

Supplementary evidence of Buddy Mikaere

IN THE MATTER OF the Resource
Management Act 1991

AND

IN THE MATTER of various resource
consent applications to
irrigate land in the
Upper Waitaki
Catchment

BETWEEN Southdown Holdings
Limited, Five Rivers
Limited, Williamson
Holdings Limited,
Killermont Station Ltd

AND Canterbury Regional
Council

SUPPLEMENTARY STATEMENT OF EVIDENCE OF BUDDY MIKAERE

1 Introduction

1.1 My name is Buddy Mikaere. My background and experience were set out in my evidence in chief given earlier. Then, as now, I appear here on behalf of Southdown Holdings Limited, Williamson Holdings Limited, Five Rivers Limited and Killermont Station Limited (“the applicants”).

1.2 The purpose of this supplementary statement of evidence is to respond to matters raised in the evidence of David Higgins, Di Robertson, Paul Horgan and Mandy Waka Home on behalf of Te Runanga O Ngai Tahu (“**TRONT**”).

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- 1.3 My evidence in chief outlined the applicant review and response to cultural issues raised by TRONT and three of its constituent papa tipu Runanga at Arowhenua, Moeraki and Waihao.
- 1.4 As shall be explained those issues were largely derived from the Cultural Impact Assessment ('CIA') prepared by Gail Tipa and which was commissioned by Mackenzie Water Research Limited ("MWRL") as part of a comprehensive research investigation into the expansion of irrigation in the Mackenzie Basin. Other sources included the TRONT opposing submissions and various planning and policy documents.

Consultation review

- 1.5 In the light of what has been said in the evidence given by TRONT to this hearing I think it is important to revisit the background to the identification of the potential cultural issues associated with the applications.
- 1.6 For example I note from the evidence of Mr Horgan that there is some concern about the level of consultation with a starting point of late 2008 identified and a further concern that consideration of the cultural issues arising from the applications was hampered by the absence of technical information such as that derived from the MWRL research project.
- 1.7 While the implied criticism about the engagement between the applicants and TRONT not getting underway until late 2008, it has to be said that until the completion and release of the CIA, there was little information about cultural issues in those parts of the Mackenzie Basin that form the individual land interests of the applicants. Even with the release of the CIA that remained largely the case because of the generalist nature of that document which had a heavy focus on the Waitaki River.
- 1.8 A similar situation applied in respect of the TRONT opposing submissions which were also not property specific and also seemed to have a focus on issues associated with the Waitaki River.
- 1.9 Through the CIA and the TRONT submissions being very general in nature in terms of the identification of cultural issues and the lack of

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specificity in terms of individual properties, addressing these matters was made very difficult.

- 1.10 For example a general approach was needed in terms of trying to determine what the relevant issues in respect of each property were and what the nature of appropriate avoidance, mitigation and remedial options should be.
- 1.11 There was also a need to co-ordinate a collective approach on the issues - prior to engaging in any meaningful discussions with TRONT so that those discussions could have some focus.
- 1.12 An example of this would be having a common approach on riparian planting in respect of “internal” waterways. This did require some time.
- 1.13 Following the release of the CIA, efforts were made to consult with TRONT and Runanga representatives centring around site visits to the applicant properties as described in my evidence in chief and the evidence of Richard Peacocke who co-ordinated the visits.
- 1.14 The purpose of those visits from the applicants’ perspective was to identify specific individual property concerns and to gain clarification in respect of cultural issues; for example, wahi tapu.
- 1.15 As a general observation it has to be said that detailed knowledge of the properties by the TRONT representatives was limited to some waterways and reserves identified and managed by the Department of Conservation; i.e. information available within the public domain.
- 1.16 There was no identification of mahinga kai or wahi tapu on any of the applicant properties.
- 1.17 The question therefore is: would a longer consultation period have assisted? The evidence to date suggests that it would not have in terms of identification of property specific issues but might have in the formulation of appropriate mitigation, remedial and avoidance strategies.

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- 1.18 In any event, the strategies as captured in the Farm Environmental Management Plans (“FEMPs”) are not challenged and on that basis it is reasonable to assume that they are accepted as meeting cultural requirements insofar as the individual properties are concerned.
- 1.19 Any assertion that the consultation or alleged insufficiency thereof was inadequate is not accepted on the grounds that the TRONT cultural issues are clearly articulated in the evidence presented by them and as far as I can determine individual FEMPS are outside those grounds.
- 1.20 Blanket general assertions are also unhelpful in that there is no consideration given to the individual circumstances of some of the properties. For example I understand that Killermont Station has been farmed by the same family for three generations and that there has been frequent consultation with TRONT and its predecessors over that time. Killermont Station has also been a willing participant in the Tenure Review process and has identified and in co-operation with DOC arranged for the protection of important cultural sites along the Ahuriri River.

Identification of the issues

- 1.21 The applicants were required to take the general issues set out in the CIA and attempt to respond to each of them in the context of the circumstances of each property. Those efforts have already been described in my evidence in chief and other relevant expert evidence.
- 1.22 Because the applicants were working in an information vacuum and as described in paragraphs 1.17 and 1.18 of my evidence in chief, determining the nature and extent of the cultural issues associated with the applications had to also take into account various planning and policy documents such as the relevant sections of the proposed Canterbury Natural Resources Regional Management Plan (chapter 2 in particular); Te Whakatau Kaupapa (1990) which is a strategic document that sets out Ngai Tahu principles in the management of its relationship with natural and physical resources to these areas; and Te Runanga O Ngai Tahu Freshwater Policy (1999).

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- 1.23 I noted that the latter document had been instrumental in setting the parameters of the Waitaki Catchment Water Allocation Regional Plan and had also contributed to the Canterbury Regional Policy Statement.
- 1.24 In summary therefore the applicant responses took into account as best they could, what was provided and what could be gleaned from all sources in terms of cultural issues identification.
- 1.25 The point of this discussion is that by default the applicants have attempted, successfully I believe, to ensure that proper consideration has been given to the known cultural issues arising from the applications on a property by property basis.
- 1.26 The accompanying rider to this approach being that if there is property by property compliance with meeting TRONT concerns – as set out in the relevant Farm Environmental Management Plans (“FEMPS”) then it follows that there must be wider or catchment compliance – as far as these applicants are concerned.
- 1.27 Again the blanket assertion approach is not accurate in its assessment of impact on cultural values given that individual properties - Killermont Station for example – fall outside the basis for a general cultural concern. Killermont is not seeking conversion to dairy farming as part of their irrigation application so need to be assessed separately for impact on cultural values.

2. The evidence

David Higgins

- 2.1 Mr Higgins evidence which describes the Ngai Tahu association with the Mackenzie Basin and the Upper Waitaki is not disputed.
- 2.2 Mr Higgins takes offence at comments attributed to me earlier in this hearing that Ngai Tahu did not have a presence in the Mackenzie Basin.
- 2.3 My comments are misreported. They were in response to questions from the Commissioners where I had alluded to the fact that there was no “physical” Ngai Tahu presence in the Mackenzie and that in these

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circumstances it was difficult to build personal relationships between applicants and the iwi through a daily sharing of the same countryside as neighbours might.

Paul Horgan

2.4 The evidence of Mr Horgan is most helpful in giving a prioritising focus to the cultural concerns raised by the applications. That evidence also makes it clear that in addressing their concerns there are two distinct aspects as I have just alluded to; i.e. individual properties or on-farm effects and catchment effects.

2.5 In respect of on-farm effects the key point for TRONT and which is highlighted by Mr Horgan at paragraph 7 of his evidence is drawn from page 50 of the CIA:

“Before Ngai Tahu will be prepared to depart from this position, it will need to be convinced that suitable measures can be implemented at both the on-farm and catchment level that will be capable of avoiding and/or mitigating the site-specific and cumulative adverse effects that will arise as a result of conversion to dairying”

2.6 I suggest that the applicant position is that the on-farm impacts on cultural values are fully addressed in the individual FEMP’s for each property. The FEMP’s respond to the broad cultural issues that were identified in the CIA and come with an invitation to TRONT for further feedback and consultation as necessary.

2.7 My understanding is that this invitation and requests for feedback have not been responded to.

2.8 I note that this point is acknowledged in his evidence where Mr Horgan says at paragraph 20:

“...the Ngai Tahu experience with large scale land use intensification has, almost without exception, been negative. From our perspective, there is an unequivocal link between irrigation related activities and waterway degradation, and in turn, further loss of access to mahinga kai resources. In this context, it is our view that these consents should only be granted if you are satisfied that there is a high level of

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certainty that the package of mitigation measures proposed by the applicants (in particular the Farm Environmental Management Plans) will ensure that sustainable water quality outcomes are achieved.”

Wider catchment issues

- 2.9 In terms of the wider catchment level the “measuring point” for the efficacy of the FEMPs in terms of water quality is not at the farm gate but as identified by Mr Horgan at the Ahuriri Delta and the Haldon Arm - the two cultural focal points against which to assess the applications. He reiterates the point made in the CIA that:

As a priority, Ngai Tahu does not want to see new irrigation proposed for these areas degrade existing habitats and deny opportunities to undertake enhancements.

- 2.10 Mr Horgan states that:

“...the Ahuriri Delta... will also be [an] acute receiving environment for the additional nitrates and phosphorus that will be discharged as a result of the proposed irrigation schemes. Ngai Tahu considers that these two sites will receive the sum total of nitrates and phosphorous discharged from the surrounding sub-catchments. This is acknowledged in the Mackenzie Water Research Limited (MWRL) summary report prepared by GHD, which states that the approach the applicants are proposing [at page 46]: “...will not ensure protection of other unstudied receiving environments such as springs, small streams, nor does it ensure that all parts of the lake receiving environments will be maintained at or below an Oligotrophic state. Small creeks and inlets to the lakes margins may still be at risk of nutrient enrichment while the body of the lake remains at or below target trophic state.”

The sensitivity of the Ahuriri Delta to increased nitrogen and phosphorous concentrations is also evidence by the impacts that existing irrigation activities are having.

- 2.11 As I understand the applicant expert evidence and subsequent supplementary expert evidence there will be no impact on the Haldon Arm or Ahuriri Delta provided the FEMPs operate as intended.

- 2.12 The applicant approach to this wider catchment issue is that the FEMPS are designed to meet for example, the appropriate water quality standards. The reasonable assumption is that if those standards are met

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for each individual property, then the impact on the wider catchment must be neutral.

- 2.13 If Mr Horgan's evidence is read in conjunction with Di Robertson's, then the major concern is for the mahinga kai impact at the Haldon Arm and more specifically in the Ahuriri Delta. Those concerns are largely related to water quality and long-fin eels.
- 2.14 Such mitigation or remedial work would only be on the basis that there is a proven direct impact link between the applicant properties and the Haldon Arm and Ahuriri Delta but that is not the case according to the applicant evidence. I understand that the Applicants have agreed to maintain the nutrient conditions in the Delta and require adjustments to their farm generators if unanticipated loading occurs.
- 2.15 Given that the applicants and only one of many possible sources of nutrient enrichment I consider this to be a reasonable and proportionate response in the circumstances.

Evidence of Diana Robertson

- 2.16 These issues have been addressed through the scope of conditions designed to avoid any significant effects.

Evidence of Mandy Waka-Home

- 2.17 The evidence of Mandy Waka-Home is focused on the Ahuriri Delta and long finned eel. In summary the concern is that water quality and eel habitat will be degraded and negatively impacted by the applicant proposals.
- 2.18 As with the previous evidence of Paul Horgan and Diana Robertson, the applicants have sought to address these concerns through their assessments and extensive suite of conditions.

3. CONCLUSION

- 3.1 Responding to the cultural issues raised in the TRONT evidence in the particular circumstances of these applications is not possible because the preferred points for effects measurement are only linked to the applicants indirectly.
- 3.2 Earlier in this statement of evidence I outlined how the applicants had addressed the known cultural issues through the individual FEMPS and by way of suggested consent conditions. There are no new issues raised in the TRONT evidence that in my opinion would materially change the applicant response.
- 3.3 To accommodate TRONT concerns, the Regional Authority needs to set the benchmark and the applicants need to demonstrate compliance.
- 3.4 Having considered the TRONT evidence I stand by my earlier conclusion that there is no reason from a cultural perspective that these applications should not be granted.

Buddy Mikaere

28 April 2010