



Ngāti Kahungunu Iwi
INCORPORATED

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No Degradation of Aquifer Water Quality – Iwi Logic Prevails

The Environment Court has agreed with the Ngāti Kahungunu Iwi Incorporated mandated iwi authority and has ruled that the Hawke's Bay Regional Council (HBRC) proposal (Plan Change 5) to effectively 'weaken' regional policy and allow the degradation of groundwater quality was based on illogical and fundamentally flawed arguments.

The HBRC argued that *we can do nothing* because there may be a *load to come*. In other words it is impossible to prevent further degradation of groundwater due to past land uses such as agriculture, so we should do nothing. The Court said the council's argument was "*illogical*" and that best practice for land use needed to be developed to maintain water quality and ensure that the sustainability principles of the Resource Management Act (RMA) are fulfilled.

HBRC proposed to manage overall water quality by allowing for an *unders and overs* approach, which means tolerating deterioration of the water quality in one area, so long as there is improvement in quality somewhere else. The Court agreed with Ngāti Kahungunu and found the councils approach to be "*fundamentally flawed*". This ruling is significant in that it provides case law that the current Council approach of working *down* rather than *up*, to allow further degradation water quality is not justifiable under the RMA or the National Policy Statement for Freshwater Management.

The court ruled that the HBRC proposal "[fails] *to even aspire to maintain, let alone improve, the quality of the water in these aquifer [Heretaunga and Ruataniwha]*" and in doing so does not comply with the requirement to recognise and provide for matters of national importance in the RMA (in particular) s6(e) and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga.

Marei Apatu stated in his evidence "*Ngāti Hori and Ngāti Hawea are not adverse to any action it deems necessary to protect our taonga, our whenua and our wai, and it is our duty as Maori and kaitiaki to do whatever it takes to hold true to our values, beliefs and rituals in order we pass these taonga on in good condition for the next generation to come.*"

Ngahiwi Tomoana, the Chairman of Ngāti Kahungunu Iwi Inc believes this ruling is a significant outcome for all hapu of Ngāti Kahungunu. "*Numerous hui within Ngāti Kahungunu have been held over the years about water and the aquifer and their importance to hapū. The iwi authority of Ngāti Kahungunu felt compelled to maintain the integrity of hapū aspirations and interests by taking this case to the courts. Any regional policy changes which we consider will have an adverse effect on the relationships of tāngata whenua to water and the environment will be challenged. The Waitangi Claim WAI 595 remains unresolved which highlights our concerns for the Heretaunga aquifers and freshwater management.*"

In evidence Ngahiwi Tomoana likened the aquifer to the womb of Papatuanuku – "*if we allow the water of our aquifer to be degraded ... we let the water of our womb become degraded.*" This water is used by the whole community for municipal water supplies and our local horticultural and agricultural industries. Degradation is not an option. Mr Tomoana states "*We are disappointed that we have to end up in court on these issues when we would prefer to sit at the decision making table with local authorities. We prefer to negotiate not litigate. This is not a good example of what a partnership should look like.*"

Ngāti Kahungunu looks forward to building meaningful relationships with all resource management decision making authorities and to providing advice on how to protect the environment and develop sustainable economic development options for the region.

Ngāti Kahungunu is the third largest iwi. Geographically the tribe has the second longest coastline in the country from Paritū in the North to Turakirae in the South. Ngāti Kahungunu Iwi Incorporated maintains an independent position to provide research, advice and advocate for the interests, rights, values, beliefs and practices of Ngāti Kahungunu alongside our whānau and hapū. Our mission is to enhance the mana and well-being of Ngāti Kahungunu.

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