manu, and taoka tīpu²

Relationship with wai māori

- 20 The evidence of Mr Ellison and Mr Whaanga describes the whakapapa connection of Kāi Tahu to water and land, the raketira rights that arise from this and the kaitiakitaka obligations this imposes on mana whenua to protect the mauri of all water bodies. The deep connection that Mr Ellison describes between the health of the wai and the health, resilience and mana of the people³ resonates strongly with me.

Mahika kai

- 21 Mr Ellison highlights the central importance of mahika kai to Kāi Tahu cultural identity, and the duty of kaitiaki to ensure that our mahika kai are sustained both for use now and to support future generations.⁴ He describes the role of mātauraka in keeping the relationship of mana whenua to wāhi tupuna strong, and the importance of continuing mahika kai practices to ensure mātauraka can be passed on.⁵
- 22 The health of our wai plays an important role in the balance of ecosystems and thus the abundance and resilience of mahika kai. For the people to be sustained, ecosystems must be in balance. The taking of mahika kai imposes a manaaki obligation to give back to our waterways by protecting mauri. Our cultural identity relies on this balance.

² Freshwater, native birds and plants.

³ Evidence of Edward Ellison, 11 February 2022, Annexure 1 [24]-[38]; Evidence of Dean Whaanga, 11 February 2022, [15]-[17]

⁴ Evidence of Edward Ellison, 11 February 2022, Annexure 1 [51]-[52]

⁵ Evidence of Edward Ellison, 11 February 2022, Annexure 1 [55]-[56]

Ki uta ki tai

- 23 Mr Whaanga and Mr Ellison both refer to the importance of an interconnected or ki uta ki tai management approach – from the mountains to the sea, highlighting the importance of managing our ecosystems as a whole.⁶ The cumulative impacts of sediment, stormwater, deforestation, increased water takes, and urban development all take a heavy toll further down the catchment when these activities are not managed together.
- 24 We understand that what occurs in the headwaters affects all life all the way down to the coast. What happens in the headwaters affects our kaimoana, our fisheries and plants, our birds and ultimately our cultural identity.
- 25 These effects are seen in the changing size and migratory patterns of our tītī, the episodic fish kills, the reduction in passage for native fish, and in the plastic we pull from our birds during harvest. In 2021 for the first time the bluff oyster season came to a standstill. Because of our connection to the land and water we see and understand these changes and view these changes holistically.
- 26 What affects whānau in one area positively may affect another whānau in an adverse manner further down the catchment. A ki uta ki tai approach recognises the need to achieve wider regional outcomes and does not support siloed decision making.

Kaitiakitaka

- 27 My whānau have been heavily involved in conservation for as long as I remember. We hear the calling of our tūpuna and we are drawn to this calling as kaitiaki to stand up for wai māori, taoka manu, and taoka tīpu.
- 28 My mahi is driven by addressing the ever-changing landscape in our takiwā and the need to ensure that we are standing up for the mauri of wai māori from the mountains to the sea. That is why integrated catchment management ki uta ki tai truly resonates with our people, because we understand the importance of this life sustaining source and its role in maintaining the hauora (health) of our awa and our coastal

⁶ Evidence of Dean Whaanga, 11 February 2022, [18]; Evidence of Edward Ellison, 11 February 2022, Annexure 1 [33]-[34]

environment. Kaitiakitaka does not begin and end with the boundaries of a district plan or regional plan.

Kāi Tahu connections to the Mata-au (Clutha) system

- 29 In his evidence, Mr Ellison discusses the relationship of Kāi Tahu to the Mata-au catchment.⁷ This relationship is deep and enduring, and its significance is recognised in the Ngai Tahu Claims Settlement Act 1998 through a Statutory Acknowledgement. This Statutory Acknowledgement describes the wāhi tūpuna values associated with the Mata-au, including its role as part of a network of mahika kai.⁸ The lakes and wetlands in the upper part of the Mata-au catchment were traditionally important sources of mahika kai.
- 30 The Mata-au, the great inland lakes Whakatipu-wai-Māori, Wānaka and Hāwea, and Waiwhakaata Lake Hayes, are within the takiwā of Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, Te Rūnanga o Hokonui, Te Rūnaka o Waihōpai, Te Rūnanga o Awarua, and Te Rūnanga o Ōraka Aparima.

Addressing the degradation of Waiwhakaata Lake Hayes



Figure 1: Waiwhakaata Lake Hayes (Source: *Lakes 380 research project*)⁹

- 31 Waiwhakaata Lake Hayes (Figure 1) is situated in the Queenstown Lakes District, between Queenstown and Arrowtown. It is fed by Mill

Evidence of Edward Ellison, 11 February 2022, Annexure 1 [46]-[48]

⁸ Ngai Tahu Claims Settlement Act 1998, Schedule 40

⁹<https://lakes380.com/lakes/hayes/>

Creek and other small tributaries, by springs at the northern end of the lake, and by overland flows from surrounding land. Water leaves the lake through a wetland area, feeding into Hayes Creek and then into the Kawarau River. The Kawarau River, in turn, feeds the Mata-au (Clutha) River.

- 32 Waiwhakaata is currently degraded. Nutrient rich sediment entering the lake has contributed to algal blooms, regular and now normalised fish kills, and restricts use of the lake during the summer months, as illustrated by Figure 2:



Figure 2: Cyanobacteria bloom in February 2020 that closed the lake to swimming (Source: Friends of Lake Hayes)

- 33 I have spent the last three years campaigning for Waiwhakaata / Lake Hayes because I have seen first-hand the effects on this small lake in my lifetime. If the degradation of our small lake can happen in just 50 years, what will happen to our great lakes?
- 34 The impacts on Waiwhakaata are coming from both rural activities and urban activities. Examples of rural impacts include clearance of forestry plantations, and discharges of nutrient rich sediment from rural parts of the catchment.
- 35 It is my understanding that the management of rural discharges was considered in the earlier PC8 hearing and that this hearing is on the management of discharges from urban activities, including the discharge of sediment from development earthworks and stormwater. The evidence of Ms Felicity Boyd refers to the effects of urban development on sediment yields in waterways and highlights the contribution of

earthworks to these.¹⁰ I have seen the impact of deforestation in the upper part of the catchment on sediment levels in Waiwhakaata and am greatly concerned about the additional impacts of ongoing sediment discharges from urban development.

- 36 In my opinion, rural and urban land users throughout the catchment need to take responsibility for the impact of their activities on wai māori and on Waiwhakaata. Success will be measured in improvements to the hauora and resilience of the wider catchment and in improvements in water quality within Waiwhakaata / Lake Hayes.

Waiwhakaata Lake Hayes Strategy Group

- 37 In 1995 Otago Regional Council and Queenstown Lakes District Council published a Lake Hayes Management Strategy with the purpose of putting in place a framework to improve the water quality of the Lake to “achieve a standard suitable for contact recreation year-round and to prevent further algal blooms”.¹¹ This strategy was developed in collaboration with Kāi Tahu and key stakeholders.
- 38 The Waiwhakaata Lake Hayes Strategy Group (the Strategy Group) has been set up to revise this strategy and develop a new action plan¹² for the lake. The Strategy Group includes representatives from Otago Regional Council, mana whenua, Queenstown Lakes District Council, the Department of Conservation and Friends of Lake Hayes. I am involved in the Strategy Group as representative for Ngāi Tahu ki Murihiku.
- 39 The revised strategy and action plan for Waiwhakaata will identify what Otago Regional Council plans to do to improve the state of the lake, how this will be done, and how the Council will support others in a collective approach. The revised strategy recognises that any decision impacting on Waiwhakaata must first give priority to Te Mana o te Wai and the health and wellbeing of the lake.

Lake Hayes Vision Programme

- 40 As well as my involvement in the Strategy Group, I was previously Kaiwhakahaere Mahi / Chief Operating Officer of Mana Tahuna, a

¹⁰ Evidence of Felicity Boyd, 17 December 2021 at [199-200]

¹¹ Lakes Hayes Management Strategy (1995) <https://www.savelakehayes.org.nz/publications>

¹² This is entitled the Waiwhakaata Lake Hayes Management Strategy 2021 – 2026.

charitable trust based in Queenstown. In this role I was involved with the Friends of Lake Hayes in securing funding for the Lake Hayes Vision Programme, which aims to restore the health of the lake.

- 41 Mana Tahuna supported the vision programme to address issues around freshwater, and to create jobs for people affected by COVID-19. We also saw an opportunity to create real impact within our community and to showcase a collaborative restoration project with multiple stakeholders within the catchment. I truly believe that we will not heal our water and land until our people are healed, which means they are educated and informed champions of the area they live in.
- 42 A collaborative effort from mana whenua, the Crown and the community was successful in obtaining significant funding support for this programme, which included a total of \$5.6 million from private sources and the Jobs For Nature programme in 2021. This collaboration has given the project momentum and purpose.
- 43 The catchment restoration work will include riparian planting, wetland restoration, sediment traps, removal of non-native trees, fencing and pest control. A global consent has been lodged for the catchment that provides for the installation of at least 21 sediment traps and the installation of dual wetlands at the north end of Waiwhakaata.

Potential impacts of sediment and stormwater on the vision for Waiwhakaata

- 44 I have significant concern about the impact of ongoing urban development, including sedimentation from development earthworks and stormwater discharges, on Waiwhakaata. The cumulative effects of discharges of sediment and other contaminants from land uses in the catchment are currently impacting on the health and wellbeing of the lake.
- 45 The changes that we are seeing on the ground because of these impacts are startling, including reduced eel numbers and bird counts, episodic fish kills and algal blooms. Waiwhakaata is considered a national asset and yet is in disrepair.
- 46 Development in the Waiwhakaata catchment is ongoing, and there is a real risk of increased loads of sediment reaching the lake from residential development and from the way in which stormwater is being managed. For example, the Waiwhakaata Lake Hayes Strategy Group

was recently advised that one of the options that Queenstown Lakes District Council is considering for managing stormwater from the Ladies' Mile development would result in this stormwater being discharged into the lake.

- 47 Ms Boyd's evidence about the numbers of recent enforcement actions that Otago Regional Council has had to carry out to address poor management of earthworks from residential development, and the high proportion of these occurring in the Queenstown Lakes District,¹³ also raises significant concerns for me about potential impacts on Waiwhakaata. These concerns are heightened by Ms Boyd's comments on the lack of any way to require effective sediment control measures under the existing discharge rules.¹⁴
- 48 I am concerned that the mahi that has been done so far to improve the health of Waiwhakaata could be undone if developers are not required to manage the effects of their activities on the lake and the water sources that feed it. There is otherwise a risk that increased loads of sediment and contaminants will reach the lake adding to an already significant contaminant load.

Vision for the restoration of Waiwhakaata / Lake Hayes and wai māori across Otago

- 49 To protect the mauri of our water bodies, I believe we need a stronger holistic approach from our crown partners, through the agency of the regional and district councils, to put the health of our catchments above all else. Without the health of the water the people will not prosper.
- 50 Our vision for success in the Waiwhakaata / Lake Hayes catchment, which I consider is also relevant to other catchments across Otago, requires all parties to be working together for the good of the catchment. This stems from the principle of manaaki – give and take - and means all stakeholders must understand how to sustain the catchment and help the catchment thrive. It will require:

¹³ Evidence of Felicity Boyd, 17 December 2021 at [183-184]

¹⁴ Evidence of Felicity Boyd, 17 December 2021 at [188]

- (a) All Crown agencies to work together with mana whenua and the community towards the same goal and adopting a ki uta ki tai approach.
- (b) Developers to be accountable for dealing with the full effects of their activity, and not relying on the lakes and rivers to dilute these effects; and
- (c) A shift from 'mitigating' adverse effects to reducing these effects and improving the condition of the catchment, with clear direction about how to achieve this.

51 If sediment discharges from ongoing urban development are allowed to continue with no effective management of their adverse effects, this will impact on the health of the wai and the cultural identity of Kāi Tahu. If the land is sustaining us economically, we all have an obligation to give back. My taua (grandmother) always said to me *if you look after the island, the island will look after you*. It is time to normalise this mantra across the board for us and our children after us.

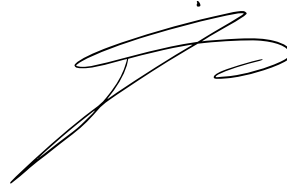
52 I strongly support the application of common rules across the region, setting a regional standard for the protection of wai māori for the generations to come. Having different rules applying in different districts across the region does not align with our understanding of ki uta ki tai. Management of one part of the Mata-au system cannot be undertaken in isolation from the other parts and increases the overall risk to the health of our wai and to degraded lakes like Waiwhakaata.

Conclusion

53 I have spoken about the degradation I have seen in Waiwhakaata and the need to manage what is happening on the land to improve the state of the lake. I believe there is an obligation on the part of all land users to be accountable for the effects of their activities, and to be part of the solution. This is consistent with the Kāi Tahu concept of manaaki – if you take from the wai or the whenua, then you have a responsibility to give back.

54 To achieve self-sustaining catchments, it is time to normalise *Toitū te marae o Tāne, Toitū te marae o Tangaroa, Toitū te Iwi - Care for the land and water and the people will be sustained*. What is good for the land and the water is good for the people.

- 55 An approach that sets different rules in different parts of a catchment such as the Mata-au does not align with the Kāi Tahu understanding that all parts of te taiao are connected ki uta ki tai. The health of wai māori will only be restored by an integrated approach with regional standards to protect the wai for future generations.

A handwritten signature in black ink, consisting of several fluid, overlapping loops and a long, sweeping tail that extends downwards and to the left.

Jana Davis

11 February 2022