

BEFORE THE OTAGO REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act
1991

AND

IN THE MATTER Resource Consent Applications

RM16.093 by
Criffel Water Limited

and

RM18.345 by
Luggate Irrigation Company
Limited and Lake McKay Station
Limited

**STATEMENT OF EVIDENCE OF DR MICHAEL STEVENS
FOR TE RŪNANGA O ŌTĀKOU, KĀTI HUIRAPA KI PUKETERAKI AND TE
RŪNANGA O MOERAKI**

Dated 15 OCTOBER 2019

Barrister: Stephen Christensen
(stephen@projectbarrister.nz)

PO Box 1251
DUNEDIN 9054
027-448-2325

Introduction

1. My name is Michael Stevens.
2. I am a self-employed historian currently contracted to Aukaha (1997) Limited (Aukaha) on a casual basis. Aukaha is owned by kā Papatipu Rūnaka ki Otago (Kā Rūnaka) and represents mana whenua in the Otago region.
3. I am Kāi Tahu and my whakapapa connects me to a number of kāika, including Moeraki. However, I was born and raised in Murihiku, mostly at Awarua (Bluff), where my whānau still resides. I now live predominantly in Dunedin but still contribute to tribal life in Awarua. I am, for example, currently the Alternate Representative to Te Rūnanga o Ngāi Tahu for Te Rūnaka o Awarua.
4. I hold a BA(Hons) and PhD in History, and an LLB, from the University of Otago. My main area of expertise is Kāi Tahu history, whakapapa, and material culture, especially south of the Waitaki River. An active muttonbirder, I have personal and professional interests in mahika kai.
5. Prior to self-employment, I was a Senior Lecturer in Māori History based in the Department of History at the University of Otago. My research centred on southern Kāi Tahu villages and whānau before, during and since formal British colonisation.
6. In preparing this evidence I have reviewed:
 - a. The reports and statements of evidence of other experts giving evidence relevant to my area of expertise, including:
 - i. Criffel Water Limited – Resource Consent Application
 - ii. Luggate Irrigation Company Limited and Lake McKay Station Limited – Resource Consent Application
 - iii. Otago Regional Council S42a Report and Response to Questions
 - iv. Evidence of Maria Bartlett
 - v. Evidence of Dr Rosemary Clucas
 - b. Resource Management Act 1991
 - c. Ngāi Tahu Report 1991

- d. The Stage 1 Report on the National Freshwater and Geothermal Resources Claim 2012
 - e. Te Runanga o Ngāi Tahu Act 1996
 - f. Ngai Tahu Claims Settlement Act 1998
 - g. Te Rūnanga o Ngāi Tahu Declaration of Membership Order 2001
 - h. Ngāi Tahu Freshwater Policy Statement 1999
 - i. Kāi Tahu ki Otago Natural Resources Management Plan 2005
7. I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note. This evidence has been prepared in accordance with it and I agree to comply with it. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

EXECUTIVE SUMMARY

8. The Luggate Creek catchment and wider Mata-au landscape is an important location in the history and traditional economy of Kāi Tahu. This is indicated by a suite of archaeological and ethnographic evidence.
9. Much of this ethnographic evidence was generated during the colonial encounter as Kāi Tahu leaders sought to protect remnant mahika kai (food sources) in the Mata-au region and throughout the tribal takiwā (territory) for contemporaneous and future generations.
10. Although the Luggate Creek catchment has been heavily modified since and as a result of British colonisation, it still has a number of desirable attributes from a mahika kai perspective. This is especially true in terms of tuna (eels).
11. As such, the Luggate Creek catchment and wider Mata-au landscape are important to current and future generations of Kāi Tahu. Kā Rūnaka therefore seek protection and enhancement of the mahika kai attributes to which we refer.

OVERVIEW OF KĀI TAHU HISTORY IN MATA-AU

12. The iwi of Kāi Tahu is the collective of individuals who descend from three distinct but now genealogically inseparable groups: Waitaha, Kāti Mamoe and Ngāi Tahu. These names broadly encompass the waves of people who migrated to Te Waipounamu prior to sustained European contact with the New Zealand archipelago, and who were woven together into a discernible whole by the late eighteenth century.
13. Key to this entanglement were a series of strategic marriages and trade and exchange systems that tightly-bound geographically dispersed families and communities together. Because of its mahika kai (food sources), the Mata-au River and wider region – inclusive of Luggate Creek and catchment – played a central role in these processes. This region is therefore frequently referred to in traditional historical narratives and its landscape is covered in place names indicative of this history.
14. By the late eighteenth century, tuna (eel) and weka were two of the most important mahika kai in the Mata-au region for Kāi Tahu.
15. There is a range of archaeological and ethnographic evidence of pre-European Māori occupation in the Mata-au region. Indeed, within the Luggate catchment alone, there are recorded archaeological sites from the Waitaha-era. This may be evidence of permanent or semi-permanent occupation at that time. However, it is possible that human-induced environmental changes (i.e. unsustainable harvesting of moa) and/or a cooling climate reduced the nature and extent of inland (and southern) settlement.
16. Nonetheless, the region appears to have been contested and occupied by subsequent Kāti Mamoe groups. In the early eighteenth century, Waitaha and Kāti Mamoe – by then substantially interwoven – were confronted by Kāi Tahu incursion and expansion in the area. By the time that process had worked itself out, the interior was largely abandoned, albeit briefly. Subsequent Kāi Tahu use of the interior appears to have “involved a mobile population, otherwise domiciled at the coast, temporarily occupying small, undefended hamlets.”¹ The

¹ Atholl Anderson, “Māori settlement in the interior of southern New Zealand from the early 18th to late 19th centuries AD.” *The Journal of the Polynesian Society* 91, no. 1 (1982): p.74.

reason for these visits, which were usually seasonal, was to harvest and preserve tuna and weka, and perhaps, though it is less clear, gather pounamu (jade).

17. The coastal disposition of Kāi Tahu increased in the early nineteenth century, probably for two main reasons: the advent of shore-whaling and warfare (both intra-iwi and inter-iwi). The establishment of shore-whaling stations on the southern and eastern coasts of Te Waipounamu throughout the 1830s drew more Kāi Tahu people to the coast and reduced the mobility of several – at least in terms of inland visitations, through being momentarily less-dependent on the interior for food and other materials.
18. Internecine fighting within Kāi Tahu in the late-1820s, which is collectively referred to as Kai Huaka, also may have impacted on the use and occupation of inland sites. However, the invasion of a Ngāti Tama taua led by their chief Te Puoho in 1836, very clearly had an impact on inland settlement by Kāi Tahu. These armed invaders, who planned to capture the Kāi Tahu stronghold of Ruapuke Island, took several Kāi Tahu prisoners between Makarora and Tutarau, near Gore, before being stopped in their tracks and defeated. Atholl Anderson speculates that “It is possible that the virtual abandonment of the interior for some years after the Ngatitama [sic] raid reflects a reaction to the vulnerability of small isolated settlements which had also occurred towards the end of the traditional period [of Kāi Tahu expansion].”²
19. Despite events of the 1820s and 1830s, the interior may have remained “a place of retreat from the frictions of coastal living.”³ Indeed, when British colonisation and settlement began to negatively impact on Kāi Tahu whānau in the 1840s, dependence on inland sources of sustenance may have actually grown – before it too was constrained by colonial settlement.
20. As intimated already, the principal attraction of the inland Mata-au region was its food resources: namely, weka hunting and eeling. This is reflected in archaeological remains as well observations and

² Ibid., p.73.

³ Ibid., p.75.

recollections from the era of colonial settlement. These observations reveal that nineteenth century Kāi Tahu sought to adapt their traditional economy in new circumstances, not abandon it.

21. The customary harvest of juvenile tītī (sooty shearwaters), an activity most commonly known as muttonbirding, is a powerful (and enduring) example of this inclination, which might be described as “adaptive tradition” or “Māori modernity.”⁴
22. This inclination is utterly consistent with a statement made by the colonial official Edward Shortland, who visited Te Waipounamu and interviewed important Kāi Tahu leaders in 1843-44. Shortland warned incoming colonists that Kāi Tahu landowners would be unlikely to sell “a large district without reservation, unless it be wholly unsuited to their methods of cultivation and even then there would probably be some favourite eel fisheries to them of great moment, with which they would not part.”⁵ This was as true of the Mata-au region and Luggate catchment as any other part of the takiwā.
23. However, New Zealand’s colonists, as with those in other white settler societies, subscribed to an either/or binary view of the world: i.e. civilised v uncivilised; modern v traditional; Christian v heathen; capitalist v subsistent; and hunting v farming.⁶ As such, nineteenth century Kāi Tahu were mostly deprived of opportunities to simultaneously embrace new Pākehā ways while holding on to established Māori ways. Elements of “tradition” and “modernity” were fused together to fashion self-identities that were authentic on Kāi Tahu terms were allowed to prevail on the Tītī Islands, but such possibilities with tuna and weka were effectively prevented on the

⁴ See Michael J. Stevens, “Kāi Tahu me te Hopu Tītī ki Rakiura: An Exception to the ‘Colonial Rule’?.” *Journal of Pacific history* 41, no. 3 (2006): 273-291.

⁵ Edward Shortland to Chief Protector of Aborigines, Outward Letter Book 1, 13 March 1844, PC-0027, Hocken Library. (Quoted in Tony Ballantyne, “Economic Systems, Colonization and the Production of Difference: Thinking Through Southern New Zealand,” p.10. Unpublished talk given on 2 December 2010 as part of ‘Paucity and Plenty: Enactments and Expectations’ series hosted by the Eisenberg Institute for Historical Studies, University of Michigan, (copy in author’s possession).

⁶ Paige Raibmon, *Authentic Indians: Episodes of encounter from the late-nineteenth-century northwest coast*. Duke University Press, 2005, p.7.

mainland.⁷ Notwithstanding, contemporary Kāi Tahu are committed to recovering opportunities denied to earlier generations.

LUGGATE AREA

24. Archaeological sites have been formally recorded in the Luggate catchment area. As with sites in the wider Mata-au landscape, they speak directly to the value placed on weka and tuna.⁸
25. Kāi Tahu were key partners in reintroducing weka (albeit on an island sanctuary at this point) to the Wānaka area. For similar reasons – the ongoing investment in mahika kai – Kā Rūnaka seek to protect and enhance the tuna habitat and population in the Luggate catchment for present and future generations of Kāi Tahu.
26. It is by such means that the customary rights of Kāi Tahu, and our cultural material traditions, have real meaning.

IMPACTS ON KAITAHUTAKA

27. The traditional Kāi Tahu economy was based around “the seasonal exploitation of a host of food plants, birds, fresh and saltwater fish, and shellfish from many different sites across the tribe’s takiwā.” Preserved surpluses of these things were then exchanged within and between Kāi Tahu whānau and settlements.⁹ Conflict and disease disrupted this framework in the 1830s but it was colonial settlement, especially from the 1860s, that “rapidly closed off mahika kai sites and constrained established Kāi Tahu economic practices.”¹⁰ This was because the “colonial state did not recognise mahika kai practices – eeling, capturing birds, fishing – as establishing property rights at all and therefore its agents did not seek to alienate those rights in its negotiations for land.” However, “given the centrality of these practices

⁷ After Ibid., pp.32, 13.

⁸ See B. J. Allingham, “Upper Clutha Archaeological Assessment: A survey for Kāi Tahu ki Otago Ltd.” Dunedin: Kāi Tahu ki Otago Ltd, 2000.

⁹ Tony Ballantyne, “Economic Systems, Colonization and the Production of Difference: Thinking Through Southern New Zealand,” pp.5-6.

¹⁰ Ibid., p.2.

to Kāi Tahu lifeways, it is certain that Kāi Tahu would have never given up these rights.”¹¹

28. In any event, in their plan for the formal British colonisation of New Zealand, the New Zealand Company and the Imperial government indicated that they would leave Māori with large, inalienable, reserves, to meet their “real wants.” It was asserted that these would increase in value over time as surrounding land owned by Pākehā received capital and labour, and this would compensate Māori “for the loss of the privileges they had previously enjoyed in hunting and fishing at will over their wilderness lands.”¹²
29. However, in response to his investigations into Kāi Tahu landlessness and impoverishment in the 1880s, the government-appointed commissioner Alexander McKay noted that, ““A perusal of the facts...furnish[es] ample evidence that the fundamental principles laid down were not adhered to in acquiring the [South] Island, neither in the reservation of sufficient land...nor in compensating the Native owners for the loss of a large share of their means of subsistence through depriving them of their hunting and fishing rights.”¹³
30. With respect to fishery easements granted to Kāi Tahu in Canterbury and Otago in the late 1860s (including at Lake Hawea), McKay further explained that these “have for the most part been rendered comparatively worthless through the acclimatisation societies’ stocking many of the stream and lakes with imported fish...[which] are protected by special legislation, consequently the Natives are debarred from using nets for catching...whitebait...nor can they catch eels or other native fish.” He also identified “[a]nother source of injury done to their fisheries”: “the drainage of the country.”¹⁴
31. Mackay thus concluded: “In olden times, before the advent of the Europeans and the settlement of the country, they were at liberty to go at will in search of food, but now, should they go fishing or bird-catching in any locality where they have no reserve, they are

¹¹ Ibid., pp.11-12.

¹² Commissioner Mackay, “Middle Island Native Land Question (Report On),” *AJHR*, 1 January 1888 (G-1), pp.4, 6.

¹³ Ibid., p.6.

¹⁴ Ibid., p.8.

frequently ordered off by the settlers. All this is very harassing to a people who not long since owned the whole of the territory now occupied by another race...who could alone foresee the consequent result of colonisation.”¹⁵

32. Mackay’s foregoing analysis of the difficult situation Kāi Tahu faced in the mid-nineteenth century is best summed up by the following passage, that he also wrote, and which is worth quoting in its entirety. Kāi Tahu, he outlined, “found, as the country got occupied by the Europeans, they became gradually restricted to narrower limits, until they no longer possessed the freedom adapted to their mode of life. Every year as the settlement of the country progressed the privilege of roaming in any direction they pleased in search of food-supplies became more limited. Their means of obtaining subsistence in this way was also lessened through the settlers destroying, for pastime or other purposes, the birds which constituted their food, or, for purposes of improvement, draining the swamps, lagoons and watercourses from which they obtained their supplies of fish. Their ordinary subsistence failing them...and lacking the...ability of supplementing their means of livelihood by labour, they led a life of misery and semi-starvation on the few acres set apart for them.”¹⁶
33. The importance and value that Kāi Tahu continued to place on mahika kai, and indeed the Mata-au region and its water bodies, is illustrated by a visitation in 1865 of: “... a party of about 30 Maoris — men, women and children” who came from Moeraki to Makarora. They lived there during the ensuing summer and winter, catching large quantities of eels during the summer and drying them for the winter, which with fernroot formed their staple food. They then “floated down the lake and Clutha river to Lindis on koradi rafts, which they then abandoned, and made a short cut across the ranges, by what is since known as the Maori Pass [the Thompson Creek route through the Dunstan mountains].”¹⁷

¹⁵ Ibid.

¹⁶ Ibid., p.4.

¹⁷ Anderson, p.64.

34. As in 1865, present-day Kāi Tahu whānau and larger collectives still have the inclination and capacity for eeling and continue to look to the the Mata-au region, inclusive of the Luggate catchment, to satisfy these customary rights.
35. Mahika kai was central to the traditional Kāi Tahu economy. As such, the destruction and alienation of mahika kai was at the heart of Te Kerēme, the Ngāi Tahu Claim. Successive generations of Kāi Tahu leaders sought resolution of these and related grievances for more than a century. In the 1980s they were presented to the Waitangi Tribunal, and done so in a way that underscored the importance of mahika kai. The resultant Ngai Tahu Claims Settlement Act 1998 and the involvement of Kā Rūnaka in resource management processes similarly place high value on mahika kai.

CONCLUSION

36. Kāi Tahu have a historic presence and contemporary interest in the Luggate catchment.
37. This presence and interest is intimately bound up with mahika kai, especially weka and tuna.
38. This presence and interest was severely constrained by colonial land purchasing and colonial settlement, which was at the heart of Te Kerēme.
39. Kā Rūnaka seek to protect and enhance the tuna habitat and population in the Luggate catchment for present and future generations of Kāi Tahu in line with mahika kai values and traditions.

DATED this 15th day of October 2019



Dr Michael Stevens
on behalf of Kā Rūnaka