

BEFORE CANTERBURY REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Land and Water Plan (Variation 1)

**EVIDENCE OF LYNDA MARION WEASTELL MURCHISON
ON BEHALF OF TE RŪNANGA O NGĀI TAHU
DATED 29 AUGUST 2014**

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1. Introduction

1.1 My name is Lynda Marion Weastell Murchison.

1.2 I hold a Master of Arts degree (First Class honours) in Geography from Canterbury University and certificates of proficiency in Natural Resource Law (LAWS 304) and Advanced Planning (ERST 604) from Canterbury and Lincoln universities respectively. I am a full member of the New Zealand Planning Institute and an accredited hearings commissioner. I have a background in sheep and beef farming, and hold a National Certificate in Agriculture (Level 3) from the Open Polytechnic of New Zealand.

1.3 I have worked in resource management in New Zealand for over 19 years, including as a senior consents planner, senior policy planner and the District Planner for Selwyn District Council, Planning Manager Air and Rivers and then Principal Planning and Consents Adviser for Environment Canterbury, and Programme Leader Environmental Policy and Planning for Te Rūnanga o Ngāi Tahu (Te Rūnanga).

1.4 I currently hold the Roper Scholarship for study towards a PhD at the University of Canterbury and lecture part-time in environmental and resource management. I am also contracted by Te Rūnanga to provide advice to the General Manager Tribal Interests and General Manager Strategy and Influence on various issues from time to time.

1.5 I am very familiar with the Selwyn-Te Waihora catchment having lived in the district and worked for the Selwyn District Council. I am also very familiar with the issues of water quality and quantity in the catchment through my roles working for Environment Canterbury and Te Rūnanga.

1.6 I am familiar with the Selwyn Waihora Zone Committee process that resulted in the addendum to the Zone Implementation Programme (ZIP) which contained the recommendations from the Zone Committee on managing fresh water quality and quantity issues in the Selwyn Waihora catchment; and with the earlier drafts of Variation 1. Part of my role at Te Rūnanga was to provide support to the six rūnanga representatives on the Selwyn Waihora Zone Committee for the last few months of the ZIP Addendum process. I also had a role in commenting on early drafts of Variation 1 on behalf of Te Rūnanga.

1.7 Since my involvement in the development of Variation 1, I have been elected to the office of Provincial President of North Canterbury Federated Farmers and therefore also hold a seat on the National Council of Federated Farmers of New Zealand Incorporated. This is a voluntary

governance role in an organization that spans the full gambit of farming interests from free trade to health and safety. I am not employed by Federated Farmers of New Zealand to provide policy or environmental advice to that organization.

2. Scope of Evidence

2.1 I have been asked by Te Rūnanga to outline the role which Ngāi Tahu has had in the development of Variation 1 to the proposed CLWRP.

2.2 I confirm that I have read the 'Code of Conduct' for expert witnesses contained in the Environment Court Practice Note 2011. My evidence has been prepared in compliance with that Code. In particular, unless I state otherwise, this evidence is within my area of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

3. Ngāi Tahu Interests in Selwyn Waihora Catchment

3.1 Te Rūnanga o Ngāi Tahu is the iwi authority representing those iwi and hapū who claim descent from Ngāi Tahu, in the South Island. The corporation is given this status under the Te Rūnanga o Ngāi Tahu Act 1996. Under s15 of that Act, Te Rūnanga is obliged to consult with papatipu rūnanga when reaching a position on matters as the iwi authority. Papatipu represent those who hold mana whenua over particular areas within the takiwā of Ngāi Tahu. There are 18 papatipu rūnanga in the South Island, some of whom have overlapping rohe or areas over which they hold mana whenua.

3.2 In matters of consultation under the Resource Management Act 1991 (RMA), Te Rūnanga as the iwi authority encourages councils to consult directly with the papatipu rūnanga within whose rohe a plan will take effect. This consultation occurs as part of and not as a substitute for consultation with Te Rūnanga as the iwi authority.

3.3 In most instances Te Rūnanga will support the position of papatipu rūnanga and provide assistance where requested. In some cases where there are tribal properties and investments or strategic matters of tribal importance, Te Rūnanga may have additional matters they wish raised and considered in consultation.

3.4 There are six papatipu rūnanga who represent those who hold mana whenua over parts of the Selwyn Te Waihora catchment: Te Ngāi Tūāhuriri Rūnanga Inc; Te Hapū O Ngāti Wheke; Te

Rūnanga o Koukourārata; Ōnuku Rūnanga Inc; Wairewa Rūnanga Inc; and Te Taumutu Rūnanga Soc Inc.

3.5 Te Waihora is recognised as a lake of immense tribal significance to Ngāi Tahu and a tribal taonga never ceded as part of Kemp's purchase. Ownership of the much of the bed of the lake was vested in Te Rūnanga under the Ngāi Tahu Claims Settlement Act 1998. The cultural significance of Te Waihora to Ngāi Tahu is recognized in the National Water Conservation (Lake Ellesmere) Order 1990, as amended in 2011.

4. Role of Ngāi Tahu in Developing Variation 1

4.1 Ngāi Tahu has had input into the preparation of Variation 1 in three areas:

- (i) Through rūnanga representatives on the Selwyn Waihora Zone Committee;
- (ii) Having staff representatives in the joint Environment Canterbury, Ngāi Tahu and Primary Sector Group approach for managing nitrogen-nitrate in the catchment; and
- (iii) Consultation over the drafting of the variation before it was released for consultation under Schedule 1 to the Resource Management Act 1991.

4.2 I shall describe each process in turn.

Zone Committee Representation

4.3 Under the Canterbury Water Management Strategy each rūnanga who holds mana whenua in an area covered by a zone committee has a representative on that zone committee. Each of the six papatipu rūnanga listed in paragraph 3.4 had representatives on the Selwyn Waihora Zone Committee. Te Runanga's involvement was in sending staff to support those rūnanga representatives when requested. In the 12 months leading up to the development of Variation 1, I was asked to provide support to those representatives.

4.4 While the recommendations of the Zone Committee to Environment Canterbury were supposed to be consensus recommendations there were several matters which ngā rūnanga represenatvies did not agree with. These matters were by Te Rūnanga with Environment Canterbury as part of a co-governor's briefing on 15th March 2013 in consultation under Schedule 1 to the RMA. They are the matters which form the basis of Te Rūnanga's submissions on Variation 1.

Joint Environment Canterbury, Ngāi Tahu and Primary Sector Group Approach

- 4.5 As part of developing its recommendations to Environment Canterbury on how to manage nitrate-nitrogen losses, the Zone Committee asked if representatives from Te Runanga, the Canterbury Primary Sector Group and Environment Canterbury could work together and make some recommendations. This request came because Te Rūnanga and parties from the Primary Sector Group were already working together on how to manage these issues.
- 4.6 The brief for the 'joint approach' was given strict parameters: the group was only to look at how the established nitrogen load for the catchment could be managed across activities which lose nitrate-nitrogen. I remember that during that exercise it became apparent the planning framework needed some measures of what is reasonable nitrate-nitrogen loss from various land uses using good management practices and considering soil type and rainfall; hence the importance of the results of another work-stream known as the Matrix of Good Management (MGM). My understanding is that when it became apparent MGM would not be able to provide that information within the timeframe Environment Canterbury had for notification of Variation 1, Environment Canterbury created Tables 11(m) and (n).
- 4.7 Tables 11(m) and (n) set out maximum nitrate-nitrogen loss levels for different land uses and soil types in the catchment that had to be achieved by 2017 (Table 11(m)) and 2022 (Table 11(n)). My understanding is that Tables 11(m) and (n) were intended to be used as a substitute for the type of information that Environment Canterbury and the Primary Sector parties envisaged would be yielded from the MGM project in due course. The parties involved in the 'joint approach' were not involved in creating Tables 11(m) and (n) and there was some concern expressed by the primary sector parties as to the appropriateness of those tables. Most of the 'joint approach' recommendations for managing nitrate-nitrogen were adopted by the Zone Committee in the ZIP Addendum. However Variation 1 as notified deviated from this approach .

Te Rūnanga's Role in Plan Consultation

- 4.8 Te Rūnanga and Environment Canterbury have some agreements in place as part of a move towards co-governance in the Te Waihora catchment. As such Te Rūnanga was invited to have a role in drafting Variation 1. I was asked by Te Rūnanga to undertake that role.
- 4.9 I was working with Tami Woods and Alasdair Picken, planning officers with Environment Canterbury. Our timeframe was three weeks. Ms Woods informed me that we were limited to:
- Drafting the variation in accordance with the addendum to the Zone Implementation Programme from the Zone Committee.

- Following the format and drafting style of the pLWRP. Even where I felt strongly the variation needed a catchment objective, an explanation to a policy, or that rules needed to be recrafted to improve clarity, I was told we could not make those changes because they departed from the format or drafting style of the pLWRP.
- That the plan must have a nitrogen-nitrate loss reduction regime based on Tables 11(m) and (n) even when it was becoming apparent those tables would not be supported by parties who had invested in the MGM process.

4.10 Ms Woods, Mr Leo Fietje another planner from Environment Canterbury and I spent some time exploring other ways in which we could manage nitrate-nitrogen losses in Variation 1 until MGM numbers became available. However Ms Woods informed me that the Environment Canterbury Commissioners were committed to using a quantifiable measure for managing nitrate-nitrogen loss and so they wanted to use Tables 11(m) and (n).

4.10 From my recollection, I looked at and commented on approximately three versions of the draft variation produced by Ms Woods and Mr Picken. I was one of several people commenting on those drafts including other staff from Environment Canterbury so often what appeared to be agreed wording was subsequently amended after consultation with someone else.

4.11 This account is not intended as a criticism of the process. I would expect as part of consultation to have my input (on behalf of Te Rūnanga) considered and my suggestions adopted or discarded by Environment Canterbury at its discretion. However it would be erroneous in my view to create an impression that this process was a form of co-drafting whereby Te Rūnanga took an equal part with Environment Canterbury in determining what was to be notified; or had an opportunity to address any matters it did not agree with. To my mind the process more closely resembled the process of consultation as required under Clause 3(1) of Schedule 1 to the RMA – an opportunity to read and comment on a draft.

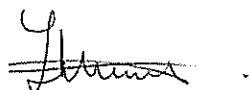
5. Subsequent Changes to Variation 1

5.1 A draft plan was prepared and released for consultation under Clause 3(1), Schedule 1 to the RMA. On the day before comments were due the Selwyn Waihora Zone Committee also met. At that committee meeting Dr Melissa Robson a consultant working for Environment Canterbury announced to the Zone Committee that Tables 11(m) and (n) should not be used for planning purposes. I cannot remember much explanation being given at the time other than the tables had not been prepared for planning purposes and the information used to generate them could not be readily replicated by other people.

5.2 To my knowledge this was the first time either the rūnanga representatives or any person from Te Rūnanga had heard of this notion. In my view, Tables 11(m) and (n) played a fairly pivotal role in the plan as the tool by which the total catchment load for nitrogen would be met and nitrate-nitrogen reductions managed in a reasonably certain and consistent way. I am not suggesting the numbers in the tables were appropriate, but the tool itself was fundamental to the plan in my view.

5.3 Te Rūnanga wrote to Environment Canterbury expressing concern at this development and indicated that it would not object to a delay in the notification of Variation 1 to allow for development of nitrate-nitrogen loss tables to replace Tables 11(m) and (n) once the information became available through MGM. Te Rūnanga also its continued assistance to Environment Canterbury – though at that stage it would require a change of personnel.

5.4 To my knowledge, Te Rūnanga had no further involvement in the preparation of Variation 1 beyond that point except for a small involvement by Ms Dyana Jolly a consultant working on behalf of Te Taumutu Rūnanga who checked the provisions for the Te Waihora Cultural Landscape Area, and Mr Ian Glover who provided mapping information for the Te Waihora Cultural Landscape Area boundaries to Environment Canterbury.



Lynda Murchison

29th August 2014