

Before Hearing Commissioners
at Christchurch

under: the Resource Management Act 1991

in the matter of: applications CRC172455, CRC172522, CRC172456, and
CRC172523 to undertake channel deepening dredging
and maintenance dredging in Lyttelton Harbour

and

in the matter of: **Lyttelton Port Company Limited**
Applicant

Summary and response evidence of Dyanna Jolly (CIA)

Dated: 27 April 2017

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SUMMARY AND RESPONSE EVIDENCE OF DYANNA JOLLY

INTRODUCTION

- 1 My name is Dyanna Jolly.
- 2 I prepared evidence dated 28 March 2017 for Lyttelton Port Company Limited (*LPC*) in relation to its applications for resource consent to undertake works known as the Channel Deepening Project (*CDP*).
- 3 My qualifications and experience are as outlined in that evidence.

SCOPE OF EVIDENCE

- 4 This evidence is divided into two parts:
 - 4.1 Part 1 consists of a summary of my evidence as filed; and
 - 4.2 Part 2 contains evidence to clarify and comment on matters raised in evidence filed by submitters.
- 5 It is important to state that my role as a Cultural Impact Assessment (*CIA*) writer is to facilitate a process that enables and assists iwi/hapū to undertake the cultural impact assessment. Therefore my role as an expert witness is to discuss the *CIA* process and summarise the outcomes of that process. I am not an expert on Ngāi Tahu values and therefore am cannot comment on the nature and extent of cultural values, or how these may or may not be affected.

PART 1: SUMMARY OF EVIDENCE

- 6 My evidence provides an overview of the *CIA* process for the *CDP*, and a summary of the 2016 *CIA* Report.

Purpose of CIA

- 7 The proposed dredging and disposal activities are located in the coastal marine areas of the respective takiwā (traditional territories) of Te Hapū o Ngāti Wheke and Te Rūnanga o Koukourārata.
- 8 The assessment of potential effects on Ngāi Tahu¹ rights, values and interests is therefore a key part of the *CDP*.
- 9 I prepared two *CIA* for the *CDP* project: one in 2014 and an update in 2016.

¹ Used here to refer to Te Hapū o Ngāti Wheke, Te Rūnanga o Koukourārata and Te Rūnanga o Ngāi Tahu.

- 10 The purpose of CIA is to:
 - 10.1 Identify manawhenua values, rights and interests in a project area;
 - 10.2 Assess the potential effects of a project on these;
 - 10.3 Provide recommendations to avoid, remedy or mitigate adverse effects.
- 11 The exercise of CIA is to enable iwi/hapū to assess the potential impacts of a proposed development on their relationship with ancestral lands, waters and other taonga, and their ability to exercise kaitiakitanga.

Overview of CIA process

- 12 LPC held a number of Hui with Ngāi Tahu between 2007 and 2012, in the early phases of project development and prior to my engagement. The 2014 CIA built on this early engagement and formalised the identification of issues and potential impacts.
- 13 The 2014 CIA had a direct influence on project design and subsequent engagement, particularly with regard to the formation of a Technical Advisory Group (TAG) and commitment to adaptive management; key methods to address potential cultural impacts.
- 14 The CIA was updated in 2016. This was because it had been two years since the first CIA was prepared, and in that time the scale of the project had increased and some aspects of project design had changed. Further technical information was available, and progress had been made to give effect to recommendations in the 2014 CIA.
- 15 The CIA process was underpinned by a wider engagement framework designed to enable LPC and manawhenua to constructively work together on harbour issues over the long term and for mutual benefit, across consent projects, through a Manawhenua Advisory Group (MAG).
- 16 As to be expected from a project of this scale and significance, the CDP CIA process was challenging and at times frustrating for both LPC and Ngāi Tahu. There were often different views around effects and how these can be managed. However, the willingness to work together towards acceptable solutions was a key feature.

CIA outcomes

- 17 The 2016 CIA confirms that manawhenua values, rights, and interests in the project area are strongly related to mahinga kai. The ancestral and contemporary relationship to Whakaraupō and Koukourārata is directly related to the ability of the coastal environment to support mahinga kai.
- 18 The key issues relate to the potential for adverse effects on mahinga kai as a result of changes to the environment that supports these values, specifically:
 - 18.1 The potential for dredging activity to increase turbidity and change sediment movement in Whakaraupō, and impact on the health, abundance, or diversity of mahinga kai species, and the ability to access and gather these;
 - 18.2 The potential for dredge spoil to move beyond the offshore disposal site to Koukourārata and the northern coastline of Banks Peninsula and adversely affect mahinga kai values, including both natural kaimoana stocks and marine farm species; and
 - 18.3 The location of a new maintenance dredging disposal site, the risk of dredge spoil reaching the shoreline, and potential cumulative effects of multiple discharge sites in the coastal environment.
- 19 The 2016 CIA provides 38 Recommendations to address the actual and potential cultural impacts of the CDP. The key messages from these recommendations are:
 - 19.1 Ngāi Tahu want to be satisfied, with a high degree of confidence, that their values, rights and interests associated with the coastal environment will be protected;
 - 19.2 Ngāi Tahu are looking for LPC to adopt a precautionary approach to managing the dredging activity, favouring environmental protection and mahinga kai;
 - 19.3 Much hinges on the ability of the Environmental Monitoring and Management Plan (*EMMP*) to provide confidence that values will be protected. The strength of the EMMP relies on robust modelling information, sufficient baseline monitoring, effective turbidity trigger levels, and knowing that specific actions will be taken by LPC if these are exceeded;
 - 19.4 If the offshore disposal activity cannot be managed to avoid sediment reaching the coastline, then the disposal ground should be moved further offshore. The CIA signals that, from

a cultural perspective, much would be gained from locating the disposal site further offshore;

- 19.5 Channel deepening and maintenance dredge spoil should be consolidated at the proposed channel deepening dredging disposal grounds, rather than creating a new maintenance disposal site, and there is an expectation that LPC will discontinue use of the existing Awaroa/Godley Head disposal grounds and
- 19.6 A 15-year consent duration is appropriate, with provisions for formal review of EMMP following Stage 1 of the project.
- 20 The CIA notes that good progress is being made to eliminate discharges of contaminants and restore harbour health. Development activities need to align with this work by avoiding any further adverse effects on harbour health and mahinga kai. Further, activities should strive to deliver a net gain to the environment and mahinga kai.

What did the CIA mean for the CDP?

- 21 The CIA process was supported and valued by both LPC and Ngāi Tahu. This resulted in a strong and detailed CIA with clear guidance on cultural impacts.
- 22 LPC and Ngāi Tahu invested significant time and resources to engage on the CDP and, in my opinion, the project is better for it. The CIA process influenced project design, the engagement process, and the way the potential effects on the environment and mahinga kai are proposed to be managed.
- 23 Throughout the CIA process, the focus was on how the project occurs rather than if it occurs. The CIA, and the Ngāi Tahu Submissions and Evidence that followed, signal the commitment to finding solutions.
- 24 It is not the place of a CIA writer to conclude whether cultural impacts have been sufficiently avoided, remedied or mitigated. This assessment lies with manawhenua.
- 25 However, I can provide conclusions on process. Based on my experience preparing CIA, the CDP model provides a strong example to other projects. This is in part because of the design of the engagement process. But even more so it is a reflection of the importance of the project, the significance of potential impact if things go wrong, and the commitment of Ngāi Tahu and LPC to working together.

PART 2: RESPONSE EVIDENCE

26 Since the writing of my evidence, I have reviewed the Ngāi Tahu evidence and considered progress made between the parties, since the CIA, to address issues.

27 In response, I offer a clarification and comment, rather than a proper response. I:

27.1 Clarify the engagement process for the proposed new maintenance dredging disposal site, as referred to in Dr Daniel Pritchard's evidence; and

27.2 Comment on the strength of solution-focused CIA.

Ngāi Tahu engagement on a new maintenance dredging disposal site

28 Dr Pritchard (67-69) noted that the first indication that LPC was considering moving the maintenance dredging disposal site out of Whakaraupō was in a memo circulated June 22 2016, prior to an August 2016 TAG meeting and Hui.

29 Dr Pritchard is correct that maintenance dredging technical matters first came to the TAG in August 2016. However, it is worth clarifying that a new maintenance dredging site was discussed at two Hui prior, as documented in the Table 1 and Section 6.23 of the 2016 CIA:

29.1 Moving maintenance dredging disposal out of harbour was first raised at a CIA Hui in May 2016. LPC sought advice from Ngāi Tahu how to engage on site option investigations.

29.2 It was agreed that Ngāi Tahu would provide a list of criteria to inform a short listing site selection process, based on values of importance to manawhenua.

29.3 LPC provided a short list of site options for further investigation at a specific Maintenance Dredging Hui in June 2016. At this Hui, Ngāi Tahu identified a preference from the available options, and requested that maintenance dredging be added to the TAG terms of reference.

29.4 Modelling results for the new maintenance dredging disposal ground options was an Agenda item of the August 2016 TAG meeting.

29.5 Another Maintenance Dredging Hui was held on August 25th 2016, to report back on technical investigations on site options.

29.6 The outcomes of these Hui informed the maintenance dredging issues and recommendations in the 2016 CIA update. As noted in the CIA, LPC and Ngāi Tahu did not reach agreement on a preferred site option.

30 This is a clarification to process only. It is not a rebuttal to Ngāi Tahu views of the process, or technical matters related to maintenance dredging covered in Ngāi Tahu evidence.

Focus on solutions

31 The second matter I want to raise in response to the Ngāi Tahu evidence is to comment on the strength of a solution-focused CIA process.

32 In my experience working with Ngāi Tahu on CIA, there is almost always a genuine effort to use CIA to find ways to enable development in a manner that enhances rather than impacts the environment and associated cultural values.

33 In my opinion, the CIA for this project, and the Ngāi Tahu submissions and expert evidence that followed, demonstrates this. Ngāi Tahu have identified clear cultural bottom lines but also offered solutions for a way forward. The evidence of Mr Tasman Gillies, with regard to providing a framework to achieve a net gain in mahinga kai, is an example of this.

34 This does not mean that there are not significant issues around effects on the environment and cultural values; issues that were not resolved through the CIA. However, it does mean that the parties are still at the table and the conversation is continuing.

35 A consistent theme I heard throughout this engagement process is that LPC's desire to accommodate larger ships and remain competitive, and the desire of manawhenua to protect and restore the harbour environment, do not have to be mutually exclusive goals. As articulated in the Mahaanui Iwi Management Plan 2013, Whakaraupō can be both a mahinga kai and a port if there are good relationships and clear strategies to manage the effects of port activities on the harbour environment.²

² Policy WH1.3, Issue WH2, Policies WH2.1 to WH2.6.

Dated: 27 April 2017

Dyanna Jolly