

BEFORE THE ENVIRONMENT COURT OF NEW ZEALAND
AT AUCKLAND

I MUA I TE KOOTI TAIAO O AOTEAROA
TĀMAKI MAKĀURAU

UNDER the Resource Management Act 1991 (**RMA**)

A N D

IN THE MATTER of the direct referral of applications for resource consents
for the necessary infrastructure and related activities
associated with holding the America's Cup in Auckland

BETWEEN **PANUKU DEVELOPMENT AUCKLAND**

Applicant

A N D **AUCKLAND COUNCIL**

Regulatory Authority

**BRIEF OF EVIDENCE OF KAREN AKAMIRA WILSON
ON BEHALF OF TE ĀKITAI WAIOHUA**

Dated 28 August 2018

Director
Aidan Warren
aidan.warren@mccawlewis.co.nz


McCaw Lewis
GOOD PEOPLE. GREAT LAWYERS.

ONE ON LONDON, 1 LONDON STREET, PO BOX 9348
HAMILTON 3240, NEW ZEALAND
DX GP 20020, TEL +64 - 7 - 838 2079
WWW.MCCAWLEWIS.CO.NZ

Introduction

1. My name is Karen Akamiria Wilson of Te Ākitai Waiohua.
2. Te Ākitai Waiohua are descendants of Kiwi Tāmaki, the founding ancestor of Te Ākitai. Kiwi Tāmaki was the paramount chief of Waiohua. Kiwi Tāmaki inherited the title of paramount chief from his grandfather Huakaiwaka, the founding ancestor of Waiohua. The son of Kiwi Tāmaki was Rangimatoru and grandson Pepene Te Tihi were also chiefs of Te Ākitai Waiohua. The son of Pepene Te Tihi was Te Ākitai Waiohua chief Ihaka Takaanini who supervised the Māori Hostelries at Mechanics Bay and Onehunga.
3. I am the representative for Te Ākitai Waiohua Waka Taua Incorporated Society on the Panuku Mana Whenua Governance Forum (“Governance Forum”).
4. I am authorised to give evidence on behalf of Te Ākitai Waiohua. It is important to note that I am not providing evidence on behalf of any other iwi, hapū or group.
5. We provide this evidence in opposition to the resource consent application filed by Panuku Development Limited (“Panuku”), dated 13 April 2018 (“the Application”).
6. The main purpose of this evidence is to provide the Court with an understanding of Te Ākitai Waiohua cultural values as they relate to Te Waitematā so to ensure that they are fully understood in considering whether the consents sought by Panuku Development Limited (“Panuku”) ought to be granted and if so what conditions are appropriate.
7. My evidence will address the following topics:
 - (a) The cultural significance of Te Waitematā and the surrounding areas;
 - (b) Our cultural values;
 - (c) Our Te Tiriti/Treaty of Waitangi claims and redress;
 - (d) Engagement with Panuku with respect to the Application;
 - (e) Cumulative effects; and
 - (f) The conditions proposed by Panuku.

8. Any reference to Mana Whenua in this evidence means those iwi and hapū that are involved in opposing the Application under section 274 of the Resource Management Act 1991.
9. Te Ākitai Waiohua became involved with the Governance Forum in around 2016. Our primary driver for becoming involved was that we saw the Governance Forum as a good starting point to try to shape a new model of governance. Another driver was that from our perspective, iwi and hapū are stronger when they operate as a collective.
10. Te Ākitai Waiohua also entered into a relationship agreement with Panuku, with the view of ensuring that we were able to continue to engage with Panuku where our perspective did not align with the collective view of iwi and hapū in the Governance Forum.
11. One of our objectives is to be able to effectively participate in matters that affect or have the potential to affect our rohe. We envisaged that the Governance Forum and relationship agreement would assist in achieving this. Unfortunately, in this instance these mechanisms have not provided for meaningful engagement.

Cultural Significance of Te Waitematā

12. Te Ākitai Waiohua have customary rights and interests in Te Waitematā and the surrounding area through ahi kā roa.
13. Te Waitematā was a convergence point for descendants of different chiefly ancestry. Numerous settlements were established on or around the shoreline. Each iwi and/or hapū have their cultural and ancestral associations to Te Waitematā and the surrounding areas and we acknowledge that others will claim varying levels of interests.
14. The name Te Waitematā or “water of Te Mata” is said to come from the Te Arawa chief Kahumatamomoe when he laid his mauri stone Te Mata on Boat Rock in the harbour south west of Te Matarae o Mana.
15. Te Waitematā was known for its deep navigable channels and relatively calm current and tidal range with Rangitōtō island and the numerous other motu in the Hauraki Gulf (Tīkapa Moana) providing some shelter from the South Pacific Ocean.

16. Traditionally, the waters of Te Waitematā enabled transport with waka travel. Te Waitematā also offered boundary markers, navigation points and waka portage routes throughout the broader region. Permanent and seasonal settlements were situated along Te Waitematā coast and the motu.
17. Te Waitematā harbour is a customary fishing ground for Te Ākitai Waiohua. It provided kaimoana including fish, shellfish and coastal birdlife.
18. The life sustaining waters of Te Waitematā are a sacred resource with cleansing, purifying and healing properties that must be nurtured and protected.
19. Te Waitematā coastal pa sites are also significant to Te Ākitai Waiohua. For example, the Taurarua (Judges Bay) pa was held by Waiohua until the 18th Century when its chiefs, twin brothers Humataitai and Hupipi, were defeated in battle.
20. Te Ākitai Waiohua also occupied certain whenua at Horotiu on Queen Street, Te Hororoa on Anzac Avenue and Whakatakataka (Ōrākei). All of these Waitematā settlements and pa were occupied by Waiohua at various times through to the mid-18th Century when the paramount chief of Waiohua, and founding ancestor of Te Ākitai, Kiwi Tāmaki was defeated in battle by Te Taou.
21. Te Waitematā Harbour also features significant motu to Te Ākitai Waiohua, including Pahiki (Herald Island) and Motumanawa (Pollen Island). A former Waiohua motu pa was situated on Matungaegae (Watchman’s Island), which was much larger than the sandstone islet that exists today.
22. According Te Ākitai Waiohua tikanga, various bodies of water have their own taniwha or spiritual kaitiaki. As kaitiaki, taniwha protect the waters, other taonga and the iwi associated with the area. Ureia is a taniwha that takes the form of a whale and is kaitiaki of Te Waitematā to the Hauraki Gulf and south to the Firth of Thames. As a result, Te Ākitai Waiohua see Te Waitematā as a taonga of great cultural and spiritual significance.

Our Cultural Values

23. Our culture and traditions in relation to Te Waitematā, the surrounding areas and other taonga are encapsulated in our tikanga, which is based on ancestral traditions and customs passed down through the generations.

24. Expression of our tikanga in its entirety is not practicable in this forum. That said, we have set out an overview of Te Ākitai Waiohū values as we see them. The detail that we have provided is in no way exhaustive.
25. Importantly, Te Ākitai Waiohū worldview is holistic in nature and central to the way that we experience the world. There is no separation between the physical and spiritual world, or the tangible and intangible. All people and things are connected and related through whakapapa, including the relationship of Te Ākitai Waiohū to the land and waters that we whakapapa to. The connection is constantly reaffirmed through tikanga.
26. Core values encompassed in Te Ākitai Waiohū tikanga include tapu, wairuatanga, whanaungatanga, kaitiakitanga, manaakitanga and kotahitanga. These values are inextricably interconnected and are designed to keep the natural balance between all entities. Any imbalance in this complex network has a flow on effect that affects the entire eco-system.
27. To Te Ākitai Waiohū, all entities have their own mauri, including Te Waitematā, the surrounding areas and other taonga. Mauri is the life force and essence of all things. Mauri represents the connectivity of all things and how each not only supports the other, but how the degradation of one impacts the overall well-being. By virtue of this mauri, Te Waitematā has its own mana which is representative of the iwi associated with its waters.
28. Kaitiakitanga is of particular importance. Marsden and Aroha Henare accurately define kaitiakitanga. The term “tiaki” means to guard, keep, preserve, conserve, foster or watch over, while the prefix “kai” with a verb conveys the agent of the act. Therefore a Kaitiaki is a guardian, preserver, conservator, foster parent and protector. The suffix “tanga” added to the noun means guardianship, sheltering, preservation, conservation, fostering and protecting. Kaitiakitanga is the role played by kaitiaki.¹
29. As kaitiaki, Te Ākitai Waiohū are natural scientists who use environmental indicators as guides to the wai ora of an eco-system. This knowledge guides and

¹ Marsden, Rev M and Henare, Te A “Kaitiakitanga, A Definitive Introduction to the Holistic World View of the Māori” (paper presented, November 1992).

informs sustainable management, the protection of natural resources and careful monitoring and safeguarding of the environment.

30. Te Ākitai Waiohua welcomes any opportunity to exercise their right to act as kaitiaki and to facilitate sustainable development.
31. In the context of the Application, Te Akitai Waiohua are concerned that due to the failure of Panuku to take into account our values and understand fully concepts such as mauri that the Application will have a serious impact on Te Waitematā and our connection with this taonga.

Our Te Tiriti/Treaty of Waitangi Claims and redress

32. In recognition of the extremely high spiritual, ancestral, cultural, customary and historical significance of Te Waitematā to us, the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress settlement (“the Collective Deed of Settlement”) provides for separate redress in respect of Te Waitematā. To our frustration, these negotiations have not yet commenced.
33. It is crucial that our Te Tiriti/Treaty of Waitangi is properly considered in the development proposed by Panuku, specifically the impact that the development may have on future settlement claim negotiations over Te Waitematā with the Crown following the signing of the Collective Deed of Settlement.
34. The development proposed by Panuku includes modifications to Te Waitematā that will impact our cultural values that are associated with the Harbour. We must also ensure that if the Application is granted we must be able to review things in light of our outstanding Te Tiriti claims.

The Cumulative Effects on Te Waitematā

35. Te Waitematā and the surrounding areas have been significantly modified by past activities and activities that are currently permitted within the area.
36. We do not have an environmental bottom line or isolated assessment of the effect of particular activities. The mauri of Te Waitematā and the surrounding areas cannot be fragmented or compartmentalised into certain eras. The cumulative effect of past and present activities effect the mauri of Te Waitematā and the

surrounding areas. Accordingly, the cumulative effect of any proposed activity must be taken into account.

37. The waters, coast and motu of Te Waitematā have changed over time and are no longer active sites of occupation, travel or food collection. That said, Waitematā remains of great spiritual and cultural significance to Te Ākitai Waiohua. We have a strong taha wairua with Te Waitematā, which provides us with a sense of meaning, connection and purpose.
38. Our lands and water bodies that were present in the time of our ancestors affect upon the descendants that exist today. If our lands, water and other taonga continue to be damaged, contaminated or destroyed, severe cultural consequences will likely manifest.
39. In our view, continuing to adopt a piecemeal approach to assessing actual and potential effects from activities will result in the continued degradation of Te Waitematā and the surrounding areas and ultimately our culture and relationship with our ancestral land, water and other taonga. A holistic approach that addresses the overall well-being of Te Waitematā is required to properly recognise, provide for and protect our culture and our relationships.

Engagement

40. I refer to the particulars set out in my engagement evidence that has been filed to support our position on the Application.

Proposed Conditions

41. We support the evidence of Mitchell Daysh in relation to the proposed amendments to the proposed conditions if the consent were to be granted. Te Ākitai Waiohua believes that the proposed amendments identified in the Mitchell Daysh evidence will go some way to addressing the issues raised by Mana Whenua including Te Ākitai Waiohua.
42. I have also covered off in my engagement evidence the Te Ākitai Waiohua view on the some specific matters relating the proposed conditions.

Conclusion

43. The cultural values of Te Ākitai Waiohua are inextricably connected to our ancestral land, water and other taonga, including Te Waitematā and the surrounding area. Our relationship and associations with the areas is unique and significant to Te Ākitai Waiohua. Panuku has failed to undertake timely and meaningful engagement with us to understand our cultural values and to ensure that our cultural values are respected and protected.

Dated 28 August 2018



Karen Wilson

Te Ākitai Waiohua