

**BEFORE THE COMMISSIONER ON BEHALF OF  
THE OTAGO REGIONAL COUNCIL**

**IN THE MATTER** of the Resource  
Management Act 1991

**AND**

**IN THE MATTER** of discharge permit  
application RM15.364  
under the Regional Plan:  
Water for Otago

**CLUTHA DISTRICT  
COUNCIL**

**Applicant**

**AND**

**OTAGO REGIONAL  
COUNCIL**

**Consent Authority**

**AND**

**TE RŪNANGA O NGĀI  
TAHU, TE RŪNANGA O  
ŌTĀKOU AND TE  
NOHOAKA O TUKIAUAU /  
SINCLAIR WETLANDS  
TRUST**

**Submitters**

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**STATEMENT OF EVIDENCE OF EDWARD ELLISON  
ON BEHALF OF TE RŪNANGA O NGĀI TAHU,  
TE RŪNANGA O ŌTĀKOU, AND TE NOHOAKA O TUKIAUAU / SINCLAIR  
WETLANDS TRUST (COLLECTIVELY SUBMITTERS)**

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## WHAKAARA

Tēnei te ruru te kōkōu mai nei  
Kīhai i māhitihi  
Kīhai i māarakaraka  
Te ūpoko nui o te ruru  
He pō, he pō  
He ao, he ao  
Ka awatea, e-e

*This is the owl that cries out  
His great head does not toss,  
It does not bob up and down  
  
'Tis night, 'tis night  
'Tis day, 'tis day  
Ah, it is the day*

## MIHIMIHI - INTRODUCTION

Matua te Pō, Matua te Aō  
Matua o Te Tai o Marokura  
E Matua o Te Tai o Araiteuru  
E tū e Hipo, e kai o mata  
Ki Pukekura  
Ki Ōtākou Wanaka  
Ki Ōtākou Takata  
E pania nei te kura o maukorua  
E Poua ma e Taua ma  
TIHEI MAURI ORA

Ko Te Atua o Taiehu taku mauka  
Ko Ōtākou te awa  
Ko Kāi Te Pahī, Moki II me Te Ruahikihiki ōku hapū  
Ko Te Waipounamu te whare  
Ko Taiaroa rāua ko Karetai, ko Hineiwhariua ōku tūpuna  
Ko Edward Ellison taku ikoa

Ko te mihi tuatahi ki to tātou Matua nui i te rangi mō ōna manaaki ki runga i a tātou.

Ka huri ki a rātou ngā mate o te wā, te wiki, me te tau,  
Haere, heare, tarahaua atu rā  
Ki a tahu kumea  
Ki a tahu whakairo  
Ki te whare poutereraki  
Hai taoka o ngā mate

Hoki atu ai!

Ko tēnei mihi atu ki ngā kanohi ora,

Tēnā koutou, tēnā koutou, mauri ora tātou katoa.

Ki a koe ngā Kōmihana,

Ko koutou ngā kaiwharoko me kaiwhakawā o tēnei kaupapa nui nei.

Tēnā rā koutou, kia aata whakaroko ki kā uarataka,

Kā mea whakapono e tūmanakohia nei e mātou, tēnā rawa atu koutou.

Kā mihi tēnei ki a koutou katoa.

## **QUALIFICATIONS AND EXPERIENCE**

1. My name is Edward Ellison. I was born in 1950 and raised at Ōtākou in our whānau<sup>1</sup> home Te Waipounamu, on our ancestral lands that abut and overlook the Otago Harbour. I have held the role of Upoko of Te Rūnanga o Ōtākou since 2018.
2. I give my evidence today on behalf of Te Rūnanga o Ngāi Tahu, Te Rūnanga o Ōtākou and Te Nohoaka o Tukiauau / Sinclair Wetlands Trust (collectively the Submitters).
3. I am a former Manager Iwi Liaison at Otago Regional Council (ORC) and former Deputy Kaiwhakahaere for Te Rūnanga o Ngāi Tahu. I am the chair of Aukaha, chairperson of the New Zealand Conservation Authority, and a member of the NZ Biological Heritage National Science Challenge. I have also had significant experience as an accredited Resource Management Act 1991 (RMA) Hearings Commissioner.
4. I have extensive experience in representing the Kāi Tahu Otago Rūnaka in RMA matters, and I currently represent Otago Rūnaka on the Otago Regional Council Strategy and Planning Committee and the Land and Water Regional Plan Governance Group.
5. As my mihi indicates I am a member of the local hapū. Our lineage connects us to this place; our identity is closely tied to the Otago region, ki uta ki tai, from the mountains to the sea. Our hapū have continuous connection to the land and resources of this area, we have been fishermen and hunter gatherers for countless generations.
6. The key documents that I have referred to in preparing my evidence include:

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<sup>1</sup> The meanings of Māori words and phrases are provided as a glossary in Appendix 1.

- (a) Clutha District Council (2015), *Waihola Sewage Treatment Plant. Application to Discharge Treated Sewage Effluent to the Lake Waihola Outlet Channel (the application)*.
- (b) The evidence of Paulette Tamati-Elliffe, Steve Bryant and Tim Vial for the Submitters.
- (c) The Ngai Tahu Claims Settlement Act 1991 (**NTCSA**).
- (d) The National Policy Statement for Freshwater Management 2020 (**NPSFM**); and
- (e) The Proposed Otago Regional Policy Statement 2021 (the **PORPS 2021**).

### **SCOPE OF EVIDENCE**

- 7. This evidence describes the cultural context and principles for discharges of treated wastewater and mana whenua concerns over the operation of the Waihola STP.
- 8. My evidence will address the following matters:
  - (a) Kāi Tahu whakapapa
  - (b) Te Rūnanga o Ngāi Tahu and Te Rūnanga o Ōtākou
  - (c) Te Kerēme (the Ngāi Tahu Claim)
  - (d) Mana whenua cultural context for discharges of wastewater
    - (i) Whakapapa relationship with freshwater (wai māori)
    - (ii) Mauri
    - (iii) Rakatirataka and kaitiakitaka
    - (iv) Mahika kai and taoka species
  - (e) Concerns about the discharge of human waste to wai māori and the current operation of the Waihola STP.
  - (f) The National Policy Statement for Freshwater Management 2020 and Te Mana o te Wai
  - (g) The vision of mana whenua for the Taiari catchment; and
  - (h) Mana whenua concerns about the proposed conditions of consent

## EXECUTIVE SUMMARY

9. Water is a central element in mana whenua creation traditions and whakapapa, and our past, present and future relationship with te Taiao (the natural environment). The rights of rakatirataka and the obligations of kaitiakitaka in relation to the natural environment arise from, and are fundamentally linked to, whakapapa. Due to this connection, the state of health and wellbeing of wai māori and te taiao is seen as a reflection on the mana, health and wellbeing of mana whenua. The discharge of wastewater from the Waihola Sewage Treatment Plant (STP) degrades the health and wellbeing of the receiving wai māori and consequently the health and wellbeing of mana whenua.
10. Water is the lifeblood of the environment, and of the many life forms that depend on it. The resource management approach “ki uta ki tai” emphasises the holistic management of the interrelated elements within the natural environment. For mana whenua, the water bodies and the environment they are part of cannot be considered in isolation from each other.
11. The interconnected nature of land, rivers, lakes, and sea mean that where land-based activities are not managed well, they can have a direct effect on freshwater and coastal environments. Since the 1840s mana whenua have experienced the profound loss of mahika kai resources and the degrading of the values of our wāhi tūpuna due to drainage and/or the degrading of the quality of our wetlands, rivers, estuaries, harbours, and coastal domains.
12. Failure to recognise or appropriately provide for the connections between land, freshwater and the coastal environment has also contributed to decreases in the abundance of indigenous species and of their habitats. These are regarded by mana whenua as taoka (treasures to be protected and cared for).
13. The direct discharge of human waste to natural water is considered abhorrent by mana whenua. Instead, mana whenua support natural mixing of wastewater through land, a subsurface wetland, or a similar environment that provides a natural buffer or transition zone and makes use of the natural cleansing and purifying processes of Papatūānuku (the earth). The proposed capital upgrades to the plant to improve the quality of the discharge from the Waihola STP do not address the fundamental issue for mana whenua. The discharge of treated wastewater to wai māori renders the receiving environment unfit for cultural use.
14. Recent changes in freshwater management have put greater emphasis on the well-being of our waterways, focused on the principle of Te Mana o te Wai. For mana whenua, rakatirataka and kaitiakitaka sit at the heart of Te Mana o te Wai. Our success as kaitiaki

in implementing Te Mana o te Wai will be measured in outcomes for the current generations and the generations that follow.

15. The importance of the Waihora-Waipōuri wetland complex to mana whenua is described by Ms Tamati-Elliffe and Mr Bryant. The discharge of treated wastewater into the Lake Waihora outflow channel degrades the mauri of the Waihora-Waipōuri wetlands and frustrates the exercise of rakatirataka and kaitiakitaka. The removal of this discharge from the Waihora-Waipōuri wetlands as soon as possible is required to give effect to Te Mana o te Wai in this catchment. The conditions of consent should provide a clear pathway and timeframes to ensure that this happens.

### **KĀI TAHU WHAKAPAPA**

16. Kāi Tahu Whānui is the collective of individuals who descend from Waitaha, Kāti Mamoe and the five primary hapū (sub-tribes) of Kāi Tahu; namely Kāti Kurī, Ngāti Irakehu, Kāti Huirapa, Ngāi Tūāhuriri and Ngāi Ruahikihiki.

17. Waitaha is used to describe collectively all the ancient groups who lived in Te Waipounamu (South Island) prior to the migrations of Kāti Mamoe from Heretaunga in the early 17th century and the migration of Kāi Tahu about a century later.

18. Kāi Tahu and Kāti Mamoe arrived in Te Waipounamu at different times from the eastern part of the North Island several centuries ago. By the time Kāi Tahu arrived, Kāti Mamoe, through a combination of inter-marriage and conquest, had already largely merged with the resident hapū of Waitaha. Again, through warfare and intermarriage Kāi Tahu merged with the resident Waitaha and Kāti Mamoe peoples. When we refer to ourselves as Kāi Tahu we also refer inclusively to our Waitaha and Kāti Mamoe whakapapa.

19. Where I am from, Ōtākou, we have Waitaha, Kāti Mamoe and Kāi Tahu whakapapa like our Kāi Tahu kin. Our hapū affiliations come out of Te Ruahikihiki whakapapa, with the principal hapū being Kāi Taoka and Moki II, while an Ōtākou tūturu (original) hapū, ko Kāi Te Pahi has special significance to our rohe.

### **TE RŪNANGA O NGĀI TAHU AND TE RŪNANGA O ŌTĀKOU**

20. Te Rūnanga o Ngāi Tahu is the governing iwi authority established by the Te Rūnanga o Ngāi Tahu Act 1996. The Crown in 1998 recognised Ngāi Tahu as “the tāngata whenua of, as holding rangatiratanga within, the takiwā of Ngāi Tahu Whānui.”<sup>2</sup> It has therefore

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<sup>2</sup> Ngāi Tahu Claims Settlement Act 1998

been clearly affirmed in statute that Te Rūnanga o Ngāi Tahu is the sole representative of Ngāi Tahu Whānui.

21. Te Rūnanga o Ngāi Tahu is made up of 18 papatipu rūnaka. These rūnaka are centred on marae which are located predominantly in traditional coastal locations though their takiwā extend inland to the Southern Alps. Papatipu rūnaka are a contemporary focus for whānau and hapū (extended family groups). Through this tribal council structure Te Rūnanga o Ngāi Tahu is accountable to the tribal members. In practice, Te Rūnanga o Ngāi Tahu encourages consultation with the papatipu rūnaka and defers to the views of kā rūnaka when determining its own position.
22. Te Rūnanga o Ōtākou are mana whenua for the Waihola-Waipori wetlands and the Taiari Plain. The takiwā of Te Rūnanga o Ōtākou centres on Otago Peninsula and extends from Purehurehu Point (north of Heyward Point) to Te Mata Au (Clutha River).

### **TE KERĒME (THE NGĀI TAHU CLAIM)**

23. A letter written by Tiramorehu to Lieutenant Governor Eyre in 1849 conveyed the first formal statement of Kāi Tahu grievances about South Island land purchases.<sup>3</sup> This was the start of an intergenerational endeavour to progress the Kāi Tahu “land claim” (Te “Kereme”). The ‘Claim’ for each particular hapū or kaik became very much a part of their identity and a galvanising factor in pursuit of justice and also ultimately a quest for the honour of the tūpuna who had fought so hard in their time to no avail.
24. The formation of all the regional 'claims' into the 'Nine Tall Trees' in the lead up to the Waitangi Tribunal hearing was a pivotal factor in its ultimate success by uniting the iwi in the pursuit of the common goal of achieving settlement. The Nine Tall Trees were made up of eight major land transactions and mahika kai, being the ninth tree.
25. The gathering of mahika kai underpins the relationship of Kāi Tahu relationship with Otago’s rivers, lakes and wetlands and the broader environment. Our cultural identity as whānau and as hapū is tied to our resources. Fundamental to our culture is our ability to learn and practice customary gathering of food and other resources, to put kai on the table at the marae and at home, and to ensure that the knowledge of customary practices is passed on from generation to generation. As described by Ms Tamati-Elliffe, these things are of central concern to our people and go beyond the mere sustenance such kai provides.

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<sup>3</sup> *Tangata Ngāi Tahu, People of Ngai Tahu*, pg 274

26. I gave evidence to the Waitangi Tribunal on the Ngāi Tahu Claim at Ōtākou marae in 1987. My submission focussed on the loss of our mahika kai resource and places of procurement. Since the 1840s mana whenua have experienced the profound loss of mahika kai resources and the degrading of the values of our wāhi tūpuna due to drainage and/or degrading of the quality of our wetlands, rivers, estuaries, harbours, and coastal domains. Ms Tamati-Elliffe describes the history of such loss in the Taiari catchment. The inability to source many of the seasonal mahika kai has created an impediment to accessing, using and/or consuming customary kai, from places that our tūpuna regularly accessed.
27. Not only was this a breakdown in the quality of our natural resources, but the breakdown in customary mahika kai activity was damaging to the retention of and transfer of mātauranga (traditional knowledge) associated with places and resources, between the generations.
28. The Waitangi Tribunal found that the Crown's duty to set aside sufficient land for the present and future needs to Ngāi Tahu / Kāi Tahu included a duty to protect Ngāi Tahu / Kāi Tahu access to mahika kai. The alienation of land and the loss of mahika kai has been associated with a corresponding loss of an economic base and opportunities for cultural use by Kāi Tahu whānau.
29. The Waitangi Tribunal inquiry eventually led to a settlement and apology from the Crown. Being one of the fifth generation to pick up the task of seeking redress to historical grievances, I was fortunate to be a member of the Kāi Tahu 'A' Team who negotiated with the Crown the Ngāi Tahu Claim Deed of Settlement. This Deed of Settlement was given effect through the Ngāi Tahu Claims Settlement Act 1998.
30. The Ngāi Tahu Claims Settlement Act included cultural redress mechanisms to recognise and give practical effect to Ngāi Tahu mana over resources regarded as taoka and cultural landscapes. I was also involved in the Kāi Tahu 'C' Team who worked on the cultural redress, specifically, placenames, resource management issues, statutory acknowledgements, deeds of recognition, nohoaka and statutory representative roles on Conservation Boards and the NZ Conservation Authority. The statutory acknowledgement for the Waihora-Waipōuri Wetlands is attached to the submission of Te Rūnanga o Ngāi Tahu on this application.<sup>4</sup>

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<sup>4</sup> Ngāi Tahu Claims Settlement Act 1998, Schedule 70



31. As described by Ms Tamati-Elliffe, the Crown purchased and transferred ownership of Te Nohoaka o Tukiauau / Sinclair Wetlands to Te Rūnanga o Ngāi Tahu as part of the settlement of the Ngāi Tahu Claim. The wetlands are managed on behalf of the iwi by Te Rūnanga o Ōtākou and the Tatawai Trust.
32. I agree with Mr Bryant that the continued discharge of treated human waste into the Waihora-Waipōuri wetland complex, of which Te Nohoaka o Tukiauau and Tatawai are part, is contrary to the intent of the settlement agreed with the Crown.
33. Mana whenua are reliant on the Clutha District Council (**the Applicant**) understanding the Treaty context in which they operate, and the need to uphold the Crown responsibilities that have been delegated to them.

### **MANA WHENUA CULTURAL CONTEXT FOR DISCHARGES OF WASTEWATER**

34. Mana whenua principles for discharges of treated wastewater arise from a foundation that is grounded in whakapapa and in cultural values and practices, as discussed in the following paragraphs.

#### **Whakapapa relationship with freshwater (wai māori)**

35. Water is a central element in mana whenua creation traditions and is present very early in the whakapapa of the world, as described in this creation account from Tīramōrehu:

Nā Te Po (The Night), Ko Te Ao (The Day)

Nā Te Ao, Ko Te Aomarama (The Bright Day)

Nā Te Aomarama, Ko Te Aotūroa (The Long-standing Day)

Nā Te Aotūroa, Ko Te Koretēwhiwhia (The Unattainable Void)

Nā Te Koretēwhiwhia, Ko Te Koretērawea (The Intangible Void)

Nā Te Koretērawea, Ko Te Koretētāmaua (The Unstable Void)

Nā Te Koretētāmaua, Ko Te Koretēmātua (The Parentless)

Nā Te Koretēmātua, ko Te Mākū (The Damp).

E moe ana Mākū i Mahoranuiatea,

Ka Puta ko Raki (The Sky).

Tuatahi e moe ana Raki i Pokoharua-i-te-Po

Tuarua e moe ana Papatūānuku.

[From the Night comes the Day, the Daylight, the Longstanding Day, the Intangible Voids through to the Parentless Realm who creates Moisture. Moisture couples with the Inner Space and gave birth to Raki – the sky].

36. In this whakapapa of wai māori darkness gives rise to light and then to stages of nothingness that produce moisture or water. This whakapapa continues down to Rakinui and his wives Pokoharua-i-te-Pō and Papatūānuku. Through descent from Rakinui and Papatūānuku, overlain by ancestral links and the history and traditions of resource use, the whakapapa of mana whenua, water and land are integrally connected. This is the way it has been from time immemorial, mana whenua are linked to the whenua (land), mountains, rivers, wetlands, lakes and the moana (sea) by whakapapa. This whakapapa relationship is fundamental to the identity of mana whenua.
37. The key points of the whakapapa relationship of mana whenua to freshwater are:
- (a) Whakapapa describes the bonds, relationships, and connections between all things, linking mana whenua to the cosmological world of the Ātua and to the land, water and all life supported by them.
  - (b) The interconnectedness between all parts of the natural world, be it land, water, sea or air acts to sustain life and life forms in a myriad of ways and requires reciprocal respect and care
  - (c) The whakapapa connection carries rakatirataka rights for mana whenua, and imposes a kaitiakitaka obligation on mana whenua to protect wai and all the life it supports, in accordance with customs and knowledge developed over many generations.
  - (d) Because of the close whakapapa connection between mana whenua and wai māori, the condition of water is seen as a reflection of the condition of the people - when the wai is healthy, the people are strong and healthy and so too is their mana.
38. Linked to whakapapa is the concept of whakawhanaukataka, which is expressed in the environment through the concept of ki uta ki tai. This emphasises the holistic management of interrelated elements within te taiao. Water released by Raki as precipitation makes its way into rivers, which in turn connects the entire landscape from the mountains to the sea. From the sea and other waterbodies, water evaporates, condenses, and falls again on Papatūānuku, an eternal holistic cycle. These relationships demonstrate the interconnectedness of environmental systems and form a basic tenet in Kāi Tahu resource management practices and perspectives.

## **Mauri**

39. Mauri is the life-affirming quality evident in all things, including living beings, the natural world, and inanimate objects. This 'life force' can be observed as a measure of health and well-being.
40. The primary resource management principle for mana whenua is the protection of mauri from degradation. Degradation can arise from alteration of food or energy sources and from contamination, including the effects of discharges on water quality. When mauri is degraded, it may be necessary to impose a rāhui (a restriction on activities) to allow the mauri to restore itself.
41. While there are many intangible qualities of mauri, there are also elements of physical health that enable mana whenua to assess the cultural health of water bodies and wetlands, including:
- Aesthetic qualities including natural character
  - The diversity and abundance of indigenous flora and fauna.
  - Life supporting capacity and ecosystem robustness; and
  - Fitness for cultural use.
42. A resource's mauri is degraded if it no longer supports traditional and contemporary uses and values. Activities such as the discharge of wastewater to water may extinguish the mauri and in turn diminish the cultural value of a waterbody or wetland for mana whenua.

## **Rakatirataka and kaitiakitaka**

43. Rakatirataka is about having the mana or authority to give effect to mana whenua culture and traditions in the management of the natural world. Wai māori is a taoka that is governed under the domain of rakatirataka, in accordance with mana whenua tikaka.<sup>5</sup>
44. Kaitiakitaka is an expression of rakatirataka. The person who is mandated to undertake kaitiakitaka is referred to as a kaitiaki, a term with a number of meanings and associations. In traditional times the function of kaitiaki was not a human role, but rather that of the many deities or Ātua responsible for the many realms of the natural world. Since the signing of the Treaty of Waitangi and the arrival of people unfamiliar with mana whenua customs, the function of kaitiaki became that of the resident mana whenua.

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<sup>5</sup> Customary system of values and practices

45. I have inherited my kaitiaki responsibilities from my father and, through him, from the ancestors. Kaitiakitaka is exchanged intergenerationally, handed down through whānau and hapū. Implicit in kaitiakitaka is the balance between the right to access and use natural resources, for example, through mahika kai practices, and the responsibility to care for te taiao, focusing on providing a sustainable base for the generations of the future. This is the underpinning meaning of the whakataukī, *Mō tātou, ā, mō kā uri a muri ake nei* (for us and our children after us), which was adopted initially by the Ngāi Tahu Māori Trust Board in the 1940s, and then adopted by Te Rūnanga o Ngāi Tahu as a vision statement following the settlement of the Ngāi Tahu claims.

### **Mahika kai and taoka species**

46. Protecting and maintaining the mauri of species and habitat is a critical function of kaitiakitaka. For mana whenua, protection of mahika kai and taoka species requires a whole of system approach to their sustenance that recognises the importance of the interconnection between land, water, and other resources. It requires a focus not just on specific habitat sites, but also on the cumulative effects of activities on the wider system (both upstream and downstream) that supports and sustains the species and their habitats.

47. It is a widely held view within Kāi Tahu (and one that I share) that not enough is presently being done to restore the many degraded mahika kai sites within our takiwā. The vision of the Te Nukuroa o Matamata project, as discussed in the evidence of Ms Tamati-Elliffe, is to restore natural habitat and mahika resources within the Waihora and Waipōuri wetlands.

### **CULTURAL CONCERNS OVER THE DISCHARGE OF HUMAN WASTE TO WAI MĀORI**

48. The direct discharge of human waste to natural water, almost regardless of the extent of treatment, is considered abhorrent by mana whenua.

49. In traditional Māori knowledge, wai (water) was classified in accordance with its characteristics and ceremonial use. These categories determined how the water could or could not be used. The mixing of water from separate categories was, and still is, considered unacceptable to Māori. In this regard, wastewater which is classified as wai-kino (polluted water) should not be mixed with other categories of water. Instead, natural mixing of wastewater through land, a subsurface wetland, or a similar environment that provides a natural buffer or transition zone is supported by mana whenua.

50. This natural process is important, because in order for the mauri of the water to be fully restored it needs to go through the processes of "kia whitikia e te rā, kia purea e te hau,

kia horoia e te ua, ā, kia hurihia e ngā kōwhatu - to be shone upon by the sun, to be purified by the wind, to be washed by the rain, and to be tumbled by the rocks.”<sup>6</sup>

51. Subsurface wetland systems are one example of the technologies that are being supported by other iwi around the country as they understand the cleansing function of these natural systems to further remove contaminants and to restore the mauri to water. From a mana whenua perspective, a subsurface wetland interacts with the forces of nature and Papatūānuku to clean and revitalise mauri:

- Water passes through Papatūānuku (the earth) to transform and cleanse the polluted water which feeds the surrounding biota and in turn begins to re-invigorate its mauri.
- Tane (The Atua of the forest and all that dwells within it), uses plants, roots, micro-organisms, birds and insects that form the natural biological processes to absorb and remove contaminants with the added benefit of significant carbon sequestration and a natural increase in biodiversity.
- Tāwhirimātea (the wind) acts to oxygenate and agitate the water; and
- Tama- nui-te-Rā (the sun) acts to add UV light.

52. The Applicant has constructed an artificial wetland to provide secondary treatment of the oxidation pond wastewater. It is my understanding that this surface flow wetland has not proved effective in removing contaminants from the treated wastewater.<sup>7</sup>

53. Further, I noted with alarm the significant degree of non-compliance with the conditions of the existing resource consent for the Waihola STP, including a failure to operate the plant in accordance with the conditions of that consent.<sup>8</sup> This increases mana whenua concerns about the impact of the discharge on the mauri of the wetlands and on the mahika kai and taoka species they support.

54. The proposed capital upgrades to the plant to improve the quality of the discharge from the Waihola STP do not address the fundamental issue for mana whenua. The discharge of treated wastewater to wai māori is contrary to tikaka as discussed by Mr Bryant. The discharge of wastewater into wai māori renders the receiving environment unfit for cultural use regardless of the quality of that discharge.

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<sup>6</sup> Winiata, P. Lecture delivered at Te Wānanga o Raukawa, Ōtaki. 2002

<sup>7</sup> Ryder Consulting Ltd (2014) *Waihola Oxidation Pond Discharge to the Lake Waihola Outflow Channel, Assessment of Environmental Effects*, p.25

<sup>8</sup> Section 42A report, Section 2.7

55. Mana whenua do not support the continued discharge of treated wastewater from the Waihola STP to wai māori. The preference of mana whenua is for wastewater from the Waihola STP to be discharged to an effective land-based treatment system and removed from the Lake Waihora outflow channel.

## **NATIONAL POLICY STATEMENT FOR FRESHWATER MANAGEMENT 2020 (NPSFM 2020) AND TE MANA O TE WAI**

56. As discussed by Mr Vial, in 2020, the NPSFM 2020 was gazetted, placing greater emphasis on Te Mana o te Wai as a fundamental concept in the management of freshwater.

57. Mana whenua have undertaken a robust process to define Te Mana o te Wai in Otago. Our definition of Te Mana o te Wai is informed and framed by our vision for freshwater and aligns with the central elements of our creation traditions. It also emphasises that the whakapapa relationship of mana whenua to the wai, and the associated rakatirataka rights and kaitiakitaka duties, sit at the heart of Te Mana o te Wai.

58. This definition is informed by our mātauraka (traditional knowledge) about te taiao and wai māori - mātauraka māori that is already being used to guide the mahi being done by mana whenua to restore the Waihora/Waipōuri wetlands complex in the Lower Taiari catchment as discussed by Ms Tamati-Elliffe. Our success as kaitiaki in implementing Te Mana o te Wai will be measured in outcomes for the current generations and the generations that follow.

59. The mana whenua definition of Te Mana o te Wai is now incorporated as a freshwater objective in the Proposed Otago Regional Policy Statement 2021 (PORPS), namely:

### **LF-WAI-O1 – Te Mana o te Wai**

*The mauri of Otago's water bodies and their health and well-being is protected, and restored where it is degraded, and the management of land and water recognises and reflects that:*

- 1. water is the foundation and source of all life - na te wai ko te hauora o ngā mea katoa,*
- 2. there is an integral kinship relationship between water and Kāi Tahu whānui, and this relationship endures through time, connecting past, present and future,*
- 3. each water body has a unique whakapapa and characteristics,*
- 4. water and land have a connectedness that supports and perpetuates life, and*

5. *Kāi Tahu exercise rakatirataka, manaakitaka and their kaitiakitaka duty of care and attention over wai and all the life it supports.*

60. I consider the continued discharge of wastewater to the Waihora/Waipōuri wetlands is contrary to this objective. It will lead to continuing degradation of the mauri of the Waihora/Waipōuri wetlands and the Taiari River, rather than protecting and restoring these water bodies. It will also frustrate the ability of Te Rūnanga o Ōtākou and the Tatawai Trust to exercise kaitiakitaka over these significant wāhi tūpuna. I consider the removal of this discharge from the Waihora-Waipōuri wetlands as soon as possible is necessary to give effect to Te Mana o te Wai in this catchment.

## **VISION FOR THE TAIARI CATCHMENT**

61. Mana whenua have worked with Otago Regional Council, alongside input from the wider community, to develop long-term visions for Otago's water bodies that will give effect to Te Mana o te Wai. Mana whenua aspirations for the management of freshwater in the Taiari catchment that are reflected in the PORPS include:

(a) the ongoing relationship of Kāi Tahu with wāhi tūpuna<sup>9</sup> is sustained.

(b) healthy wetlands are restored in the upper and lower catchment wetland complexes, including the Waipori/Waihola Wetlands, Tunaheketaka/Lake Taiari, scroll plain, and tussock areas; and

(c) the gravel bed of the lower Taiari is restored and sedimentation of the Waipori/Waihola complex is reduced.<sup>10</sup>

62. The evidence of Ms Tamati-Elliffe describes the important wāhi tūpuna and mahika kai values of the Taiari River and the Waihora and Waipōuri wetlands.

63. Wetlands provide many ecosystem services, including improving water quality, and are important ecosystems. At least 90% of wetlands in New Zealand have been drained since the contact period. Many of the mahika kai activities associated with the Waihora-Waipōuri wetlands are no longer possible. The waterways, lakes and wetlands that once connected the Taiari and Waipori River systems have been modified or drained, as discussed by Ms Tamati-Elliffe.

64. The negative effect of wastewater discharges on the overall health and well-being of the remaining wetlands, and the Waihora-Waipōuri catchment, cannot be overlooked or

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<sup>9</sup> See evidence of Ms Tamati-Elliffe for explanation and discussion of wāhi tūpuna.

<sup>10</sup> PORPS LF-VM-04, clauses (2) to (4).

understated. The continued discharge of wastewater to the outflow channel is contrary to mana whenua aspirations for the restoration of the Waihora-Waipōuri wetlands, as discussed in the evidence of Ms Tamati-Elliffe.

## **CONCERNS ABOUT THE PROPOSED CONDITIONS OF CONSENT**

65. Mana whenua acknowledge that a transition from the existing system to a more appropriate land-based system cannot happen immediately, and that a short-term consent would be reasonable to enable ongoing treatment of sewage from the Waihora community while a better system is put in place. However, the consent conditions should be strongly focused on the development of an alternative solution, with the objective of removing the wastewater discharge from the Lake Waihora outflow channel as soon as possible.
66. Mana whenua have reviewed the conditions proposed for this consent. The requirement for the Applicant to develop an Activity Management Plan and to consider alternative discharge methods does not provide sufficient certainty that meaningful progress will be made towards removing the discharge from the outflow channel during the term of the consent. The Applicant has determined that *“human health and wellbeing in Waihora is best served by allowing the discharge to continue and any alternative is not to be countenanced.”*<sup>11</sup>
67. I understand that the Applicant has dismissed alternative solutions to the treatment of Waihora wastewater for reasons of cost.<sup>12</sup> While mana whenua are sympathetic to the financial pressures faced by the Applicant, we do not consider that this can be used to justify continuation of an inappropriate and poorly functioning treatment system that degrades wai māori. As Mr Bryant points out in his evidence, this just shifts the cost of the discharge to mana whenua who want to gather mahika kai from the Waihora-Waipōuri wetlands.
68. I consider the conditions need to set out clear timeframes and a pathway for development and implementation of an alternative treatment system. The rakatirataka and kaitiakitaka of mana whenua must also be recognised by ensuring that the Applicant engages fully with Te Rūnanga o Ōtākou and the Tatawai Trust in the process of developing a new system.

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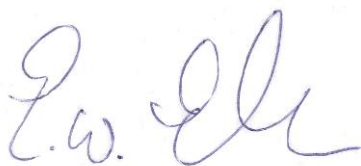
<sup>11</sup> Clutha District Council (2015), *Waihora Sewage Treatment Plant. Application to Discharge Treated Sewage Effluent to the Lake Waihora Outlet Channel*, Section 5.4, p.21.

<sup>12</sup> Clutha District Council (2015), *Waihora Sewage Treatment Plant. Application to Discharge Treated Sewage Effluent to the Lake Waihora Outlet Channel*, pp.15, 18 and 21.



## CONCLUSION

69. The mauri of the Taiari represents the essence that binds the physical and spiritual elements of all things together, generating and sustaining the surrounding ecosystems. All elements of te taiao possess a life force, and all forms of life are related and interconnected.
70. Mauri is the critical element that reflects the relationship between mana whenua and the Waihora-Waipōuri wetlands, the overall health and wellbeing of the wetlands, and the life that the wetlands support. The connection and relationship with te taiao, expressed through whakapapa and whakawhanaukataka, invoke a reciprocal duty of care that underpins the exercise of rakatirataka and kaitiakitaka. The discharge of treated wastewater into the outflow channel degrades the mauri of the Waihora-Waipōuri wetlands and frustrates the exercise of rakatirataka and kaitiakitaka.
71. Rakatirataka and kaitiakitaka sit at the heart of Te Mana o te Wai for mana whenua. Our success as kaitiaki in implementing Te Mana o te Wai will be measured in the outcomes for the generations to come. Te Mana o te Wai is inseparable from the mana of the people.
72. Mana whenua are concerned about the significant degree of non-compliance with the conditions of the previous resource consent for the Waihora STP, including a failure to operate the plant in accordance with the conditions of that consent. Mana whenua are also concerned that the Applicant has dismissed alternative solutions to the treatment of Waihora wastewater for reasons of cost. The removal of this discharge from the Waihora-Waipōuri wetlands is required to give effect to Te Mana o te Wai in this catchment.
73. To provide for this, the consent conditions should be strongly focused on the development of an alternative solution for the treatment of wastewater from the Waihora township, with the objective of removing the wastewater discharge from the Lake Waihora outflow channel as soon as possible. To ensure recognition of rakatirataka and to enable exercise of kaitiakitaka, mana whenua must be fully engaged in development of the alternative solution. This will ensure that the mana whenua relationship with the Waihora-Waipōuri wetlands, of which Te Nohoaka o Tukiauau/ Sinclair Wetlands and Tatawai are part, is sustained for future generations.

A handwritten signature in blue ink, appearing to read 'E.W. Ellison', is positioned above the printed name.

**Edward Ellison ONZM**

## Appendix 1: Glossary of Māori words and phrases

<b>Te reo Māori term</b>	<b>English translation</b>
<b>ahi-kā-roa</b>	<i>the 'long-burning fires' of occupation</i>
<b>ara tawhito</b>	<i>ancestral trails</i>
<b>aruhe</b>	<i>bracken fern root</i>
<b>atua</b>	<i>early ancestors with continuing influence often translated as 'gods'</i>
<b>atua kaitiaki</b>	<i>guardian ancestors a term used to refer to the children of Raki</i>
<b>awa</b>	<i>river</i>
<b>hapū</b>	<i>sub-tribe, clan</i>
<b>harakeke</b>	<i>flax</i>
<b>houi</b>	<i>lacebark</i>
<b>īnaka</b>	<i>a variety of whitebait</i>
<b>iwi</b>	<i>extended kinship group, nation</i>
<b>kai</b>	<i>food</i>
<b>kākahi</b>	<i>freshwater mussels</i>
<b>kāika</b>	<i>village</i>
<b>kaitiaki</b>	<i>the person who exercises kaitiakitaka</i>
<b>kaitiakitaka</b>	<i>the exercise of guardianship as an expression of mana and rakatirataka</i>
<b>kanakana</b>	<i>lamprey</i>
<b>karakia</b>	<i>incantations</i>
<b>kaurū</b>	<i>edible parts of the cabbage tree</i>
<b>ki uta ki tai</b>	<i>'from the mountains to the sea' a proverb used to reference the mana whenua preference for integrated and holistic natural resource management</i>
<b>kina</b>	<i>hedgehog</i>
<b>kiore</b>	<i>native rat</i>
<b>mātauraka, mātauraka Māori</b>	<i>knowledge, wisdom, understanding; that of the Māori people</i>
<b>mahika kai</b>	<i>food gathering resources, practices, and sites</i>
<b>mana</b>	<i>prestige, authority, control, power, influence; gained through whakapapa and expressed through the exercise of rakatirataka</i>
<b>mana whenua</b>	<i>the people that are recognised as holding mana over the land in a particular area</i>
<b>manaakitaka</b>	<i>hospitality, generosity, kindness</i>

<b><i>mauka</i></b>	<i>mountain(s)</i>
<b><i>mauri</i></b>	<i>life force, life essence</i>
<b><i>mihi</i></b>	<i>personal introduction</i>
<b><i>noa</i></b>	<i>free from the restrictions of tapu ordinary, unrestricted</i>
<b><i>nohoaka</i></b>	<i>temporary settlement</i>
<b><i>papai</i></b>	<i>a type of speargrass</i>
<b><i>pātiki</i></b>	<i>flounder</i>
<b><i>papatipu rūnaka</i></b>	<i>customary governance boards</i>
<b><i>rāhui</i></b>	<i>temporary prohibition</i>
<b><i>rakatirataka</i></b>	<i>chiefly autonomy</i>
<b><i>raupō</i></b>	<i>bullrush</i>
<b><i>rohe</i></b>	<i>boundary, district, region</i>
<b><i>roto</i></b>	<i>lake(s)</i>
<b><i>takiwā</i></b>	<i>territory</i>
<b><i>taoka</i></b>	<i>treasured possession(s)</i>
<b><i>tapu</i></b>	<i>a state of being under restriction</i>
<b><i>te taiao</i></b>	<i>the natural environment</i>
<b><i>tikaka</i></b>	<i>a customary system of values and practices</i>
<b><i>tikaka Kāi Tahu</i></b>	<i>the customary system of values and practices associated with being Kāi Tahu</i>
<b><i>tuna</i></b>	<i>long-finned eel</i>
<b><i>tūpuna</i></b>	<i>ancestors</i>
<b><i>upoko</i></b>	<i>customary leader</i>
<b><i>wai māori</i></b>	<i>freshwater</i>
<b><i>wāhi ikoa</i></b>	<i>place names</i>
<b><i>wāhi tūpuna</i></b>	<i>cultural landscapes</i>
<b><i>waka</i></b>	<i>canoe</i>
<b><i>waka ama</i></b>	<i>the sport of outrigger canoeing</i>
<b><i>weka</i></b>	<i>woodhen</i>
<b><i>whakapapa</i></b>	<i>genealogy</i>
<b><i>whakawhanaukataka</i></b>	<i>the process of establishing relationships</i>
<b><i>whānau</i></b>	<i>family, extended family</i>
<b><i>whenua</i></b>	<i>land</i>