

**BEFORE THE ENVIRONMENT COURT**

**IN THE MATTER**

of the Resource Management Act 1991

**AND**

**IN THE MATTER**

Proposed Plan Change 7 to the Hawke's Bay  
Regional Policy Statement section of the Regional  
Resource Management Plan (2006)

**BETWEEN**

Ngāti Kahungunu Iwi Incorporated

**AND**

The Hawkes Bay Regional Council

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**STATEMENT OF EVIDENCE BY NGAHIWI TOMOANA  
ON BEHALF OF NGĀTI KAHUNGUNU IWI INCORPORATED**

**22 AUGUST 2023**

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## INTRODUCTION

*Te Wai Ora o Karamu*

*Te Ipu o Taraia*

*Te Wai U o te Muriwai Hay*

*Tihei Mauri Ora!*

1. My full name is Ngahiwi Tomoana.
2. I am a Justice of the Peace and have been involved in hapū and iwi development most of my life. I am a Kaumatua for Waipatu Marae and Ngāti Hawea and represent my hapū and iwi in numerous capacities.
3. I was previously Chair of NKII for over 25 years from 1996-2022 and Chair of Te Taiwhenua o Heretaunga (1980-1996) prior to that.
4. I have a strong background in Ngāti Kahungunu matauranga and culture. I have taken a lead in promoting Māori aquaculture for the wider Māori community and Ngāti Kahungunu, and organised the first Māori Fisheries Conference in held Napier in 2006, as well as the now annual Kahungunu Fish Hook Summit that has been running for the last 13 years.
5. In addition, I have also held numerous other governance roles in the following capacity:
  - Board Member, Pacific Cooperation Foundation (PCF)
  - Deputy Chair, Hawke's Bay District Health Board (HBDHB)
  - Chair, Māori Relationship Board, Hawke's Bay District Health Board (HBDHB)
  - Chair, CPHAC Committee, Hawke's Bay District Health Board (HBDHB)
  - Chair, Primary Sector Group for Minister of Māori Affairs
  - Chair, New Zealand China Council
  - Board Member, Māori Economic Development Advisory Board (MEDAB)
  - Director, Hawkes Bay Museums Trust
  - Director, Hawkes Bay Regional Sports Park
  - Director, Waitangi Seafoods NZ (Chatham Islands)
  - Treaty of Waitangi Claimants Group (Wai262)
  - Board Member, Prisoners Aid Rehabilitation Services (PARS) Trust
  - Member, Iwi Leaders Group for Freshwater Issues
  - Past Chair, Te Taiwhenua O Heretaunga

- Past Chair, Te Ohu Kai Moana Ltd
  - Also past Director of Wai Māori Division
  - Representation to the International Whaling Conference
- Forum Member, New Zealand Police Commissioner's Māori Focus Forum
- Trustee, Treaty of Waitangi Claimants Group (WAI262)
- Waipatu Marae Representative, (HTSG)
- Member, Iwi Leaders Working Group for Te Ohu Kaimoana
- Director, Kahutia Limited Partnership
- Chair, Chapel Action Team
- Chair, Takitimu Seafoods
- Chair, National Chair Iwi Forum Pou Tahua (NCIF)
- Member Tourism Features Taskforce
- Member of the Ombudsman Council
- Member of Senior Advisory Group - Superannuation(SAG)
- COVID-19 Vaccination Immunisation Governance Board
- Governance Board Member, Three Waters.

6. Disclaimer, there may be roles that I have omitted.

7. In the early 1980s through to the 1990s, I was invited by Ngāti Kahungunu elders to be part of a specialist learning school called "Hou Wananga", which means "a fresh view on ancient knowledge". For over 10 years I specialised and was immersed in the whakapapa, or the genealogies of our people and the contexts that successive generations had grown up in and adapted to. In particular, I learnt the relationships between the stars, the heavens, the earth and the underworld, the mountain streams to the sea and everything in between including ground water and the Muriwaihou (aquifer/groundwater), which were all interconnected through whakapapa. If any event happened in the heavens or the underworlds, then these events had some consequence on both realms.

8. My evidence is based on those Wananga, and the connections or relationships that any event or activity will impact on, things that in the pakeha world, may seem irrelevant. My evidence also details some of the relevant trails and tribulations that I have been involved in as representative, leader and kaumatua for my whanau, hapu and iwi.

## **Expert code of conduct**

10. I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note (2023) and agree to comply with that Code of Conduct. Except where I state that I am relying on documents or evidence of another person, my evidence within this statement is within my area of expertise. I have not purposely omitted to consider material facts known to me that might detract from my evidence or the opinions I express.

## **Scope of evidence**

11. The scope of my evidence will cover:
- a. Maori origins and indigenous cultural values;
  - b. Matters of significance to Ngāti Kahungunu within the natural environment
  - c. The importance of the Heretaunga aquifer system to the cultural well-being of tāngata whenua;
  - d. The principles of the Treaty of Waitangi and their relevance

## **WHAKAPAPA**

12. In the beginning, Ranginui and Papatuanuku were caught in a love embrace that stopped their 70 children from growing and developing. The eldest child Uru Te Nganana (1) wanted to separate the parents, while the youngest who was still being breastfed, Ruaumoko (70) wanted the parents to remain as one. The war of the children who were ‘for’ or ‘opposed’, was called Te Paerangi.
13. As it relates to the subject in hand, Papatuanuku’s limbs were severed from those of Ranginui, and Papatuanuku was rolled over to face downwards, hence, looking toward the bowels of the earth. Meanwhile, Ranginui could only glance downward on to the back of Papa. The children took sides with Tane (68), being the champion of the separation, while Whiro (8) bearing ill will to his brothers who had separated his parents. The tears of separation from Ranginui were “Te Ua Mairangi”, or tears from heaven, while the tears of Papatuanuku were the rising mists and fogs called “Haukunui”. The tears of Ranginui called “Matawai”, fell to form the mountain streams, forging together to form rivers, and some of those tears speared

underground to form the Muriwaihou (groundwater), before escaping to the sea, forming undersea springs and currents that flow out to Te Moana nui a Kiwa, the Pacific Ocean. The eel follows this trajectory in its migration out to the deep trenches off Tonga where it spawns, and the eggs are borne by reverse currents back to Aotearoa, where on encountering the fresh water/salt water mixing zone, turn into glass eels and head back to the mountain streams. The 'kaitiaki' or 'atua' for these streams and currents is Kaukau (22), which literally means to swim; he is number 22 in the 70 offspring of Ranginui and Papatuanuku.

14. Subsequent to this epic battle, Tanenuiarangi (68) had married Hineahuone, and they had a daughter named Hinetitama. Over time, Hinetitama asked Tane who her father was, and discovered that she was a child of incest. She then proclaimed that she could not live in the world of light, and assigned herself to the underworld to become the goddess of death. Hence, she dwelt in the dark realms with Whiro (6), Ruaumoko (70) and others, and became "Hine Nui Te Po", goddess of the underworld. However, she also proclaimed that she would take the corpses of the upper world to their graves, but would nourish the living spirits within them. Tane placed Poutiriao, in the form of micro-organisms, to act as guardian angels with Hinenui Te Po, in order to protect the life sustaining and re-energising properties of Te Muriwaihou, (the Muriwaihou) to neutralise any negative impacts.

### ***Whenua ki Te Whenua***

15. The name given to the placenta in pregnant women is called "Te Whenua". When a baby is born, the placenta or afterbirth is returned to the whenua (land) or buried at a site significant to the child, thus recognising the connection of birth to the earth inherent in whakapapa. In another expression, it's called "Te Kopu o Te Whenua ki Te Kopu o Te Whenua". Or in modern terms, "from the womb to the tomb".
16. The water bodies stored within Papatuanuku are called Waiwhenua, Waitomo or Muriwaihou. These are the Muriwaihou. They are the filterers of evil deeds from Whiro, Ruaumoko and others. The nurturers of new life forms. The feeders of new spirit and energy into the upper world. The placenta of life, removing toxins and ensuring a safe passage into new growth.
17. 'Kopu ki Te Kopu' is a term used when a child is conceived from Te Kopu, the womb of woman, to 'Te Kopu', the tomb of Papatuanuku, or the womb of the world. The

Muriwaihou is the womb of Papatuanuku, and acts as the cleanser or purifier for new life and energy.

18. From Te Kopu of the whenua, the physical corpse is consigned to Te Rarohenga, the bowels of the earth, but the spiritual essence is returned to the world of light through puna (springs), creeks and streams, and nowadays through wells and bores. This mutualism is intrinsic to the Māori world view.

### ***Te Muriwaihou***

19. This literally refers to the “last bastion of defence”, “the final filtering waters”, and has regard to the malfeasant agents of Whiro, Ruaumoko and others, who persistently attempt to destroy the world we live in. But they must pass through Te Muriwaihou to achieve it, wherein the whenua or placenta, agents kick in and neutralise and despatch harmful energies or intent. This is the personification of the Heretaunga Muriwaihou. They are the last bastions of defence to growth, development and wellbeing in our region. Any diminution of status to these taonga will invariably create vulnerability to successive generations.

### ***Te Whare Korero o Waipatu<sup>1</sup>***

20. Paraire Tomoana, composer of songs such as E Pari Ra, I Runga o Nga Puke and Pokarekare Ana, he also produced a monthly newspaper in the early 1900s called He Toa Takitini. In it he recited the Māori cosmogony of how Papatuanuku and Ranginui were separated by Tane and Tupai. Such was the grief at being parted copious tears flowed from one to the other, the tears of Ranginui being the Uamairangi, personification of the rains, while the tears of Papatuanuku upwards were the Haukunui, personification of the dews, mists and fogs. The creation of the waterways and so on were termed Te Arohanui o Ranginui me Papatuanuku. From this separation came the birth of new life with all sources of new life emanating from water. New life in a womb is surrounded by water, and then the water breaks preceding the new born baby. This is followed by the afterbirth which is called the whenua.
21. The Ngāti Hori Tikanga is that one cannot talk about lands or plains or whenua until one first considers the waters that give life and ongoing nourishment to those lands,

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<sup>1</sup> This whole section is derived from *Perspectives and issues by Ngāti Hori on the Heretaunga Plains*, submitted unpublished during whare korero 2013 for local Treaty of Waitangi land settlement claims, Ngahiwi Tomoana.

that the whenua. So water intimately associated with Papatuanuku and is also referred to as the lifeblood of Papatuanuku. And once that has been considered, and then the land and people become important, not the other way round. We are descendants of the relationship, we belong to the waters and the lands and an inter-generational duty of tiaki or guardian ship and care over them forever. When we greet each other, we say “ko wai koe?” or “what are your birth water?” Then we say “no wai koe?” or “Which waters have brought you here?” Then “mo wai koe?” or “Where are the waters taking you?”

## 22. ISSUES

- *Tangata whenua have Rangatiratanga and priority over water resources*
- *Water gives life to the land, which gives life to the people.*
- *Water resources must be considered before land activities are undertaken*
- *Water quality must be considered at all times*
- *Tangata whenua have Kaitiaki, manaaki and whakamahi rights.*

## WAIRUATANGA AND MAURI

23. A significant number of documents, strategies, iwi and hapū plans, submissions, evidence, Waitangi Tribunal claims and reports that have highlighted the importance of the muriwaihou and our waters to tangata whenua, also a number of relevant local government plans mention the significance of Heretaunga aquifer, waterways and relevant kupu. Often making no change or difference to the outcomes, I mention some of these documents throughout my evidence.
24. The 2006 Hawke’s Bay Regional Resource Management Plan defines two essential values of Ngāti Kahungunu as:
- a. *Mauri -The indefinable essence described as the ‘life-force’.*
  - b. *Wairuatanga – Spirituality; a Tikanga Maori value concept that acknowledges the source of all taonga plus the duty to exercise perpetual guardianship ability.*
25. Mauri evolves from wairuatanga they both traverse the spiritual or metaphysical and physical worlds. These values are inherently important to all Maori and commonly considered when recognising tāngata whenua values.<sup>2</sup>

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<sup>2</sup> *Kaitiakitanga Mo Nga Taonga Tuku Iho, 1992*

26. The value of wairuatanga is part of our whakapapa and connected to kaitiakitanga and the responsibility to safeguard the Mauri of the natural resources that have been left to us. Everything is infused with Mauri, 'ki uta, ki tai' – from the waters that flow from the mountains, through the streams, rivers, lakes, wetlands and underground into aquifer (muriwaihou) and back via springs (puna) to the sea. In a western or pakeha sense these waterways are divisible, it is not the same for Māori.
27. Ngāti Kahungunu has always held the Mauri and quality of water in high regard. In 1992 Te Runanga o Ngāti Kahungunu produced *Kaitiaki mo ngā Taongo Tuku iho a Kahungunu* ethic of sustainable resource management. Noted in the Hawke's Bay Regional Resource Management Plan 2006. This plan acknowledges significant Kahungunu values of water quality and Mauri, identified through the following issue:

a. *Issue No. 6 - Protection and Preservation of Water Quality*

*Significance:*

*Water quality is the very essence of life and the preservation of Mauri within the natural world. Within the Māori management regime for the physical world, water had a variety of classifications according to the intended use ... each use case was taken to respect and preserve the natural quality and inherent Mauri.*

## **THE MANA AND RANGATIRATANGA OF NGĀTI KAHUNGUNU**

28. Mana and Rangatiratanga depicts the power and leadership of Ngāti Kahungunu to exercise kaitiakitanga over its groundwater resources and the cultural significance of the Heretaunga Muriwaihou to the iwi and local hapū. Arguably no other freshwater waterbody has provided for so many for so long and influenced settlement to such a degree, it must be outstanding in this regard.
29. This authority underpins the various Waitangi Tribunal claims associated with water that Ngāti Kahungunu are associated with, including but not limited to WAI 262 the Flora and Fauna Claim, WAI 595 the Heretaunga Muriwaihou Claim, WAI 2357 the Sale of State-Owned Enterprises Claim, WAI 2358 the National Water and Geothermal Claim.
30. Ngāti Kahungunu is the largest iwi in Hawke's Bay. Ngāti Kahungunu Iwi Incorporated is the longest serving iwi organisation in the rohe which consistently

deals with taiao matters, central government departments and councils in the Hawke's Bay and further. It is the only iwi organisation which attempts to deal with sustainable resource management over the entire Hawke's Bay region. Ngāti Kahungunu Iwi Incorporated, settled customary commercial rights and interests<sup>3</sup> in fisheries with the crown on behalf of the iwi. Prior to and since that settlement the iwi has conducted a range of business - To enhance the mana and well-being of Ngāti Kahungunu."<sup>4</sup> In this pursuit the interests of Ngāti Kahungunu are varied and wide.

31. Ngāti Kahungunu Iwi became incorporated in December of 1988, as Te Runanganui o Ngāti Kahungunu Incorporated, in December 1996 the organisation was reborn as Ngāti Kahungunu Iwi Incorporated.
32. Ngāti Kahungunu Iwi Incorporated is the registered iwi authority for the purposes of section 35A of the Resource Management Act 1991 (the RMA) and a mandated iwi organisation for the purposes of the Maori Fisheries Act 2004.
33. Ngāti Kahungunu has the third largest iwi population of 82,239 people<sup>5</sup> and Ngāti Kahungunu Iwi Incorporated has 39,353<sup>6</sup> registered members. Ngāti Kahungunu Iwi Incorporated was established to, "provide and promote, for the benefit of Ngā Uri a Kahungunu, including Tangata Whenua Members, any purpose within New Zealand which... is for the benefit of Ngā Uri a Kahungunu".<sup>7</sup>
34. There are six Taiwhenua in the iwi rohe that are, "established and convened for the purpose of representing, at Taiwhenua and Ngāti Kahungunu Iwi levels, Tangata Whenua and Ngā Maata Waka Members who are normally (but not exclusively) resident in their rohe".<sup>8</sup> Membership and registration of each of the Taiwhenua is maintained by NKII (in conjunction with the Taiwhenua if there is sufficient capacity).
35. The Board of Ngāti Kahungunu is comprised of elected representatives from each of the six Taiwhenua. Marae elections are held once every three years to elect representatives on each of the six Taiwhenua Board. The Taiwhenua must conduct public elections for the positions of Chairperson and Deputy Chairperson.

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<sup>3</sup> Treaty of Waitangi Fisheries Settlement Act.

<sup>4</sup> Ngāti Kahungunu 25 year vision

<sup>5</sup> <https://tewhata.io/ngati-kahungunu-collective/>

<sup>6</sup> As of 20th of August 2023

<sup>7</sup> Constitution of Ngāti Kahungunu Iwi Incorporated (22 July 2006), Clause 4.2.

<sup>8</sup> Constitution of Ngāti Kahungunu Iwi Incorporated (22 July 2006), Clause 2.1.

36. An elected member of each Taiwhenua represents the Taiwhenua on the board of Ngāti Kahungunu. The Chairperson of Ngāti Kahungunu is elected from the Board Members of Taiwhenua and through a public election of all registered members of Ngāti Kahungunu. Ngāti Kahungunu Iwi Incorporated maintains an independent oversight and advocacy role in Taiao (RMA) matters relevant to Ngā Uri o Ngāti Kahungunu.
37. Over the years the HBRC have used a range of methods to engage with tāngata whenua, whanau, hapū and iwi with varying levels of success and failure. In my opinion there has never been a time where it has become so complex or demanding for tāngata whenua.

### **Waimāori**

38. The *Kahungunu ki Uta, Kahungunu ki Tai, Marine and Freshwater Strategy*<sup>9</sup>, under one of its goals - *Environment a issues affecting inland waterways and coastal water and more effectively managed to maintain, and restore and enhance mauri and to avoid, remedy or mitigate adverse effects on fisheries and their habitats*. Identifies – *“the need to ‘promote Wai māori as the optimal water quality standard”*.
39. The Ngaruroro values and attributes report (lodged as an iwi plan), contains a section on Waimāori:
- a. *Waimāori is water in its natural state and suitable for consumption. Being natural it is a taonga tuku iho, imbued with spiritual energy. Drinking-water is often referred to as waimāori, however additives such as chlorine or fluoride, as well as contaminant concentrations due to land use, do not constitute natural water quality, and drinking water therefore, will not always be regarded as waimāori.*
40. The diminishment of waimāori and the lack of regard for its value and importance has manifested via the lack of regard in the management of the Heretaunga Muriwaihou as a taonga tuku iho for tangata whenua.

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<sup>9</sup> 2009, recognised and lodged and a ‘iwi plan’ under the RMA.

## TAONGA TUKU IHO - HERETAUNGA MURIWAIHOU

41. Whanau and hapū settled in the Heretaunga district and over time recognised the Muriwaihou and its outstanding quality and the value it provided. It is a 'taonga tuku iho'.
42. Its importance to hapū was highlighted by Te Hira Huata during her Waitangi Tribunal evidence on WAI 2358 claim:

*"The extraordinary clean water from the springs, and from the streams which flowed from them, was the elixir of life for the hapū, feeding and cleansing body, soul and mind, and as important for ritual as it is for bodily needs."<sup>10</sup>*

43. The following traditional whakatauki signifies the high value and quality of the Heretaunga Takiwa and Heretaunga Muriwaihou which underpins it:
44. *Heretaunga Haukunui – Heretaunga of the life giving dew or waters.  
Heretaunga Ararau – Heretaunga of a hundred Arcadian pathways.  
Heretaunga Ringahora – Heretaunga of welcoming and embracing hands  
Heretaunga Hāro Te Kahu – Heretaunga the beauty of which can only be appreciated by the eyes of a Hawk in full flight.  
Heretaunga Takoto Noa – Heretaunga of the departed Chiefs, left to us the humble servants.*
45. The paragraphs below provide an explanation of the above whakatauki and the importance of the Muriwaihou.
46. Heretaunga Haukunui - refers to the lifeblood that the rivers-awa, streams-manga, swamps-reporepo, lakes-roto, springs-puna, aquifers-muriwai hou and the heavy mists/dew-haukunui. This is what contributes to the fertility of the Heretaunga plains that are amongst the best growing in the country. The tiakitanga that must be exercised over Heretaunga is one of ensuring the water quality is maintained and endures at a premium level so that the benefits from the lands can be optimised and sustainable and are second to none in the world, which is Ngāti Hori's manaakitanga to the world that is the provision of the best hospitality to visitors.<sup>11</sup>

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<sup>10</sup> WAI 2357 and 2358, Affidavit of Matatewharemata Te Hira Huata

<sup>11</sup> *Perspectives and issues by Ngāti Hori on the Heretaunga Plains*, submitted during whare korero 2013 for local Treaty of Waitangi land settlement claims, Ngahiwi Tomoana.

47. Heretaunga Ararau – Heretaunga of a hundred pathways that represent the many attributes of Heretaunga that made it an remarkable place abundant of kai and waimāori (freshwater) and therefore important to tangata whenua. A place with many plentiful waterways or pathways and other natural resources. Also converging pathways of industry and diversity. This refers to the fertility from the Haukunui, while respecting cultural integrity and origins. Heretaunga Ararau is synonymous with bustling human activities that are created from the fertile soils.<sup>12</sup>
48. Heretaunga Hāro te Kāhu – The beauty of Heretaunga can only be seen through the eyes of the soaring hawk, the plains standing solitary below. This is a statement of our kaitiakitanga responsibilities as a hapū as an iwi – that the Kahu is us therefore it is our duty to protect the waterways, lands and peoples to ensure that what the Kahu saw 1000 years ago will still be able to be recognised in 1000 years' time.
49. Heretuanga takoto noa - ...left to us the humble servants, again the basic principle being kaitiakitanga, the duty to look after the mauri in all things and to pass on undiminished to our mokopuna. That guardianship is the duty of marae/ hapū today and means that no individual or generation is more important than the on-going life of Heretaunga.
50. The Heretaunga Muriwaihou has provided tāngata whenua and the surrounding environment with pristine water quality for up to a thousand years, sharing the wairuatanga and Mauri of generations past both physically and metaphysically. It is undeniably a culturally remarkable and outstanding, helping shape the settlement and growing presence of successive generations of tangata whenua. Unique is Heretaunga, the Heretaunga muriwaihou and connected waterways in their ability to provide and sustain such significant communities; both physically and metaphysically. Historically and contemporary the largest populations on the east coast of Te ika a Maui have presided over and been sustained by this Muriwaihou.

## **TREATY OF WAITANGI PRINCIPLES**

51. Sustainable resources management, including protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi. The Hawke's Bay Regional Resource Management Plan (RRMP) includes in Schedule 1;

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<sup>12</sup> ibid

Background to the Maori Dimension and the Principles of the Treaty of Waitangi. This section of the RRMP is important because it highlights some of the values important to Ngāti Kahungunu.

52. The principle of Tino Rangatiratanga - includes tribal or Ngāti Kahungunu 'self-regulation of resources in accordance with [our] customary preferences'<sup>13</sup>. Ngāti Kahungunu preference is to maintain the Muriwaihou and groundwater quality and quantity and to enhance and restore where it is degraded.
53. The principle of Active Protection – the guarantee of Te Tino Rangatiratanga given in Article II is consistent with an obligation to actively protect Maori people in the sue of their lands, water and other protected taonga, to the fullest extent practicable.
54. If there becomes a dispute over what's practical and what's not it is my opinion that Rangatiratanga over rides what is practical and what isn't practicable, particularly if it is a taonga. In the same vein that this principle lists Mauri, tapū, mana, tikanga and Wairau are described as taonga, it is also appropriate that Muriwaihou and rivers are revered as taonga and afforded protection to maintain their quality and integrity.
55. The principle of Active Protection extends to the spiritual values and beliefs of Māori. Although this principle discusses spiritual values and their protection extensively, in my opinion the Heretaunga muriwaihou has not been recognised and appropriately protected as the outstanding taonga it truly represents for the iwi and the people of Heretaunga.

## **KAITIAKITANGA A STORY OF FAILURE**

56. In 2008, I was chair of the iwi when we opposed the placement of the now infamous Brookvale bores on the old Tukituki river bed in Havelock North. The placement and extraction would infer with adjacent waterways and abstraction would have adverse effects. Unfortunately, we could not move Hastings District Councils (HDC) intentions. However, we settled on a formal side agreement as part of the consent order with HDC that they would move the water supply away from the area in 10 years i.e. 2018.

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<sup>13</sup> HBRRMP

57. In 2012, during the Tukituki Catchment Proposal I provided evidence and the iwi questioned the management of surface and groundwater interaction between the Tukituki and Heretaunga Muriwaihou, this was deferred to the Heretaunga – Ahuriri Catchment or TANK<sup>14</sup> planning process. These interactions were not discussed or addressed in years of TANK. Tangata whenua also requested that the TANK abbreviation be altered to ‘THANK’, to include the Heretaunga Muriwaihou in planning development and to also recognise or ‘THANK’ or be thankful for what the waters provided – this was declined.
58. In 2014, I also provided cultural evidence in the Environment Court<sup>15</sup> opposing the removal from the Hawke’s Bay Regional Policy Statement of objectives and policy protecting our muriwaihou from water quality degradation. These policies to recognise and protect the aquifer had been part of policy landscape since polices began. We were successful and set national case law for water quality and interpretations of the National Policy Statement for Freshwater Management 2014<sup>16</sup>, forcing the Ministry for the Environment to rewrite their guidance documents and rethink their promotion of ‘over and unders’ or ‘averaging’ water quality rhetoric. The Environment Court was quite detailed and critical of HBRC in its decision<sup>17</sup>, stating councils proposal and rationale was “illogical” and “fundamentally flawed”.
59. I believe Ministry for Environment are rehashing and promoting the same ‘averaging’ policy and interpretation in the newly proposed Natural and Built Environment legislation that will ‘provide for degradation’ be removing the functions of regional council to ‘maintain and enhance the quality of water’. Effectively overturning our efforts and the ruling of the Environment Court by changing the rules to suit and effectively enabling potential degradation of water quality.
60. In 2016, I was chair of the iwi during the largest gastro outbreak in country’s recorded history that occurred in Brookvale, Havelock North. Despite all our previous efforts this was the outcome, centric to this was the management of the Heretaunga Muriwaihou and adjacent waterways. The Inquiry also noted improving multiple barriers of defence was needed, we were unable to participate in this process we were already stretched and had in our mind already contributed significantly. This is

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<sup>14</sup> Commonly referred to as TANK for Tutaekuri, Ahuriri, Ngaruroro and Karamu

<sup>15</sup> *Ngāti Kahungunu Iwi Inc. v Hawkes Bay Regional Council [2015] NZEnvC ENV-2013-WLG-000050*

<sup>16</sup> Objective A2 – The overall quality of freshwater within a region is maintained and enhanced.

<sup>17</sup> 2015

a permanent blight on our kaitiakitanga responsibilities of tangata whenua and a shame on our ability to Manaaki, thousands fell ill and people died.

61. The Mangateretere stream is closest stream to the Brookvale bore's and is influenced by nearby water takes predominantly groundwater takes, and is one of the original reasons the iwi opposed Hastings Districts Councils drinking consent applications for Brookvale in 2008. In 2018, Hawke Bay Regional produced a report<sup>18</sup> that noted the natural flow of the Mangateretere was reduced by 85% due to nearby groundwater abstraction. This report was developed to understand what quantities might be needed to artificially supplement stream flow through groundwater takes that would be pumped directly into the stream at some point above the stream flow monitoring indicator. Thereby avoiding the need to cut off groundwater stream depleting water takes as per the low flow cut offs limit.
62. Both regional and district plans have highlighted extensively (at least in the past) the significance of the Heretaunga Aquifer. They both had relevant objectives and policy and noted its significance extensively, and Hastings District Council even had a chapter highlighting its significance. Watering down of policy appears to be an attempt to justify a legacy of inadequate management.
63. To tangata whenua it is a taonga tuku iho, to pakeha and in English the Heretaunga Aquifer is or 'was' highly 'significant'. Obviously with its management, significance is not enough.
64. Our taonga tuku iho needs to appropriately recognised, in English it must be of outstanding significance to enable the appropriate management and protection, anything else is a continued failure and does not give mana to this taonga tuku iho.

## **CONCLUSION - Tika Tonu**

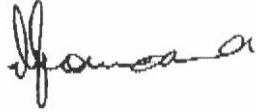
65. The restoration and protection of the health and well-being of the Heretaunga Muriwaihou / ground water for future generations is a priority for Ngāti Kahungunu, it is a taonga tuku iho. It is a unique and outstanding Taonga to the iwi.<sup>19</sup>
66. Recognition and protection of the outstandingness of the Heretaunga Aquifer System is something that cannot be delayed any further and will give Ngāti Kahungunu some

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<sup>18</sup> 2018, Heretaunga Aquifer Groundwater Model Scenarios Report

<sup>19</sup> The iwi of Ngati Kahungunu, stretches from Wairoa in the north to Wairarapa in the south and covers 3 contemporary regions and multiple districts.

comfort that our values and aspirations are better provided for. In terms of our Haka, “Tika Tonu”, anything less is not appropriate. As kaitiaki it is our cultural duty to protect ‘nga taonga tuku iho’. Any diminution of this responsibility will create the need for Ngāti Kahungunu to ‘haka’.



**Signed**

Ngahiwi Tomoana

**Date 22.08.2023**