

BEFORE AN ENVIRONMENT CANTERBURY

HEARINGS COMMITTEE

**IN THE MATTER OF: THE RESOURCE
MANAGEMENT ACT
1991**

AND

**IN THE MATTER OF: AN APPLICATION BY
LILYBANK STATION
HOLDINGS LTD FOR
IRRIGATION AND
ASSOCIATED
EXCAVATION
CONSENTS BEING
CRC071786 AND
CRC071785**

STATEMENT OF EVIDENCE OF BUDDY MIKAERE

1. *Introduction*

- 1.1 My name is Buddy Mikaere. I am the principal of Buddy Mikaere and Associates, a consultancy specialising in tangata whenua consultation and cultural issues arising from development applications under the Resource Management Act 1991 ("the RMA"). I appear here on behalf of Lilybank Station Holdings Limited ("the applicant" or "Lilybank"). I confirm that I hold the qualifications and have the working experience as outlined in the curriculum vitae attached to this statement as Appendix 1.
- 1.2 I should mention that in 1982 my biography of the Ngai Tahu/Waitaha prophet Te Maiharoa; *Te Maiharoa and the Promised Land*, was a finalist in the New Zealand book awards. In undertaking the research for that book I became very familiar with the traditional Maori history of the Waitaki Valley and the Mackenzie basin.
- 1.3 To expand briefly on the detail of Appendix 1 so as to give a wider picture of my background experience, I have also been involved in a number of projects within the Waitaki River catchment. These are Meridian Energy's

North Bank Tunnel Concept project and the Hunter Downs Irrigation Scheme north of the Waitaki River. In the North Island I have been involved in irrigation schemes in the Manawatu and Northland.

- 1.4 Apart from irrigation applications I have also been involved in a large number of projects involving water quality and environmental impacts from a cultural perspective. The main projects in this respect have been the Waikato River pipeline project and the South West interceptor project for Watercare, Auckland; the upgrade of the CBD wastewater system for Metrowater, Auckland; the upgrade of the Tauranga Wastewater treatment plant for the Tauranga City Council, Tauranga; the upgrade of the Whangamata Wastewater treatment plant for the Thames Coromandel District Council; Whangamata; the upgrade of the Blenheim Wastewater treatment plant for the Marlborough District Council, Blenheim; the upgrade of the Queenstown Wastewater plant for a private client, Queenstown.
- 1.5 Many of the other projects that I have been involved in from marina and subdivision developments to major infrastructure projects such as the construction of new prisons and landfills, all contain elements related to wastewater discharge and consequently have implications for water quality in respect of adjacent water bodies.
- 1.6 I have drawn on my experience with all those projects in the preparation of this statement of evidence.
- 1.7 I am familiar with the code of Conduct for Expert Witnesses in the Environment Court Practice Note (31 March 2005). I have read and agree to comply with that code. Except where I state that I am relying upon the specified evidence of another person, my evidence in this statement is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinion that I express.
- 1.8 My evidence should be read in conjunction with the relevant sections of the evidence of Dave Boraman, Dean Olsen and Haidee McCabe.

Scope of Evidence and methodology

- 1.9 As set out in other expert evidence, the applicant seeks consent for the abstraction of water for irrigation purposes on Lilybank Station and for necessary excavation and associated infrastructure works.
- 1.10 I have been asked to prepare this statement of evidence on behalf of the applicant with the objective of showing how the cultural issues that have been raised in respect of irrigation in the Mackenzie Basin by Te Runanga O Ngai Tahu ("TRONT") have been addressed.
- 1.11 This statement comments on those issues and also provides an analysis as to whether the abstraction proposal is compliant with the "cultural" sections of the Resource Management Act 1991, Part 2 viz. sections 6(e), 7(a) and 8.
- 1.12 As outlined in other evidence, the applicant is one of a number of applicants in the Mackenzie Basin seeking consents for irrigation. As such, the applicant was associated with the establishment of Mackenzie Water Research Limited ("MWRL").
- 1.13 MWRL was established to undertake a comprehensive research project looking at the impact of irrigation being applied to an additional 25,000 hectares of land in the Basin. The research specifically looked at water quality and environmental impacts.
- 1.14 As part of that research a Cultural Impact Assessment was commissioned.¹ Input to the Assessment came from Te Runanga O Arowhenua, Te Runanga O Waihao, Te Runanga O Moeraki and Te Runanga O Ngai Tahu ("TRONT"). That document identified the Ngai Tahu cultural issues and values associated with the irrigation proposals.
- 1.15 I should mention that I undertook a peer review of the CIA for MWRL and that task has assisted me in becoming familiar with the CIA content.
- 1.16 My evidence responds to the cultural issues drawn from the CIA Assessment and from the opposing submission lodged by TRONT and as discussed at a site meeting with Ngai Tahu representatives. While all the issues are listed later in this statement I only address in detail those

¹ *Cultural Impact Assessment of New and Existing Irrigation in the Upper Waitaki*, Gail Tipa, February 2009.

which are believed to have relevance to the irrigation proposal and particular circumstances, including location, of Lilybank Station.

- 1.17 The responses are based on my background experience in dealing with these issues; through discussion with Lilybank Station owners and managers and other experts engaged by the applicant; a site visit to Lilybank and participation in a consultation meeting and site visit with Te Runanga O Arowhenua and Te Runanga O Ngai Tahu representatives.

Summary comment

- 1.18 Of particular concern to the applicant is the CIA statement (at page 39) that a priority for Ngai Tahu is the protection of the headwater streams that flow into the main Mackenzie lakes of which Tekapo is one. Irrigation upstream of [Lake Tekapo] is not supported. Rehabilitation of lands and waters in the Tekapo catchment is sought.
- 1.19 For the reasons I shall outline in my evidence, my professional opinion is that through a combination of project design features, avoidance, remedial and mitigation measures the Lilybank Station application does not have an adverse effect on the headwater streams of Lake Tekapo and that any impact from Lilybank irrigation is extremely minor in nature. In fact one of the challenges is the measurement of that impact. There is therefore no good reason to support a stance of opposition to irrigation at Lilybank.
- 1.20 As indicated earlier, my further opinion is that while the issues identified in the CIA document are described as cultural by the assessment writer, in my opinion they are, however, generic in scope i.e. they are the environmental issues that one would expect to find associated with an irrigation application. However that does not detract from their importance and while there is obviously a cultural and heritage component to these matters my belief is that the approach taken by the applicant in addressing them is applicable across the board. This is because the mitigation responses for example are the same regardless of the cultural or ethnic links of opposing submitters.

1.21 While the cultural values and issues are addressed here, how they will be addressed on the ground as part of the on-going operation of Lilybank Station is set out in the details of the Farm Environment Management Plan (“FEMP”) described in the evidence of Haidee McCabe.

2. CULTURAL ISSUES

Overview

- 2.1 It is appreciated that Lilybank Station is located within an area of significant natural character and one of high spiritual and traditional importance to Ngai Tahu. For those reasons Lilybank has been meticulous in its approach and management of water and water related issues.
- 2.2 In terms of natural character as viewed from a cultural perspective, there is nothing arising from the irrigation proposal that in my opinion will impact on the amenity values associated with such areas. The Lilybank landscape is already modified from well over a century of farming activities². The irrigation proposal will not further modify that landscape nor, in my opinion, detract from the natural character of the area. The only minor visible feature added to present operations will be the irrigation spray equipment itself.
- 2.3 It is also noted that Lilybank Station is situated at the end of the road and is not subject to through traffic or heavy public visitation except for hunting and fishing purposes. Getting to Lilybank requires 4WD transport.
- 2.4 Landscape and visual amenity are dealt with in detail in the evidence of Andrew Craig.

² Farming of the property dates from 1868 under the ownership of Captain William Sibbald. The property then consisted of 70,000 acres and carried 6000 merino sheep plus numerous horses. (*Source*: Ian Ward, Lilybank Manager)

The spiritual dimension

- 2.5 The nature of the “high spiritual importance to Ngai Tahu” aspect is not known to the applicant because it arises out of a belief system that is specific to Ngai Tahu. Making provision for the spiritual aspects is therefore outside the competence of the applicant and I would suggest this forum. However that does not preclude the applicant taking a respectful approach to these matters and this is reflected in the care and thought that has gone into the design and proposed operation of the Lilybank irrigation proposal.
- 2.6 The CIA focus on water quality issues and the Lilybank response is a good example of how the “spirituality” aspects might be approached and we can examine this further by taking the concept of “mauri” as an example.
- 2.7 Mauri is said to embody the essential life force that resides in all things in the natural world, animate or inanimate. Water quality is a prime cultural/environmental issue for Maori nationally. That is largely because water quality is indicative of the “health” of that body of water and which in turn might also be indicative of the state of health of the customary fisheries within that water. Using the term health in this respect is a simple way of expressing the *mauri* concept.
- 2.8 However that addresses only the physical or tangible aspect. In my view those cultural aspects for which the Applicant, and indeed any Applicant, is a little short suited in dealing with are the intangibles/metaphysical issues such as the maintenance of the mauri integrity of a particular water body.
- 2.9 If the starting point for the maintenance of the mauri of a waterway is in its pristine state then it is clearly obvious that the spiritual nature of waterways such as the Waitaki River for example, has been heavily compromised in the intervening period between the first arrival of humans in the Waitaki river valley and now.

- 2.10 Such a starting point i.e. restoration to a pristine state sets a barrier that is impossible to clear given the major capital infrastructure works on the river, the advent of pastoral and other agricultural activities, settlement by man, introduction of exotic flora and fauna and similar.
- 2.11 In my view the starting point should therefore be the state of a waterway as of today. In this respect any development should therefore have as a minimum the preservation of the status quo.
- 2.12 Any remedial or mitigation proposals that serve to enhance the environmental status of a waterbody must logically mean that there has been an incremental improvement to the mauri of that waterbody.
- 2.13 Therefore if it can be demonstrated that the Lilybank proposal will not have a detrimental effect on water quality then there is no impact on the *mauri* of the waters associated with the property. It is the applicant's position that this is the case.
- 2.14 It further follows that in dealing with water quality issues in the generic environmental sense, specific cultural concerns such as the impact on *mauri* are addressed by default.

Traditional history

- 2.15 While the applicant is aware in general terms of the traditional Ngai Tahu history in respect of the Mackenzie Basin, nothing is known of any specific traditional associations with Lilybank Station and none was offered by the Ngai Tahu representatives during their August visit to Lilybank. Follow up with the representatives on this point has not been responded to at the time of the preparation of this statement of evidence. The applicant is pleased to receive any historical information that would assist in expanding knowledge about the property. In the meantime what is known of the traditional history is acknowledged and accorded due respect.

Consultation

- 2.16 Consultation is the normal process for ascertaining cultural issues. However in this instance while consultation did take place, and Haidee McCabe has briefly outlined her consultation with TRONT representatives in her evidence, the cultural issues addressed here are drawn from the CIA and the TRONT submission.
- 2.17 My view is that while it might be possible to convey much information about an application through documentation or by telephone discussion the best consultation results are derived from an understanding of an application as derived from viewing the proposal on the ground and accompanied by on-site discussion.
- 2.18 In this respect a site visit was organised for 12 August 2009 and was attended by two representatives of the Arowhenua papatipu runanga and a TRONT representative. The opportunity was taken to fully explain what was proposed for Lilybank Station and all the localities important to the proposal as well as those sites where Lilybank environmental efforts could be viewed, were visited.
- 2.19 I note that there is an open invitation to both organisations to discuss matters further and to make various reports and monitoring documents available. Subsequently further information has been provided including a draft copy of the FEMP for comment.

Cultural issues from the CIA

- 2.14 The cultural issues as extracted from the CIA and thought to be applicable to the Lilybank application are:

- Ngai Tahu will not support irrigation upstream of Lake Tekapo³
- Ngai Tahu will only support plans to increase irrigation in the Tekapo Basin if restoration plans for streams and wetlands are in place
- Smaller aquatic resources protection such as fencing, riparian planting etc. is required
- Efficiency of irrigation systems – spray irrigation is preferred
- Concerns about ecological impact of water diversion for irrigation – fish passage
- Concerns about disruption to natural flows and impact on customary fisheries, native fish species and invertebrate populations
- Concern for the deterioration of downstream river reaches
- Concerns about use of irrigation to enable dairy farm conversions – cultural health of waterways and loss of access by tangata whenua to mahinga kai sites
- Impact on small streams, lakes, lagoons, tarns as a result of reduced flows, obstruction of migratory pathways, habitat destruction, use of agrichemicals and access rights
- Cumulative effect – potential for serious ecological imbalances
- Clearance and replacement of native vegetation
- Construction of irrigation infrastructure – potential to destroy sites
- Displacement of place names
- Water quantity issues and the link to *mauri*
- Excessive water abstraction
- Lowering of water tables
- Degradation of water quality
- Stock access
- Mixing of waters from different catchments
- Collaborative opportunities
- Modification and destruction of waahi tapu
- Modifications to waterways and resultant loss of habitat
- Changing land use – loss of habitat
- Loss of opportunity to participate
- Access

³ Section 4.9 of the CIA – page 39 and supported by Figure 7 on page 40.

Lilybank responses

No irrigation upstream of Lake Tekapo

- 2.15 Lilybank does not understand why this should be the case given the positioning of the property (at the confluence of the Godley and Macaulay Rivers), the physical nature of the abstraction, proposed usage and mitigation measures. These points were explained at the 12 August site visit where the main objection to the application was stated as being “the pollution of the Tekapo headwaters”.
- 2.16 The nature of the intended abstraction and measures to be put in place address this issue. As explained in other evidence the irrigation proposal involves taking water for irrigation purposes from Station Stream, a waterway that runs through the station property eventually discharging into the Godley River.
- 2.17 It is noted that the abstraction for Station Stream is conservatively calculated to contribute 0.45% of the mean flow in the Godley at its confluence with the river. However because that abstraction is only for 120 days, then the annual abstraction volume from Station Stream equates to a reduction of just 0.15% of the mean flow in the Godley.⁴
- 2.18 As explained in the evidence of Dean Olsen, the proposed level of abstraction in Station Stream has a less than minor ecological effect and is set at a sustainable level with an extraction system that matches seasonal variations in supply. Residual flow rates are explained in other evidence.
- 2.19 The intended use of the water is to promote pasture growth. Irrigation means that Lilybank will be in a better position to produce sufficient feed for stock and for winter storage. Winter feed (up to 1200 bales on average over the

⁴ *Source:* Dave Boraman, Boraman Consultants, Timaru.

past five years) is presently purchased and trucked from the Timaru district when needed. However delivery of feed is subject to the weather and the vagaries of the Macaulay River crossing.

- 2.20 I also observe that the ability to produce sufficient winter feed to meet its own needs, will result in a substantial reduction in the Lilybank carbon footprint.
- 2.21 Baseline monitoring of waterways within the property is to be undertaken as a first step and this work is already underway. A subsequent monitoring programme will determine any impacts on water quality from nutrient run-off to waterways with permanent flows and give an indication of the mitigation effectiveness of stock exclusion measures (through fencing) from those waterways and over time, riparian plantings of native species in selected locations.
- 2.22 My view is that all these measures are such that there will be minimal, if any, impact on the local environment and they should therefore meet any Ngai Tahu concerns about pollution of Lake Tekapo.

Restoration plans for streams and wetlands

- 2.23 It should be noted that there are no wetlands in the Station Stream catchment. A Department of Conservation wetland reserve is located adjacent to the Lilybank property on the true left bank of the Godley River. The wetland is feed by streams from the property, groundwater seepage and at particular times by high flows from the Godley River.
- 2.23 Preservation and protection of the wetland is to be provided by stock exclusion by fencing with natural regeneration supplemented by infill planting of appropriate native species.
- 2.24 It is noted that the fencing of Lilybank to exclude stock from the Godley and Macauley rivers has been completed. Station Stream and the other major stream on the property, Woolwash, have also been fenced and riparian planting in selected areas e.g. to repair erosion from stock damage, is underway. It is expected that following stock exclusion natural regeneration will play a valuable restorative role.

- 2.25 The main feeder pond to the DOC reserve has been fenced and restoration of native vegetation is also underway.
- 2.26 It is noted that this area, and the DOC reserve, is subject to an on-going pest trapping programme which works to eliminate feral cats, mustelids and opossums.
- 2.27 It is also expected that the native vegetation plantings will provide additional habitat for exotic and indigenous birdlife.

Protection for smaller aquatic resources

- 2.28 As already mentioned, the two main aquatic resources on the property, Station and Woolwash streams have been fenced to exclude stock. Both streams have buffer zones inside the fence. The nature of Station Stream is such that riparian planting would be difficult as it is subject to regular flood episodes however a generous riparian strip estimated at 20m on each bank has been allowed and natural regeneration within that strip is occurring. As already described, riparian planting on Woolwash stream is underway. The remaining waterways on the property are ephemeral in nature and will not be permanently fenced.

Efficiency of irrigation systems

- 2.28 The main delivery mechanism will be spray from a mix of overhead booms and guns. It is understood that overhead spray application is the preferred Ngai Tahu delivery method.

Ecological impact of water diversion

- 2.29 A comprehensive Ecological Report on Station Stream has been undertaken by Dr Dean Olsen of the Cawthron Institute and is addressed in detail in his evidence. In summary the impact of abstraction from Station Stream is minimal. The proposed intake structure for the abstraction point includes a screening device which will prevent fish entry.

Disruption to natural flows and impact on customary fisheries, native fish species and invertebrates

2.30 These matters are also dealt with in Dr Olsen's report as noted above. There is no impact on customary fisheries etc.

Deterioration of downstream river reaches

2.31 The downstream impact of the Lilybank irrigation proposals are assessed as being less than minor and in any event will definitely not be measurable downstream from the property.

Dairy farm conversions – cultural health of waterways, loss of access by tangata whenua to mahinga kai sites

2.32 From my discussions with the owners of the station, my understanding is that Lilybank Station is not suited to dairying and will retain its present dry stock status. There is absolutely no intention to introduce dairy farming to Lilybank. It is understood that the future stocking plan for the property is to reduce the cattle holdings over time in favour of increasing the deer herd. A small flock of sheep will be retained to clean up pasture and obviate the need for the use of sprays.

2.33 As set out earlier in my evidence there will be no measurable downstream impact and the cultural health of waterways (Godley and Macaulay rivers) is not affected.

2.34 No mahinga kai sites are known to have ever been located on Lilybank and access to the same has therefore never been an issue. Confirmation of the existence of any mahinga kai sites on the property is awaited. The present manager is unaware of any previous requests from Ngai Tahu to access the property for mahinga kai reasons. A public access road runs through the property giving 4WD access to the upper Godley while access to the upper Macaulay is available along the property boundary. The huts on the Macaulay especially are popular with trampers and hunters.

- 2.35 It is not known if any mahinga kai sites are located downstream from Lilybank but in any event these would not be impacted by the Lilybank proposals.

Impact on small streams etc.

- 2.36 The only “impact” is on Station Stream. As discussed in the evidence of Dean Olsen, the stream is not a migratory pathway for fish and there is no habitat destruction.

- 2.37 While the use of agrichemicals will remain at or below present use rates a monitoring system will be put in place to ascertain if there is any nutrient impact from this source. The detail of proposed fertiliser use is set out in the FEMP.

- 2.38 Access to small streams on Lilybank for cultural purposes has never been requested but presents no difficulties for management provided the usual courtesies are observed.

Cumulative effect – ecological imbalance

- 2.39 Lilybank’s irrigation proposal will not contribute to any ecological imbalance as set out in the evidence of Dean Olsen.

Clearance and replacement of native vegetation

- 2.40 The Lilybank proposal does not involve vegetation clearance. Instead restoration is envisaged with riparian strip and wetland supplementary planting to be undertaken.

Construction of irrigation infrastructure – potential to destroy sites

- 2.41 No sites of significance have been identified on Lilybank Station; indeed it is noted that the CIA (in a footnote on page 64) confirms that no sites are recorded within the irrigation consent area.

Displacement of place names

2.42 Lilybank has no knowledge of earlier traditional names associated with the property. Consideration would be given to any name restoration proposals.

Water quantity issues and the link to mauri

2.43 The details of the proposed Lilybank abstraction rates are set out elsewhere in the supporting evidence but the Lilybank position is that the level of abstraction is such that the health of Station Stream is not adversely affected. Therefore there is no impact on the *mauri* of the stream. As far as the total property is concerned, stock exclusion and riparian and wetland planting should, in fact, result in *mauri* enhancement.

Excessive water abstraction

2.44 The proposed Lilybank abstraction rates are set out elsewhere in the evidence. The rates of abstraction are not considered to be excessive and in terms of a reduction to the volume of the Godley River (0.15%) are so small as to be negligible.

Lowering of water tables

2.45 Because the abstracted water is being applied to the land, the expectation is that the Lilybank proposal will not result in lowered water tables on the property

Degradation of water quality

2.46 The expectation is that there will be no discernible changes to water quality on exit from Lilybank.

2.47 The massive dilution effect of the Godley and Macaulay rivers means that any impact downstream of Lilybank will not be measurable. Copies of the monitoring reports can be made available to Ngai Tahu on request but it is likely these will be available through the consenting authority in any case as a standard consent condition.

Stock access

2.47 Stock is to be excluded from all property permanent waterways by fencing.

Mixing of water from different catchments

2.48 This is not an issue for Lilybank.

Collaborative opportunities

2.49 Lilybank will give consideration to any Ngai Tahu proposals on this aspect and is open to on-going consultation on its irrigation proposals on request and when such consultation is mutually convenient.

Modification and destruction of waahi tapu

2.50 No such sites are known to be located on Lilybank therefore this is not an issue. Confirmation that this is the case is awaited. It is understood an accidental discovery protocol is proposed for the whole Mackenzie Basin and Lilybank will abide by that protocol when it is put in place.

Modifications to waterways and resultant loss of habitat

2.51 This issue is largely dealt with earlier in my evidence and that of Haidee McCabe and Dean Olsen. Modification to Station Stream will be minimal and in visual terms will not be discernible.

Changing land use – loss of habitat

2.52 Land use post irrigation installation will be unchanged. There is no loss of habitat, if anything natural habitat on the property is increased through proposed planting and stock exclusion measures.

Loss of opportunity to participate

2.53 Lilybank is prepared to consider any Ngai Tahu proposals.

Access

2.54 This issue is deal with in part earlier in my evidence. Access to the Lilybank property for cultural purposes has never been raised as an issue. The absence of any known traditional or mahinga kai sites on the property is thought to be the reason for this.

Issues as derived from opposing TRONT submissions

2.55 The issues raised in TRONT opposing submissions are:

- Mixing of waters between catchments
- Any deterioration to the quality of water in the mainstem and the tributaries of the Waitaki
- Any deterioration to the quality of water in the streams, rivers and lakes of South Canterbury and North/Central Otago.
- Unnatural changes to the sediment flow and patterns of deposition in the main river channel and at the coastal area
- Any encroachment of adjacent land uses onto the Waitaki riverbed
- The residual flow regime in the mainstem resulting in extended periods of low flows with limited flow fluctuations
- A residual flow regime in the Waitaki River that fails to recognise the property interests and customary rights of Ngai Tahu
- Any further dewatering or loss of tributaries, wetlands, side braids, springs, backwaters, adjacent to or surrounding mahinga kai sites throughout the catchment
- Any desecration of urupa or loss of rock art within the catchment
- Any further loss of access to sites of significance, especially remaining mahinga kai sites
- Any further loss of mahinga kai habitats and mahinga kai species in either the Waitaki River or any of its surrounding tributaries
- Any additional modification of the cultural landscape of the Waitaki catchment and
- Any loss of wahi tapu and wahi taonga.

2.56 It is noted that most of the issues from the opposing submission relate directly to the Waitaki River rather than the Godley and Macaulay Rivers. It is conceded that the waters passing Lilybank and originating from the property form a part of the Waitaki River catchment but the Lilybank impact on those waters, as set out here and in the supporting evidence, is that the impact is not only less than minor but also not capable of being discerned for that reason.

2.57 From the perspective of Lilybank Station the issues set out in the submission are therefore regarded as being satisfactorily addressed.

3. RESOURCE MANAGEMENT ACT (1991) MATTERS

3.1 The Lilybank irrigation proposal is considered to be compliant with the “cultural” sections of the Resource Management Act (1991) (“RMA”) as follows:

Section 6(e):

6. Matters of national importance---In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

(e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

3.2 In undertaking consultation and in taking into account the relevant contents of the CIA it is considered that Lilybank has met the intent of this section of the Act.

Section 7(a):

- 3.3 Section 7(a) requires that as a matter of national importance regard be had for kaitiakitanga – defined in the Act as meaning “...*the exercise of guardianship; and in relation to a resource, includes the ethic of stewardship based on the nature of the resource itself.*”
- 3.4 Again in having regard for the known cultural issues and providing for an on-going consultation opportunity for Ngai Tahu interests and in the provision of monitoring reports Lilybank also believes it has complied with the intent of this section of the Act.

Section 8:

- 3.5 Section 8 requires that the principles of the Treaty of Waitangi be taken into account. Lilybank is not the Crown, the primary Treaty partner and for that reason the full gamut of Treaty principles is not applicable. However there are three principles which might apply in respect of Lilybank's irrigation proposal. These are the principle of the active protection of rangatiratanga; the principle of partnership and the principle of mutual benefit.

Active protection of rangatiratanga:

- 3.6 Lilybank formally recognises the primary position of Ngai Tahu in representing tangata whenua and cultural concerns in the Mackenzie Basin. Therefore the principle intent is met.

Principle of partnership

- 3.7 In providing for consultation – on an on-going basis if necessary – Lilybank signals its understanding that care for the environment and taking into account cultural issues is best achieved through a partnership relationship.

Principle of mutual benefit

- 3.8 In the same vein, care of the environment is seen as being a mutual responsibility. In ensuring that its irrigation proposals have no detrimental

impact on the environment Lilybank believes it has fulfilled its part of the mutual benefit obligation.

Section 5(2)

3.9 Section 5(2) of the RMA defines sustainable management as:

“... managing the use, development and protection of natural and physical resources in a way, or at a rate, that enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety, while

(a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

(c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment”

3.10 In terms of the matters that I was asked to consider my opinion is that the Lilybank application is compliant with Section 5(2).

4. WAITAKI CATCHMENT WATER ALLOCATION PLAN – RELEVANT POLICIES

4.1 The applicable “cultural” policies of the WAP, and which have been taken into consideration as part of the Lilybank application, are policies 4, 11 and 32.

4.2 Policy 4 requires that in setting environmental flow and level regimes mauri, mahinga kai species, wahi tapu sites and wahi taonga sites (e.g. rock art sites

or urupa) are considered. As set out earlier in my evidence mauri has been considered while as far as is known there are no mahinga kai, wahi tapu and wahi taonga or urupa sites on the Lilybank property. Confirmation that this is the case is awaited from Te Runanga O Arowhenua.

- 4.3 In terms of mahinga kai species or what are sometimes referred to as taonga species, according to Dean Olsen two natives fish species were present in Station Stream these being koaro and Canterbury galaxias. Other galaxias species may be present but none were found in a stream survey although they are known to be present in the Godley Valley.
- 4.4 The two species found are not at risk and will not be detrimentally affected by abstraction. These matters are dealt with in detail in the evidence of Dean Olsen.
- 4.5 Policy 11 requires that in allocating water the effects on the tangata whenua values of Ngai Tahu be considered. As demonstrated earlier in my evidence this has been done.
- 4.6 Policy 32 requires that in considering the granting of consents for the taking of water from high natural character waterways that the adverse effects are no more than minor with particular regard to cultural matters such as mauri, the effects on ecosystems of mahinga kai species, sites of wahi tapu and wahi taonga. As demonstrated earlier in my evidence these cultural matters have all been addressed.

5. CONCLUSION

- 5.1 My view is that the cultural issues raised in opposition to the proposed extension of irrigation within the Mackenzie Basin are, on analysis, mostly not applicable to the Lilybank Station application.
- 5.2 In my opinion the Lilybank responses to the cultural issues that are associated with its irrigation plans are comprehensive and I have set them out here to show that these matters have all received proper consideration and in

practical terms will be dealt with through the Farm Environmental Management Plan.

- 5.3 In terms of the cultural matters that I was asked to address my opinion is that there is no reason why the two consent applications sought should not be granted.

Buddy Mikaere
Principal
Buddy Mikaere and Associates
September 2009

APPENDIX 1

Buddy Mikaere Principal Buddy Mikaere and Associates

Summary Curriculum Vitae

Date of Birth: 19 January 1951

Citizenship: New Zealand

Education: BA (First Class Honours) Canterbury University
Diploma in Industrial Psychology Victoria University of Wellington

Membership: Council Member Bay of Plenty Polytech; Trustee/Board Member Diabetes New Zealand, Auckland; Member Resource Management Law Association

Competence: I am a professional historian by qualification and specialise in Maori consultation and associated activities through my own companies Buddy Mikaere and Associates and Mana Taiao Consultants. For the past fourteen years I have facilitated Maori consultation for a large number of development projects working closely with government departments, local government, large corporate companies and many other clients mostly in the area of resource consents.

The work undertaken has been wide-ranging in nature but has largely revolved around infrastructure projects such as sub-divisions, marinas, wind farms, transmission and hydro electric projects and similar. Apart from cultural issues, these projects have inevitably involved dealing with water, transport and amenity issues and values.

The larger scale projects have involved the design and implementation of consultation plans with associated follow-up and implementation of consent conditions as necessary.

I have worked closely with a number of large Maori organisations including the Tuwharetoa Maori Trust Board, the Ngai Tahu Trust Board, Waikato Raupatu Lands Trust and the Wellington Tenth Trust and have an extensive network within the Maori world.

Prior to becoming engaged in consultancy work, I was Director of the Waitangi Tribunal and as such have an extensive understanding of Maori issues. I have undertaken the preparation of a number of research reports and is a published author in his specialist field of 19th century race relations.

I was the founding Chairperson of the Maori Business Network – Tamaki Makaurau and a founding Board Member of the NZ Universities Academic Audit Unit

In 2003 I completed a three-year part-time teaching fellowship (at Associate Professor level) at Waikato University where I lectured in Iwi history and New Zealand history with an emphasis on the Maori perspective.

As part of my teaching programme I finished work in 2002 on a completely revised version of *Taonga Tuku Iho – the Encyclopaedia of Traditional Maori Life* – and which was published in that same year.

I have also completed several research reports for the Waitangi Tribunal. Since 1986 I have lectured part-time in History, Maori Studies, the Treaty of Waitangi and the Waitangi Tribunal, as well as in Management Studies at Auckland, Canterbury, Lincoln, Massey, Victoria and Waikato universities.

There are numerous links between my consultancy work and my activities as a professional historian, and in many of the cases I have been involved with, I am frequently asked to draw on my expertise in the latter to inform my consultancy work.

I have also served as an Adviser to the Foundation for Research, Science and Technology and as a Hearing Commissioner to the Far North District Council and spent seven years on the Board of the World Wide Fund for Nature.

In 2008 I completed the Ministry for the Environment's *Making Good Decisions* programme and is certified to undertake hearings work in the RMA area until June 2011.

I have been Project Manager and Research Director for over thirty Treaty claims, including the claims of a number of Tauranga Moana iwi and hapu. I led the research for my own iwi, Ngati Pukenga, and its claims in Hauraki and Tauranga. I am therefore familiar with treaty issues from a claimant perspective.

My present work involves large project responsibility for consultation with Maori on environmental and cultural issues and I have been involved in many such projects since 1995, firstly with legal firm Tunnicliffe, Walters and Williams, and then environmental consultants Mitchell Partnerships, until commencing on my own account in 1999.

I list below those projects (past and present) of relevance to the current hearing, because they dealt with issues such as wahi tapu, pa sites, water and water extraction issues and matters raised in section 6(e), 7(a) and 8 of the RMA. Those cases include:

- Auckland Women's Correctional Facility prison project for the Department of Corrections – Manukau City;
- Hampton Downs landfill project for Envirowaste Ltd – Meremere;
- Metrowater Wastewater discharge re-consenting project – Auckland;
- Ngarewa Oil Well project for Shell Todd Oil Services – Kapuni;
- Northport Marsden Point expansion project – Marsden Point;
- Pohokura Gas Well project for Fletcher Energy – Motunui;

- Pohokura Gas Well project for Shell Todd Oil Services – Motunui;
- Pokeno Quarry project for Winstones Aggregates – Pokeno;
- Serenella Holdings Ltd – Sand mining project – Kumeu;
- South-Western Interceptor Sewage Pipeline project for Watercare Services – Wiri, South Auckland;
- Springhill South Auckland Men's Correctional Facility prison project for the Department of Corrections – Meremere;
- Tairua Marina Project for Tairua Marine Ltd Joint Venture – Tairua;
- Totara Developments Ltd – housing subdivision project – Paihia;
- Watercare Waikato River pipeline project;
- Watercare South West Interceptor project;
- Wiri Stonefields project for Land Information New Zealand – Wiri; and
- Viaduct Basin America's Cup Village Construction Project – Auckland.

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