

IN THE MATTER OF

the Resource Management Act
1991

AND

IN THE MATTER OF

applications by Central Plains Water
Trust to:

Canterbury Regional Council for
resource consents to take and use
water from the Waimakariri and
Rakaia Rivers and for all associated
consents required for the
construction and operation of the
Central Plains Water Enhancement
Scheme

Selwyn District Council for resource
consents to construct and operate
the Central Plains Water
Enhancement Scheme

AND

IN THE MATTER OF

a notice of requirement by Central
Plains Water Limited to:

Selwyn District Council for the
designation of land for works
associated with the construction and
operation of the Central Plains
Water Enhancement Scheme

BRIEF OF EVIDENCE OF DYANNA JOLLY

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QUALIFICATIONS AND EXPERIENCE

1. My name is Dyanna Jolly. I am a self-employed consultant working in the fields of iwi environmental management planning and policy development, and cultural impact assessments. My clients include local and regional councils, resource consent applicants and Ngāi Tahu.
2. I have a BA (Honours) in Geography from the University of Regina (Canada) and a Masters in Natural Resource Management (MNRM) from the University of Manitoba (Canada). I have been working in New Zealand as a consultant for 6 years.
3. In August 2005 I was subcontracted by URS New Zealand Ltd. to undertake a Cultural Impact Assessment (CIA) report for the Central Plains Water (CPW) Scheme. My evidence today describes:
 - The purpose of the CIA report
 - Methodology used to prepare the report & key findings
 - Post CIA consultation with Ngāi Tahu
4. It is important to note that I am not qualified to provide expert evidence on Ngāi Tahu cultural values, as I am not Ngāi Tahu. Rather, my experience is with the processes used to facilitate the meaningful and effective participation of iwi in impact assessment.

PURPOSE OF CULTURAL IMPACT ASSESSMENTS

5. The Ministry for the Environment (2006)¹ defines a Cultural Impact Assessment as:

“... a report documenting Māori cultural values, interests and associations with an area or a resource, and the potential impacts of a proposed activity on these.”
6. An important part of a cultural impact assessment is the provision of recommendations to avoid, remedy or mitigate adverse effects on cultural values and associations.

¹ Ministry for the Environment 2006. Frequently Asked Questions About Cultural Impact Assessments. Quality Planning website: An RMA Planning Resource. <http://www.qualityplanning.org.nz/consents/cultural-impact-assessment.php>

7. A cultural impact assessment should be regarded as technical advice, much like any other technical report such as ecological or hydrological assessments.
8. A cultural impact assessment establishes a basis for consultation between project proponents and iwi. The preparation of a cultural impact assessment is part of the information gathering phase of project development, and differs from legal “consultation” under the Resource Management Act.²
9. An important difference between cultural impact assessments and other technical reports is that CIA’s are prepared on behalf of iwi or hapū, and the person writing the report must have a clear mandate from the iwi or hapū they are working for.

CPW CULTURAL IMPACT ASSESSMENT – METHODOLOGY & KEY FINDINGS

10. I was approached by Te Rūnanga o Ngāi Tahu in mid 2005 about preparing a CIA on behalf of Te Rūnanga o Ngāi Tahu, Te Taumutu Rūnanga, and Te Ngāi Tūāhuriri Rūnanga. A subcontract agreement was signed with URS New Zealand Ltd. in August 2005.
11. It should be noted that this was the second cultural impact assessment report for the Central Plains Water Scheme. David O’Connell completed a CIA report in 2001, as part of initial feasibility studies associated with the scheme.
12. Stage one of the CPW Cultural Impact Assessment was a hui bringing together CPW representatives (from URS New Zealand Ltd. and GHD Ltd) and Ngāi Tahu representatives. The hui allowed CPW representatives to provide information on the Base Scheme, and to discuss expectations and opportunities for ensuring Ngāi Tahu was fully and effectively involved in assessing the impacts of the Scheme.
13. Subsequent stages of cultural impact assessment preparation included a review of information (e.g. technical reports supplied by CPW and the four operational Iwi Management planning documents for the region); site visits to key areas of the scheme with iwi and CPW representatives, and a consultative process (e.g. hui, interviews, review of draft report) with Ngāi Tahu rūnanga representatives to prepare the impact assessment report.

² Ministry for the Environment 2006 op cit.

14. The process was designed to clearly identify the actual and potential effects of the CPW Scheme on Ngāi Tahu cultural values, and to formulate appropriate recommendations to enable project proponents to avoid, remedy or mitigate adverse effects.
15. A final CIA report was provided to URS New Zealand Ltd. in October 2005. The report identifies five main areas of concern with respect to potential and actual effects of the CPW Scheme on Ngāi Tahu cultural values and interests. Very broadly, these are:
 - (a) The effects of water abstractions on rivers and cultural associations with them: The CIA highlights that cultural values associated with the Waimakariri River in particular will be adversely affected by the CPW proposal. The proposed abstraction, and the flow regime set out in the Waimakariri River Regional Plan (WRRP), are viewed as inconsistent with protecting the relationship of Ngāi Tahu with the ancestral river and the wāhi tapu and wāhi taonga associated with it.
 - (b) The potential effects on resources and values of significance to Ngāi Tahu as a result of transfers and mixing of waters between and within catchments: The need to avoid discharge of mixed Waimakariri – Rakaia water to the flows of the Waimakariri, Rakaia, Waikirikiri/Selwyn or other natural surface waterbody is highlighted as a significant issue. Concerns include the potential for glacial waters to enter Te Waihora, thus altering the seawater-freshwater ratio of the lake, and biosecurity risks associated with mixing waters between waterways.
 - (c) Effects related to the storage reservoir in the Waianiwaniwa valley: The proposed storage reservoir is located in an area with a high density of sites and features of cultural significance, including registered archaeological sites. The potential to disturb sites of significance, including burial sites, is identified in the CIA as highly likely. The need for comprehensive archaeological survey of the area was identified as a priority, in order to provide information needed to fully and effectively assess the cultural impacts. Effects on taonga species (e.g. kōwaro / Canterbury mudfish), potential for tuna / eel habitat, water quality issues and dam/reservoir vulnerability are also identified as issues of importance to Ngāi Tahu.
 - (d) The effects of canal construction and use on the landscape: Six areas of the proposed canal system are identified in the CIA as areas where

archaeological sites, both known and unknown, may be at risk. Archaeological survey information is identified as required to fully assess risk to cultural values. The potential for the Scheme to influence the presence and abundance of native biodiversity on the central plains landscape through the incorporation of native biodiversity objectives into canal design is also identified as an issue of importance.

- (e) The fifth area of concern the CIA report identifies relates to cultural impacts associated with increased water availability and subsequent land use change on the central plains. The need for implementable, effective and enforceable tools and processes to ensure that existing effects of farming on the landscape are not exacerbated with the availability of more water is a key kaupapa, or theme, of the CIA. The report clearly states that Ngāi Tahu will not accept any adverse effects on Te Waihora and lowland streams as a result of the CPW scheme.

- 16. Each of the five areas of concern identified above is described and discussed in detail in the 55 page CIA report.
- 17. The report also provides 38 recommendations for measures to address Ngāi Tahu concerns. The recommendations are consistent with the four operational Iwi Management planning documents for the region (*Te Taumutu Rūnanga Natural Resource Management Plan 2002; Te Whakatau Kaupapa: Ngāi Tahu Resource Management Strategy for the Canterbury Region 1990; Te Rūnanga o Ngāi Tahu Freshwater Policy Statement 1999; Te Waihora Joint Management Plan 2005*).
- 18. The report does not conclude Ngāi Tahu support or opposition to the CPW Scheme. Rather, a CIA was seen by Ngāi Tahu as a way to provide CPW with the information needed to enable a meaningful consultation process to address adverse effects on cultural values.

POST CIA CONSULTATION

- 19. A cultural impact assessment establishes a basis for consultation. Best practice is that project proponents consult with iwi following the completion of a CIA report. Parties come together to discuss the recommendations provided in the CIA, and possible implications for forthcoming resource consent applications.
- 20. The quality, and outcomes of, post-CIA consultation determine the degree of tangata whenua support or opposition for an activity.

21. Post CIA consultation with Ngāi Tahu occurred from 6 March 2006 to 28 July 2006, via four hui.
22. Agenda for the hui followed the recommendations contained in the cultural impact assessment report. CPW representatives provided responses to recommendations, and discussions followed with regard to achieving mutually acceptable outcomes.
23. The hui also included presentations from outside experts who were preparing technical information as part of the CPW Assessment of Environment Effects (AEE). Presentations provided a degree of independence to the process of providing technical information about the effects of the Scheme.
24. Meeting notes were recorded at each hui, including outcomes for specific recommendations.
25. Several scenarios characterised the outcomes arising from the recommendations:
 - Recommendations supported / agreed to by CPWL. (e.g. cultural monitoring consent conditions, farm accords that are implementable, enforceable and effective).
 - Recommendations not / unlikely to be supported by CPWL (e.g. avoiding 40m³/s take from Waimakariri; requirement existing groundwater consent holders within scheme boundary to surrender consent).
 - Recommendations agreed to in principle, but requiring further discussion (e.g. investigation of the use of wetlands for operational bywash management; need for archaeological survey information in order to fully and effectively assess risk)
 - Recommendations whereby resolution could not occur due to the quality or quantity of information available (e.g. effects on Te Waihora; biosecurity risks).
 - Recommendations whereby the issue was considered beyond the scope of CPWL's ability to address the matter (e.g. how to recognise and provide for Treaty Development rights with respect to the proposed Waimakariri abstraction).

26. An important issue that arose during post CIA consultation was whether the CPW Scheme was storage based, and thus centred on harvesting peak or high river flows, or a run of river scheme with continuous takes to minimum flow, using storage to provide water when river water is unavailable. During consultation hui, it was argued that original Scheme plans first presented to Ngāi Tahu had changed significantly. This issue was discussed at length in each of the consultation hui, and in some instances hindered the ability to reach resolution on report recommendations.
27. A draft mitigation summary, prepared by URS New Zealand Ltd. with support from GHD Ltd., was distributed to Ngāi Tahu representatives at the last consultation hui in July 2006. The summary was intended as a working document to be furthered by both parties.
28. A prominent theme of the consultation hui was that CPWL needed to provide Ngāi Tahu with the same degree of certainty regarding environmental sustainability and protection of the relationship between tangata whenua and their ancestral lands and waters, as it is striving to provide for shareholders in terms of irrigation supply. Ngāi Tahu was clearly seeking assurance that the Scheme was not being driven by economic forces at the expense of the land, water, biodiversity and cultural heritage of the central plains.

FINAL COMMENTS

29. My work coordinating post CIA consultation ended in July 2006, following the fourth hui. The budget for all hui was set by URS New Zealand Ltd., and did not provide for follow up beyond the fourth hui.
30. The four consultation hui between CPW and Ngāi Tahu provided a good opportunity to discuss the recommendations provided in the cultural impact assessment report. However, at the time I left the process, there was a clear need for continued dialogue between the two parties. Numerous action points and unresolved issues required follow up (e.g. the provision of additional information to Ngāi Tahu, organisation of archaeological surveys, finalising a mitigation summary).
31. At the conclusion of the fourth hui, both parties indicated that continued communication was both desirable and necessary. Ngāi Tahu indicated that they remained committed to what was a good consultation process. CPW representatives indicated that CPW was committed to working together right up to hearings if required.

32. How effective was the consultation process in addressing adverse effects on Ngāi Tahu cultural values? As the writer of the Cultural Impact Assessment and organiser of four post CIA consultation hui, I can say that despite very challenging and complex issues, both CPW and Ngāi Tahu representatives were clearly committed to working together, and that overall, the consultation process was a good one (noting that as per point 30 the process needed to continue past July 2006). However, only Ngāi Tahu can offer conclusions with respect to the extent to which cultural issues were resolved. I would thus draw attention to the Te Rūnanga o Ngāi Tahu submission(s) for the CPW Scheme, which should be considered the most accurate measure of the ability of Scheme to avoid, remedy or mitigate adverse effects on Ngāi Tahu cultural values and interests.

Dyanna Jolly