

BOARD OF INQUIRY
Proposed National Policy Statement
for Freshwater Management

**HEARD BEFORE JUDGE D SHEPPARD (CHAIR), MR K PRIME,
DR J HARDING AND MRS J VERNON, MEMBERS OF THE BOARD**

TUESDAY 30 JUNE 2009

HELD AT THE CIVIC CENTRE, WAKEFIELD STREET, WELLINGTON

HEARING OPENED [9.35am]

APPEARANCES

Ms S Powell, Ministry for the Environment

Mr M McLea, Greater Wellington Regional Council

Councilor C Wade-Brown, Ms N Wood and Mr B McKay, Wellington City Council

Mr P Weir, Mr K Richards and Mr G Mackie, NZ Forest Owners Association

Mr C Keenan, Horticulture NZ

Audio file: dpm48

CHAIR: Good morning and a warm welcome to you all. This is the start of the hearings by the Board of Inquiry appointed to inquire into the proposed National Policy Statement on Freshwater Management. I'll introduced the members of the Board on my right is Jenni Vernon from Waimaro (ph) in the Waikato. On Mrs Vernon's right is Kevin Prime of Ngati Hine he comes from Nga tatoe (ph) in Northland. On my left is Dr John Harding from the University of Canterbury. I'm David Sheppard and I'm appointed Chairperson of the Board. We're going to start our public hearings into the submissions on the proposed policy statement with a presentation on behalf of the Ministry for the Environment by Sue Powell, good morning Sue. Would you like to give your presentation to us now?

MS POWELL: Good Morning Judge and Chairman and members of the Board.
"My full name is Susan Mary Powell I'm employed with the Ministry for the Environment as General Manager, Local Government Group, a position I've held since 2003.

In this role I was co-convenor for the Sustainable Water Programme of Action. Previous to that I held that position of Manager Resource Policy Development in the Ministry for the Environment and prior to joining the Ministry I held the role of Group Manager, Environmental Management at Hawke's Bay Regional Council, Policy Manager at Nelson City Council and various consenting and policy roles at the Nelson City Council, Hastings District Council and prior to that Soil Conservator at the Marlborough Catchment and Regional Water Board.

I hold a degree from the then Lincoln College in Agricultural Science specialising in soil science.

Scope of statement: This statement is in response to a request directed to the Ministry for the Environment by the Board of Inquiry to provide a

succinct and focussed presentation providing background to the proposed NPS, what the intent of the NPS is and a summary of the section 32 report.

Accordingly my statement addresses the following matters: The background on the National Policy Statements; development of proposed National Policy Statement for Freshwater Management, the proposed NPS, including consultation processes and development milestones - this section is in chronological order of events; the intent of the proposed NPS, an explanation of the overall structure and natures of the proposed NPS including how it's intended to fit with other central government water policy initiatives and the summary of the section 32 report.

In addition, the Board of Inquiry has requested a report on the Treaty Settlements or Deeds of Settlement that may have implications for the proposed NPS and particularly those that give direction to functionaries under Resource Management Act 1991.

This report is tabled for you information.

CHAIR: Thank you.

MS POWELL: Background on NPSs: I will briefly summarise: The entrance of NPSs into legislation; the scope and nature of NPSs and the process for developing NPSs.

Entrance of NPSs into legislation: The provision for NPSs was a late addition to the proposed resource management regime in 1988.

Consultation on proposals for the new Act revealed concern: a), to ensure that "national interests" could still be articulated in a devolved regime and b), that the objectives in the Act itself could not be specified with sufficient detail or context.

At the time departments had a different view on the need for a national policy instrument. Although NPSs were eventually provided for in the Bill, the scope and means of development were carefully constrained. In addition, the pre-statutory stage of developing NPSs was also controlled via a 1992 Cabinet decision (later modified by a 2005 Cabinet decision, which I will discuss shortly). These moves reflected a desire to ensure that NPSs could not be misused or used unnecessarily.

Scope and nature of NPSs: The scope and nature of policy that may be contained within an NPS is not unlimited. The Ministry's understanding is that the policy: Must promote the purpose of the RMA (the promotion of sustainable management of natural and physical resources). An NPS cannot be used to promote the purpose of other legislation or to promote ease of RMA administration or uniform RMA practices per se. They can prescribe practices to be followed by a local authority but the extent to which it will be valid to do so will be constrained by section 32. Can prescribe the use of particular decision making criteria. Can prescribe processes but cannot impose greater requirements or restrict what is otherwise allowed by the RMA itself.

The Ministry also understands that policy cannot be used as a de facto method of changing or redefining either primary or secondary legislation (for example it cannot be used to "clarify" particular sections of the RMA in such a way that limits other lawful interpretations). It cannot alter the functions of local authorities by increasing or decreasing them and it cannot of itself regulate the individual citizen (ie, it does not have the effect of a rule within the meaning of the RMA).

The Ministry has identified two broad styles in the drafting of NPS policy.

The first style is to draft policies aimed at local authorities.

The second style is to draft policies directed at those using the environment.

The former style, that is aimed at local authorities, is adopted in the proposed NPS.

Process for developing NPS: The development of NPSs occurs in two main phases. These can be described as the 'pre-statutory' and 'statutory' phases.

The pre-statutory process: In 2005 Cabinet specified a set of basic process requirements relating to the pre-statutory stage. These included: a partnership approach will be taken by the Ministry for the Environment with local government and relevant government departments whereby they are involved in the scoping and drafting stage of any NPS. Scoping of a topic will not necessarily lead to the full development of an NPS if other more appropriate methods are identified. The Ministry for the Environment will: coordinate and lead the development of any NPS, will seek Cabinet agreement on each draft NPS prior to consulting on the draft and will seek Cabinet agreement on each proposed NPS prior to statutory public consultation.

So it is clerical convention that the Minister will bring any draft proposal before it, although an NPS is for the Minister to make. This makes any proposal a statement of the Crown and has the effect of obliging the Ministry for the Environment to involve the relevant departments in its scoping and development.

In practice the pre-statutory stage includes six discrete steps: Step 1, the preliminary analysis - whether or not to advise that an NPS be investigated. Step 2, seeking Cabinet approval to scope an NPS. Step 3, scoping an NPS and preliminary analysis of costs and benefits. Step 4, seeking Cabinet approval to draft and consult on a draft NPS. Step 5,

drafting a proposed NPS. Step 6, seeking Cabinet approval to promulgate an NPS (ie, the initiate the statutory process).

The statutory process is set out in Part 5 of the RMA. I note key aspects of the process below. Section 45(1) sets out the purpose of NPSs as being: to state objectives and policies for matters of national significance that are relevant to achieving the purpose of this Act.

Section 45(2) sets out the matters that the Minister may have regard to in determining whether it is desirable to prepare an NPS, I have not repeated those here.

The Minister will generally apply these criteria to determine whether a matter is of national interest.

Section 46 requires two actions to be undertaken if the Minister does consider this action desirable. The Minister must: seek and consider comments from relevant iwi authorities and persons and authorities that the Minister considers appropriate and prepare a proposed NPS.

Section 46A allows the Minister to choose between two processes and sets out matters that the Minister may consider when deciding which process is appropriate. The choices are: the process set out in sections 47-52 (being the Board of Inquiry process or an alternative process) or an alternative process as long as that process gives adequate time and opportunity for public comment, and that the process ends with a report to the Minister on submissions and the subject matter of the statement.

[9.45am]

Section 46B allows an NPS to incorporate material by reference.

Sections 47-52 set out the Board of Inquiry process.

Section 53 enables changes to, review, or revocation of NPS.

Section 54 requires the publication of NPSs when a NPS is issued, reviewed, changed or revoked.

Section 55 sets out requirements on local authorities in respect of NPSs. Local authorities are required to amend documents (including proposed and operative regional policy statements, proposed and operative plans and variations) to give effect to provisions in an NPS. Those amendments shall be made either as soon as practicable or as dictated by the NPS.

Section 55(2)(A) requires an NPS to state whether amendments should occur via a Schedule 1 process, or whether specific provisions are to be included without following such a process.

Section 55(4) allows NPS to include transitional provisions.

I now turn to the Development of the Proposed NPS. I have appended a summary of how the actual process follows the Cabinet and statutory requirements previously outlined in Appendix A.

The first signal that a NPS was being considered as a potential tool to improve water management was in 2003, with the public release of the Water Programme of Action. However, at this point, there was no predetermination about what an NPS (or NPSs) may address.

In December 2004, a public discussion document was released by the Ministry for the Environment titled “Freshwater for a sustainable future: issues and options”. The document proposes 13 actions including Action 1: Develop national policy statements. The discussion document states under this action that: Central government could develop National Policy Statements that would: specify national priorities for freshwater; stipulate requirements for regional plans, for example to determine the amount of water that can be allocated and set allocation limits and require regional councils to set catchment based targets for water quality.

The discussion document was open for submissions until 18th of March 2005. Meetings and hui were held throughout the country in February and March 2005 to discuss the issues and actions identified in this document.

In July 2005, five documents were published by the Ministry reporting on feedback from the meetings and submissions including: Report of the Sustainable Development Water Programme of Action Local Government Workshops which summarises the feedback given at 14 meetings with local government; Testing the Water Report, a report on the Sustainable Water Programme of Action Written Submissions which summarises 292 written submissions; a report of the Sustainable Development Water Programme of Action Public Meetings summarises feedback given at 19 public meetings; Wai Ora Report of the Sustainable Water Programme of Action Consultation Hui which summarises feedback given at 17 consultation hui and Reflections: A Summary of Your Views on the Sustainable Water Programme of Action, a summary of the above four documents.

The latter report provided the following summary of feedback on the suggested action of developing National Policy Statements: National policy statements were considered to be the most desirable action by environmental group submitters. Best practice, guidelines, incentives and voluntary agreements were considered to be a useful complement to more directive actions. Research submitters have also considered development of National Policy Statements to be a priority. Expressions of the national interest (possibly through a national policy statement) was considered to be appropriate by agricultural submitters, if it was essentially guidance to be incorporated into regional plans. Similarly, national policy statements were generally supported by local government submitters where documents are setting high level directions and not imposing quantitative blanket values. The importance of maintaining local decision making was highlighted. Māori submitters were also concerned that the development

of any national policy statements must incorporate a Māori world view, and properly include Māori interests.

In April 2006, Cabinet approved a staged package of actions to improve the sustainable management of New Zealand's freshwater resources. The associated Cabinet paper noted that this package built on the extensive public consultation undertaken in 2005, the analysis of concerns about the current water management framework, and recent changes to the Resource Management Act 1991 to improve the management of resources.

The outcomes sought by Cabinet for freshwater management included: improve the quality and efficient use of fresh water by building and enhancing partnerships with local government, industry, Māori, science agencies and providers, and rural and urban communities; improve the management of the undesirable effects of land use on water quality through increased national direction and partnerships with communities and resource users; provide for increasing demands on water resources and encourage efficient water management through national direction, working with local government on options for supporting and enhancing local decision making and developing best practice.

Cabinet also agreed that a NPS on managing increasing demands for water be scoped and drafted, and that further work be undertaken to consider the potential value of and options for a NPS on nutrients and microbial contaminants and sediment.

In May 2006, public meetings to launch the Sustainable Water Programme of Action were held in Auckland, Wellington, Hamilton, Christchurch and Dunedin.

In November 2006 Cabinet agreed to proceed with a single National Policy Statement to assist in meeting the water demands and water quality

objectives of the water policy programme. This was considered to be more efficient; would achieve better integrated management and consistency between allocation and quality issues and would provide greater ease of use for water users and local government who would need to consult only one national guidance document on water management. This decision was widely supported, particularly by regional councils.

From November 2006 through to early 2008, the Ministry for the Environment led an inter-departmental process to draft the Proposed National Policy Statement. Departments involved in this process included: Department of Conservation, Ministry of Agriculture and Forestry, Ministry of Economic Development, Te Puni Kōkiri (Ministry of Māori development), Treasury, Ministry of Justice, and Department of the Prime Minister and Cabinet.

In addition, drafts of the proposed NPS were reviewed by a Ministerial Advisory Group and an informal group of advisors to iwi leaders.

Prior and during this period, consultation also occurred with a number of other reference groups, including the: Regional Affairs Committee Water Subcommittee, which is a Local Government NZ National Council Subcommittee drawn from Regional Council Chairs; Regional Councils – the Resource Managers Sub-Group on Water; non-governmental Organisations Environmental Reference Group; the Electricity Generators Reference Group; Primary Sector Reference Group.

To satisfy section 46(a) requirements, in December 2007, 300 letters were sent to iwi authorities and relevant stakeholders asking for “views and/or comments on what issues should be addressed in the proposed National Policy Statement”. 35 responses were received all supporting or conditionally supporting the development of the Proposed NPS. This feedback also contributed to the drafting of the Proposed NPS.

In July 2008, the Minister for the Environment expressed to Cabinet his determination under section 45(2) that it was desirable to prepare the Proposed NPS, taking into account the following: Increasing pressures on New Zealand's freshwater resources in terms of both quantity and quality. Especially as water catchments approach or exceed their limits of availability (in terms of satisfying the needs of aquatic ecosystems, allocation for use, ability to assimilate discharges, or recreation and amenity purposes may be compromised); recognition of the three overarching outcomes expected from Government's Sustainable Water Programme of Action (the SWPoA) and a desire for the NPS being one of the key points arising from consultation with Māori.

At that time Cabinet approved the Proposed NPS in its current form, and also approved the release of the section 32 report.

In July 2008 letters were sent to local government, iwi and sector groups announcing the public release of the Proposed NPS. A leaflet entitled "Finding the Balance: Managing Fresh Water in New Zealand" was also published and widely disseminated. This provided an overview of the Proposed NPS for the general public.

On 20 September 2008 the Proposed NPS was publicly notified for submissions. Submissions closed on the 23rd of January 2009 (a period of 4 months) and 149 submissions were received.

Further submissions were called for on 14th of March 2009 and closed on 14 April 2009. 30 Further submissions were received.

Intent of the NPS: In this part of my statement I describe the intended role of the Proposed NPS in the context of previous and current government policy in the water policy area. I also run through the individual clauses of the Proposed NPS and explain their individual intent.

Now with the Board's permission I would seek not to read all of the policies, they're quite long.

CHAIR: Yes thank you they are all before us.

[9.55am]

MS POWELL: Intended fit of the NPS in the wider water policy context: The proposed NPS was developed to help achieve the water demand and water quality outcomes of the Sustainable Water Programme of Action agreed to by Cabinet in 2006. As previously noted, these outcomes were to: Improve the management of the undesirable effects of land use on water quality through increased national direction and partnerships with communities and resource users and provide for increasing demands on water resources and encourage efficient water management through national direction, working with local government on options for supporting and enhancing local decision making, and developing best practice.

The problems that the proposed NPS sets out to overcome in order to assist with the achievement of these outcomes were: Problem 1, a decline in a wide range of freshwater quality indicators; Problem 2, a lack of integrated management; Problem 3, a lack of focus on the uses of freshwater resources; Problem 4, freshwater demand is not presently sustainable; Problem 5, insufficient information and reporting.

Most of these problems have at heart elements of planning and implementation that are not currently adequate to meet growing issues around water management. There is a patchiness in coverage of water management plans and policy across the country; a lack of consistency in policy in the plans and policies that do exist, and an unevenness in the implantation of those plans and policies (although the most recent biennial survey of local government performances has indicated an improvement in monitoring and enforcement.)

Regional plans to manage water quality and quantity are not mandatory under the Resource Management Act. A primary intent of the Proposed NPS as drafted is therefore to oblige all regional councils to address its objectives in their entire regions.

The Ministry considers the Proposed NPS to be a pivotal initiative in a package of three statutory instruments designed to establish consistent policy and implementation.

The two other instruments under consideration are a section 360 regulation that requires measurement of water takes, with the purpose of establishing monitoring of water use and a national environmental standard that sets default minimum flows and water levels to protect ecological values where councils have not established flow regimes.

However, these instruments are only one component of a package of complementary water policy work agreed to by Cabinet at that time. Those other initiatives included: developing agreed targets with industry and local government; identifying catchments that are sensitive and at risk from rural and urban diffuse discharges; providing targeted assistance to land users; exploring existing practice for including tangata whenua science in environmental flow-setting decisions and options for improvement; undertaking policy work on allocation frameworks, including: developing models for consumptive allocation and allocation among activities (primary allocation), enhanced transfer and use of water user groups (secondary allocation), development of model consent conditions, methods for addressing over allocated catchments, gaining Māori perspectives on current approaches to water allocation; undertaking policy work on current and alternative options for funding water management; developing criteria for identifying nationally outstanding natural water bodies and developing improved methods for identifying and protecting natural character and biodiversity values.

On 8th of June 2009, the Government announced its new strategy 'New Start for Fresh Water' outlining the Government's new direction for water management in New Zealand.

Three processes will run in parallel to begin the implementation of a new direction for water management, including: developing a shared understanding through a stakeholder-led collaborative process of potential options to achieve outcomes and goals for New Zealand's water management; continuing engagement between Ministers and iwi leaders on the position and interests of Māori with regard to fresh water, including a joint work programme on matters of mutual interest; ongoing scoping of policy options.

Policy options will be scoped in the areas expected to be the main elements of the new direction. These areas are: stronger central government leadership and better national-level direction and investigation of whether water management decisions are currently being made at the right level; identifying the contribution water infrastructure (including storage) can make to improved water use, and addressing the barriers to this; the science, technical, information and capability gaps which are holding back the necessary management changes and water resource limits to shape actions on quantity and quality; an alternative regime that provides allocations to ecological and public values and then maximises the return from the remaining water available for consumptive use and supplementary measures to address the impacts of land use intensification on water quality, and manage urban and rural demand.

Although the Sustainable Water Programme of Action will not continue in its entirety, Cabinet has agreed that the Proposed NPS will continue in recognition that it is an RMA tool which will support the implementation of government policy, rather than the means to set the whole direction for water management.

I now turn to the clause-by-clause intent: The following is a clause-by-clause explanation of the intent of each objective and policy under the Proposed NPS.

Preamble: The Proposed NPS includes a Preamble that sets out the broad reasons why Cabinet has agreed to draft a NPS for Freshwater Management and notes that this is one amongst a series of initiatives being taken under the Sustainable Water Programme of Action. The Preamble states six goals for the Proposed NPS in order that by 2035 the quality of these resources meets the aspirations of all New Zealanders. These are: Address existing and future constraints on the availability of Fresh Water Resources; address the effects of existing and future discharges of contaminants to Fresh Water Resources; to provide more certainty in respect of competing demands on New Zealand's Fresh Water Resources and facilitate opportunities to increase benefits from the use of Fresh Water Resources, within the above constraints on availability; meet the recreational aspirations of New Zealanders, including that Fresh Water Resources are swimmable; address matters of national significance relating to sustainable management of Fresh Water Resources and improve the integrated management of Fresh Water Resources by territorial authorities, regional councils and others whose activities affect the Fresh Water Resources.

Purpose: The purpose of the Proposed NPS is simply stated as: to state inter-related and integrated objectives and policies as to the management of Fresh Water Resources as a matter of national significance that is relevant to achieving the purpose of the Act.

The Proposed NPS contains nine objectives.

Objective 1, enabling the well being of people and communities is to ensure that Fresh Water Resources are managed in a way that enables

the people and communities of New Zealand to provide for their social, economic and cultural well being, and their health and safety.

This objective reflects the relevant part of section 5 (Purpose of the RMA).

The intent of Objective 1 is to clearly place the issue of fresh water resource management within the context of section 5 by using the language of that section – particularly from the definition of sustainable management. At the same time the objective makes it clear that decisions about fresh water resources are to be made by and in the interest of the community.

Objective 2, ensuring integrated management of effects on fresh water is: to ensure effective integrated management (including by the co-ordination and sequencing of Land Use Development with investment in infrastructure for supply, storage and distribution of fresh water) of the effects of Land Use Development and discharges of contaminants on the quality and available quantity of fresh water.

This objective reflects the fact that integrated management is a function of regional councils and territorial authorities under section 30 and section 31 respectively of the RMA.

The intent of Objective 2 is to emphasise the need for integrated management of effects on fresh water across regional and territorial council functions having particular regard to the necessarily large scale investments required for water infrastructure, and the appropriate and timely sequencing of such development. It identifies two areas of particular concern, being the potential for adverse effects on water quality and availability arising from land use development and/or the discharge of contaminants.

The objective places its emphasis on “effective” management.

Objective 3, 'improving the quality of fresh water is: To ensure the progressive enhancement of the overall quality of Fresh Water Resources, including actions to ensure Fresh Water Resources can reach a swimmable standard except when there are natural causes that prevent this.

This objective reflects the fact that good water quality is essential for giving effect to section 5 as well as a number of the elements of section 7 (other matters). It is also a function of regional councils under section 30.

The intent of Objective 3 is to establish national, regional and local fresh water quality benchmarks as a basis for continuous improvement. There is a particular requirement for local authorities to identify where a swimmable target is appropriate for a water body, and then to take action to ensure that those water bodies reach that target.

The objective refers to an 'enhancement of the overall quality' of fresh water. The term 'overall' implies that the focus is on improving the quality of New Zealand's collective fresh water resource. No timeframe is specified, with the term 'progressive' being used. This recognises the significant challenges involved and that there will be multiple solutions and many stakeholders.

Objective 4, recognising and protecting life supporting capacity and ecological values is: To ensure the life supporting capacity and ecological values of Fresh Water Resource are recognised and protected from inappropriate: taking, use, damming or diverting of fresh water; land use development; discharges of contaminants.

[10.05am]

This objective reflects the fact that protecting the life supporting capacity of water is explicitly a section 5 matter and the values of its associated

ecology a section 7 matter. It is also a function of regional councils under section 30.

The intent of objective 4 is to emphasise the fundamental priority of the natural values of water resources over certain explicitly stated activities and uses, where the adverse effects of those latter activities and uses are likely to compromise the former natural values. The matter of what is, may be or is not inappropriate is left for subsequent determination but is a concept well rehearsed in RMA decision making.

Objective 5, addressing fresh water degradation is: To control the effects of Land Use Development and discharges of contaminants to avoid further degradation of Fresh Water Resources.

The objective reflects the fact that control over contaminant discharges is a regional council function under section 30. Control over land use development is a shared function of both regional councils and territorial authorities under sections 30 and 31 respectively.

The intent of Objective 5 is to halt the decline in the quality and quantity of fresh water resources caused by these two broad categories of activity in particular.

This objective reinforces Objective 5 by emphasising that preventing further degradation is an important component of achieving the improvement of overall water quality.

Objective 6, managing demand for fresh water is: To ensure that demands (including social, economic and cultural demands) for fresh water are sustainably managed in a manner that has regard to: the available supply of fresh water; the need to provide for resilience against the effects of climate change (such as through infrastructure for supply, storage and distribution of fresh water) and the adverse effects that arise from those demands.

This objective reflects the fact that control over the sustainable management and allocation of water is a regional council function under section 30. This was clarified through the RMA Amendment Act 2005.

The intent of Objective 6 is to emphasise the importance of actively managing water demand (rather than simply supply) and, in doing so, to take account of future fresh water supply needs.

Objective 7, efficient use of fresh water is: To ensure that the allocated fresh water is used efficiently particularly in terms of: avoiding wastage; avoiding excessive contamination and facilitating opportunities to increase benefits from the use.

This objective reflects the fact that, among other matters, efficient use (and development) of resources is a section 7 matter. It is also an allocation matter within regional council's functions under section 30.

The intent of Objective 7 is to emphasise the need to consider efficient use parameters (including end use) when allocating and monitoring the allocation of water use so that the maximum national benefit can be extracted from the available resource. The issue of efficient use has become one of increasing concern as catchments approach or reach critical allocation thresholds - as has the prospect that more efficient and beneficial uses may be locked out as a consequence of inefficient allocation.

This objective will require councils to allocate water based on relevant up-to-date knowledge about water takes and not to over-allocate specific catchments or aquifers. A greater focus on ensuring security of supply will also be required.

The use of water can result in contamination of waterways, particularly where land is irrigated to excess, and a sub-objective that aims to ensure

that excessive contamination is avoided through the efficient allocation of water.

Objective 8, iwi and hapu roles and Tangata Whenua Values and Interests is: To ensure that iwi and hapu are involved, and that Tangata Whenua Values and Interests are identified and reflected, in the management of Fresh Water Resources; in addition to being a section 5 Purpose matter related to cultural well being, this objective also reflects section 6 (e), section 7(a) and section 8 RMA matters.

The intent of Objective 8 is to recognise all the above matters (and particularly that of section 7(a), kaitiakitanga), to emphasise the important relationship and role that Māori have with respect to fresh water resources, and to ensure that this is reflected in management and decisions.

Objective 9, ensuring effective monitoring and reports is: To ensure that regional councils and territorial authorities undertake effective monitoring and reporting of the matters specified in Objectives 1-8.

This objective reflects the section 35 duty to gather information, monitor and keep records.

The intent of Objective 9 is to emphasise the importance of good monitoring and reporting on water resource management so that demand can be properly assessed and efficiently allocated nationally as well as locally.

The objective will provide the community and decision makers with valuable information regarding progress towards the matters outlined in Objectives 1.

Policies. The proposed NPS contains nine policies. Policy 1 applies to regional policy statements. And I'll not read that, it's very long.

CHAIR: Of course.

MS POWELL: Which takes us through to paragraph 105.

CHAIR: Thank you.

MS POWELL: The intent of Policy 1 is to ensure that all regional councils amend their regional policy statements to give effect to the provisions of the Proposed NPS and, in particular, the itemised matters contained in the policy by specifying objectives, policies and methods for implementation. Key terms in this policy are defined in the Proposed NPS for further guidance.

By requiring these changes to be publicly notified within two years of the proposed NPS being gazetted, the policy seeks to encourage all regional councils to collaborate so that a degree of national consistency is achieved in the notified documents.

The policy also requires councils to identify both outstanding and degraded water resources and their associated values (including tangata whenua values and interests) so that the community is clear about the values attached to those resources, and the manner in which those values will be maintained or enhanced and the consequences of doing so.

Finally, the policy establishes directions for regional and district planning, designation and consent decision making to achieve integration and sequencing of activities with respect to fresh water demand and the potential for adverse effects from land use development and contaminant discharge activities.

Policy 1 contains four important terms relating to different types of fresh water resources: Degraded Fresh Water Resources; Outstanding Fresh Water Resources; Fresh Water Resources; and Tangata Whenua Values in Interests.

Underlying these terms is the concept of 'Notable Values' which includes scientific, ecological, biodiversity, cultural and recreational values.

In order to implement Policy 1, regional councils will need to identify the Fresh Water Resources that are considered to be degraded and outstanding. In addition, they will need to work with local iwi and hapu to identify Tangata Whenua Values and Interests, and to review and update existing iwi and hapu planning documents. A significant amount of investigative work is likely to be required to identify Tangata Whenua Values and Interests.

The policy uses the term 'guide and direct' quite deliberately throughout to indicate that a regional policy statement must do both these things - not simply direct or merely guide.

Policy 2 applies to regional plans.

I'll move through to paragraph 114. The intent of Policy 2 is to give effect to Policy 1 through regional plans and also in resource consent decisions.

The policy recognises that the time needed to make the regional policy statement changes required by Policy 1 operative will vary nationally, because of the statutory processes that must be followed. It therefore sets a time period of 40 days from the time the regional policy statement changes are made operative within which further changes to plans are required to be notified, unless the regional policy statement itself contains specific and different timelines for the matters of fresh water quality standards and environmental flows and levels. This latter provision recognises that the ability to implement this requirement will vary across regions, depending on the adequacy of their respective databases for this purpose.

The policy directs regional councils to develop rules on efficient consumptive use of water and on the return of fresh water to fresh water

resources. This policy recognises individual differences between regions and allows for those differences to be expressed regionally, though within a clear direction on efficiency.

The policy also requires the inclusion of specific conditions on discharge permits and monitoring and reporting on those specific conditions. These provisions underline that regional plans are to manage effects from at-source exacerbators, for example, storm water discharges, and to consider potential cumulative effects. A minimum standard of industry good practice is articulated. While this is not defined in this particular instance, it will require regional councils to establish agreed industry benchmarks – itself a useful exercise in drawing from the community its expectations and setting these in a framework of realistic and practicable possibilities.

The identification of Fresh Water Resources as being either Degraded or Outstanding by regional councils will effectively determine the degree of change from the status quo that will be required. In regions where Flow and Water Level standards are not substantially different from current practice, the change from the status quo is likely to be minimal.

Current causes of degraded water quality are predominantly agricultural runoff, unrestricted stock access to waterways, leaching of nutrients and agricultural chemicals into waterways and groundwater, industrial point source discharges and urban storm water runoff. These areas will be the focus of efforts to improve water quality.

Policy 3 applies to district plans.

[10.15am]

I'll skip to paragraph 121. The intent of Policy 3 is to give effect to Policy 1 through district plans and also in land use and subdivision resource consent decisions.

Similar to Policy 2, this policy requires that the time taken to make the regional policy statement changes required by Policy 1 will vary nationally. It sets a time period of 40 days from the time the regional policy statement changes are made operative, within which further changes to district plans are required to be notified for the reasons stated. The key practical implication of this policy is to provide for a closer integration of planning outcomes between regional and district plans.

The policy also requires the inclusion of specific conditions on consents and monitoring and reporting on those specific conditions. These provisions underline that district plans are to manage effects from activities that are at-source exacerbators.

A minimum standard of industry good practice is articulated. While this is not defined the particular instance, it will require councils to establish agreed industry benchmarks – itself a useful exercise in drawing from the community its expectations and setting these in a framework of realistic and practicable possibilities.

Policies 4 and 5 apply to the preparation of regional policy statements and plans.

I'll skip to paragraph 126. The intent of Policy 4 is to provide additional guidance on those matters that a regional council must consider in giving effect to this Proposed NPS through a regional policy statement or regional plan. The policy defines the range of potential competing "interests" and requires that these be separately considered in arriving at the overall policy balance.

The policy suite includes consideration of natural and physical values as well as economic and cultural values and investments. In itself this policy does not create a hierarchy of matters for consideration but merely points to some key concerns.

Policy 5, which applies to district plans states below, and I turn now to paragraph 129. The intent of Policy 5 is to provide additional guidance on those matters that a territorial authority must consider in giving effect to the Proposed NPS through a district plan.

The policy defines a range of factors designed to ensure the efficient integration of the planning and sequencing of development (including water infrastructure) so that adverse effects on water resources are minimised, proper regard is had to tangata whenua values and interests, and the transition costs are taken into consideration.

The policy sets a benchmark of industry good practice for land use development.

Policy 6 applies to certain consents and designations.

I turn now to paragraph 133. The intent of Policy 6 is to ensure that, particularly in the period prior to the Proposed NPS amendments to policy statements and plans becoming operative, decisions on resource consents and recommendations on notices of requirement for designations, consider and as appropriate, include conditions relating to the core matters of the Proposed NPS, and that these be monitored and reported.

The policy sets a minimum benchmark of industry best practice to secure the defined outcomes. Best practice is a continuously evolving standard and work will need to be undertaken to set and re-set those benchmarks on a periodic basis – particularly where they do not currently exist. This is an exercise that will require partnerships between the various players in the field. Research will also be required to ensure that Tangata Whenua Values and Interests area addressed within industry good practice guides, to provide advice on how best to implement Objective 8 and other relevant policies.

Policy 7, carry on to paragraph 136. The intent of Policy 7 is to enable and encourage consent authorities to consider ways, in addition to regulation through policy statements and plans, by which the Proposed NPS provisions and intent can be given effect.

Policy 7 does not specify particular non-regulatory methods. Methods that could potentially be used include, among others: Public awareness and education; advocacy; incentives or grants; funding and support of care groups; providing resources to schools; technical or scientific support and forming partnerships with key industries, tangata whenua and stakeholders.

This policy does not require action by consent authorities but implies options that they may choose to implement as alternative or additional ways in which to give effect to the Proposed NPS. It is also important to note that many local authorities have already implemented other methods that would help to give effect to the Proposed NPS.

Policy 8. I'll read these ones as they're very short. All local authorities will make publically available (including electronically) a record of the process used to identify the Tangata Whenua Values and Interests in Fresh Water Resources of the region as required to give effect to Policy 1(e), including the identification of the relevant iwi and hapu.

The intent of Policy 8 is to ensure openness, transparency and accessibility of the information underpinning the implementation of the Proposed NPS. It is also consistent with the requirements of sections 35 and 35A relating to this matter.

Policy 9 states the Minister for the Environment will seek an independent review of the implementation and effectiveness of this National Policy Statement at achieving all the objectives and policies of the National Policy Statement no later than 10 years after it comes into force and shall

then consider the need to review, change or revoke this statement.
Collection of data to inform this review will begin at least two years prior to the review.

The intent of Policy 9 is to ensure a regular review of the Proposed NPS consistent with similar provisions for the 10 yearly review of the regional policy statements and regional and district plans under the RMA, but which is not formally required of an NPS.

I now turn to section 32 report and I have summarised this significantly.

CHAIR: Thank you we have the section 32 report.

MS POWELL: You have the section 32?

CHAIR: Yes.

MS POWELL: The full title of the Section 32 report is the “Proposed National Policy Statement for Freshwater Management: Section 32 Evaluation”. It was published by the Ministry for the Environment in July 2008.

A section 32 evaluation considers the appropriateness, alternatives, costs and benefits of the proposed national policy statement, along with its objectives and policies.

The sections of the report are as follows: Following the introduction, section 2 outlines the current situation (the status quo). This includes a review of the existing statutory and non-statutory measures for managing freshwater resources, and a review of the current approach.

Section 3 identifies a range of alternatives to the Proposed NPS, and evaluates their likely effectiveness relative to the three outcomes set under the Sustainable Water Programme of Action.

Section 4 provides an overview of the evaluation methodology and the requirements of section 32.

Section 5 includes a detailed evaluation of the Proposed NPS. This includes an evaluation of each objective, and an estimation of the costs and benefits associated with each policy. Risks and uncertainties are also identified.

Finally section 6 provides conclusions to the section 32 assessment.

The current situation: This section sets out the status quo for freshwater management in New Zealand.

The report notes that in the absence of any national policy on fresh water, regional level documents (including mandatory regional policy statements and discretionary regional plans) have provided the main framework for the management of fresh water.

The report also notes that in practice, land use planning and freshwater management have not often been well integrated. In particular, the significant challenge of addressing the cumulative impacts on water quality arising from land use practices is often not well handled.

The report also summarises some examples of non-statutory measures, including: Dairying and Clean Streams Accord; kaitiakitanga programmes; community restoration programmes; public education programmes and water metering.

The report characterises the effectiveness of the status quo as 'mixed', although the only strong positive listed is a reduction in point-source pollution. Negative attributes of the status quo included: Inadequate management of diffuse source pollution; shortcomings of the first-in first-served approach to water allocation, including a failure to promote efficient use or to effectively manage cumulative effects.

It then identifies five key problems that are identified at a national level, and which support the need to examine a national response to freshwater management. These five points have been previously noted. Do you wish me to read them?

CHAIR: No thank you.

MS POWELL: Paragraph 151. The report's overall conclusions about the effectiveness of the status quo is perhaps best captured by the following statement (from p.14 of the report): At present it appears that at a national level the sustainable management of freshwater resources is not being achieved through the mix of existing policy and decision making mechanisms, that is e. regional and district plans, and resource consent decision making. Given that regional and district plans have been in place for some times, there appears to be a case for national intervention. This is not to suggest that district and regional councils are not able to resolve the issue. Rather, the government needs to provide strong and clear direction on what is considered to be nationally significant.

The proposed NPS and its alternatives. This section begins by setting out the three outcomes of the Sustainable Water Programme of Action. Options for achieving those outcomes, in addition to the Proposed NPS, are analysed including: amendments to the RMA; enhancement of the status quo, that is fresh water managed through regional and district planning mechanisms; ministerial call-in of freshwater proposals; national environmental standards for fresh water; economic instruments and best practice guidance.

[10.25am]

The report concluded that none of the options above could individually achieve the three outcomes, although some might well form complementary measures.

A national policy statement has the advantage of being able to specify clear policy in the form of objectives and policies. An NPS can both direct councils to amend plans and policy statements, as well as being a matter that decision makers on resource consents must consider under section 104. An NPS is potentially a dynamic and responsive instrument, particularly when compared to, say, legislative amendments.

An NPS can provide objectives and policies aimed at improving the quality and efficient use of fresh water. It can also promote both non-regulatory and regulatory methods, which may include building and enhancing partnerships with local government, industry, Māori, science agencies and providers, and rural and urban communities. By doing so, an NPS would meet the requirements of outcome 1.

An NPS could also provide clear policy on how to improve the management of the undesirable effects of land use on water quality by tying together policies on water quantity, water quality and land use development so planning takes place in an integrated and strategic manner. This are is seen as a major opportunity for improved practice, and therefore an NPS is able to satisfy outcome 2.

Finally, an NPS can provide clear guidance on how to deal with increasing demands on water resources and encourage efficient water management. This can be achieved through regulatory means, as well as non-regulatory means such as encouraging partnerships with local government on options for supporting and enhancing local decision making and developing best practice.

An NPS would have the additional benefit of being a relevant matter for decision makers in relation to section 104 of the RMA. Therefore, an NPS would satisfy outcome 3.

The report concludes that an NPS is the only option that addresses all of the three desired outcomes. However, although the NPS is the preferred option, and is considered to be the most appropriate mechanism to provide strong national guidance, other tools may be complimentary.

Evaluation methodology: The methodology followed in the report was guided primarily by the requirements of the Act. There were two phases to the evaluation, as required by section 32: An evaluation of the appropriateness of the Proposed NPS objectives in achieving the purpose of the RMA,; an evaluation of Proposed NPS policies, focusing on the benefits, costs, effectiveness, efficiency and the risks of acting or not acting of each individual policy.

The meanings of the proposed objectives were closely examined to ensure that they could be the most appropriate way of achieving the purpose of the RMA. An analysis of the relationships between the objectives was also undertaken to gain an understanding of potential interactions and to see if there were any overlapping or conflicting aspects to any of the objectives.

For each objective, the evaluation included seven key elements all related to the purpose of the Act. These were: Sustaining the potential of natural resources (section 5(2)(a)); safeguarding the life-supporting capacity of natural resources (section 5(2)(b))' adverse effects on the environment (section 5(2)(c)); social well being, economic well being, cultural well being, health and safety.

Finally, an overall assessment was made of the appropriateness of the objective as a whole in terms of achieving the purpose of the RMA. The RMA requires the evaluation to examine the extent to which the objectives are the most appropriate, which could be interpreted to mean they need to be assessed against all other potential alternatives. This was done as the objectives were being developed and refined over the previous 12 months,

during which time ongoing improvements were made to the proposed objectives and policies. As previously noted, this involved many stakeholders and an 'all of government' approach.

The evaluation of the proposed policies required an assessment of their appropriateness in achieving the objectives. The terms used in the RMA are efficiency and effectiveness: Efficiency refers to the costs and benefits associated with the policy. An efficient policy is one where the benefits are greater than the costs. Effectiveness means how successful the proposed policy would likely be in achieving the objective.

A largely qualitative approach was used in the identification and analysis of costs and benefits. Some costs in relation to the implementation of the Proposed NPS for district, regional and central government were identified and these were included in Appendix A to the report. In addition, some financial impacts on the primary sector and New Zealand's 'clean green' image were included in Appendix B to the report. Each policy was analysed and the environmental, social, economic and cultural costs and benefits were estimated.

The distribution of costs and benefits was also considered in the analysis.

The identified costs and benefits should be regarded as possibilities rather than certainties. It is worth noting that even given the most detailed evaluation work will not result in a full quantification of all costs and benefits. Economic methods for determining non-tangible considerations do exist, but they tend to be costly, time-consuming and controversial. Also, given the scale of an NPS it is virtually impossible to apply such values on a national scale, as they are more suited to project specific outcomes.

Evaluation of the Proposed NPS: The report considers that the Proposed NPS meets the tests required by section 32. Specifically, the evaluation

concludes that the objectives meet the purpose of the RMA, namely sections 5(a), (b) and (c). Therefore, it is considered that the requirements of section 32(3)(a) are met. In addition, each of the policies achieves one or more of the objectives, and the benefits outweigh the costs, while the risks appear to be manageable. Therefore, it is considered that the requirements of section 32(3)(b) are met.

The evaluation then attempts to quantify the costs and benefits of the proposed NPS in dollar terms. It is concluded that the Proposed NPS is likely to cost central and local government up to \$100 million in the 25 year period to 2035. A summary of the impacts on the primary sector is included in Appendix B to the report, but the quantification was considered difficult as it relies on specific regulatory actions from primarily regional councils.

The evaluation also attempts to provide a context for these costs by quantifying the benefits to the country in general terms. Throughout the evaluation, a range of benefits are identified, such as the value of New Zealand's clean green image and the cost of water treatment. While these benefits are much more difficult to quantify, Appendix B to the report does attempt to provide some context to the real value of water. Overall, it is considered that the benefits of the Proposed NPS outweigh the costs, and that the Proposed NPS is the most appropriate means to achieve the purpose of the RMA.

The final element of the analysis is an examination of the risks, uncertainties and assumptions associated with each of the policies. Section 32(4)(b) of the RMA requires an evaluation to take into account: The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies.

The risk of acting versus not acting are difficult to predict. However, the report states that the risk of not acting will likely mean: Further ongoing

costs associated with improving the regulatory regime to address water quality under an enhanced status quo scenario – these costs have not been identified in this section 32 in detail, but are likely to be significant, and will be incurred whether or not this NPS is notified; further degradation of water quality, largely as a result of further intensification of land uses – both urban and rural – and poorly controlled discharges (largely non-point-source discharges); a lack of action to improve water quality across the board, and therefore a loss of opportunities associated with clean water; a lack of a co-ordinated and integrated approach between freshwater management and land management; increased demand and conflict over water use and allocation; decreased ecological function and a loss of important values as a result of water flows and levels falling too low, perhaps in part due to the impacts of climate change.

Potential risks of acting included: Whether the timeframes specified in the NPS are appropriate given the significance of the resource management issues; whether the NPS creates a level of additional work for regional and district councils for which insufficient resources are available to deliver on the NPS requirements in time; whether a few or many regional and district councils interpret their own plans relative to the NPS as being satisfactory, and therefore little change will occur at the local/regional level.

Conclusions: The report considers the 'key test' is whether, on balance, the proposed NPS will deliver a range of benefits to all New Zealanders that outweigh the costs associated with a 'tougher' policy framework.

Overall, the evaluation concludes that the proposed NPS will provide, on balance, significant benefits to New Zealand's freshwater resources, and by implication, to New Zealanders. Some stakeholders will undoubtedly carry a greater proportion of the costs associated with the Proposed NPS than others. These stakeholders will initially be regional and district

councils and in the context of the overall benefits, these costs were considered to be acceptable.

Other stakeholders disadvantaged are those who are contributing to the problems associated with degraded water quality and over-allocation. While each case will be taken on its merits, the principles of internalising costs, or in some instances 'polluter pays', is a well accepted part of resources management in New Zealand.

[10.35am]

The key issue will be the timeframe over which these costs are attributed or incurred. The Proposed NPS does identify timeframes for specific planning activity which apply to district and regional councils, monitoring, and ultimately to achieving water quality objectives by 2035. While many New Zealanders would perhaps prefer to see this target date brought forward, a 25 plus year programme to improve water quality, allocation and flows was concluded to be pragmatic and practical.

Given the evaluation presented in the report, it was concluded that the Proposed NPS meets the tests of section 32 of the RMA, and, furthermore, will promote the sustainable management of natural and physical resources.

CHAIR: Well thank you very much Ms Powell that's an excellent background to the task that we have ahead of us. I'm sure there will be a few questions that the Board has of you.

MRS VERNON: Thank you Sue for that excellent summary. Just a point of clarification with the status of plans throughout New Zealand with funding, it's not mandatory to have regional plans or district plans. But where is it sitting at the moment with most of those councils, are they actually undertaking some of this work? Oh you mightn't know, I mean I don't

know, but I know of a couple, but I mean where is its state sort of throughout New Zealand?

MS POWELL: All districts are required to have district plans, that's mandatory. All regions have some coverage of auditing, so there are plans that cover all the issues in all the regions of New Zealand; while some are comprehensive not all are and not all cover both the quantitative and qualitative aspects of it.

MRS VERNON: So when they are not - are they qualitative or quantitative or are they a whole range of?

MS POWELL: It depends very much on the issues in the region. So East Coast regions tend by example to have a lot of focus on water quantity issues. And other areas perhaps where water quality or quantity is not an issue, the coverage you will find is quite light.

MRS VERNON: Okay thank you. Just one on objective 7, the intent of the objective is all about future use, isn't it, it's not about what is currently happening is that?

MS POWELL: That's correct.

MR PRIME: In you consultations do you have a (inaudible) of how many have environmental or iwi management plans?

MS POWELL: There are a substantial number of area management plans, I could find a number of them, I don't have them in front of me, if you wish. The material that they cover and the issues that they cover are those of significance to the iwi or hapu in the circumstances, so some touch deeply into resources management matters, others much more lightly depending on the issues that they face. We probably could provide you if you wished.

MR PRIME: Thank you.

DR HARDING: Thanks very much for your submissions or your review. I guess one of the things that does trouble me a little bit is some of the definitions and terms, so things like “degradation” for example. Does the Ministry have some sort of view about how that will be defined?

MS POWELL: It was a matter of some angst as to where to define these things within the National Policy Statement. My understanding at the time was that these matters were, within the context, reasonably well understood and that we would expect that regional councils or local government was able to benchmark in terms of those words through the RMA process.

CHAIR: In your paragraph 27 we were talking about the statutory process, you’ve referred to a possible alternative to the Board of Inquiry process. Is that what is being done with the recently announced forum process that you refer to a little later on in your document?

MS POWELL: No the forum was a non-statutory process and the intent is that it would be operating above legislation so not in the context of the RMA.

CHAIR: Above legislation?

MS POWELL: Looking at high level of strategic goals and targets that we may need to have were government to adopt such an approach it might then choose to have subsequent instruments of such a strategy.

CHAIR: It might hang statutes off them?

MS POWELL: No, instruments such as RMA instruments or other instruments.

CHAIR: I see. In paragraph 67 you described the Preamble to the present document which of course pre-dates this current initiative that we’ve just

been hearing about. Does the text of the Preamble really need some amendment now to the extent that it's a statement of the government's attitude leading to the National Policy Statement?

MS POWELL: My understanding is the Preamble is both an aspirational statement of the government of the day and is it's quite correct to refer to that that it may not be the aspirations of current government. However, it is also provides a context statement within which the National Policy Statement has been drafted. Cabinet has actively determined that the National Policy Statement process will continue and I would expect that through that, that that includes an option of what is contained within this document. I don't think I've actually answered your question particularly satisfactorily.

CHAIR: Well let's come to it again. We know that the Preamble, to the extent that you've described, was part of the total package of the proposed NPS which at the time the Cabinet approved for the purpose of going forward into the process in which we're now engaged. And no doubt it was seen as being a valid and correct statement at the time. Things change; by the time the Board has completed its task and made a report to the Minister there may even have been further changes.

[11.14am]

The Board's report is not the final step in the process, so to the extent that the Preamble requires amendment to take into account developments since it was originally approved is it for the Board to consider those amendments, or is that for the Minister or the Minister's advisors after the Board has made its report?

MS POWELL: I think the first response is that the Cabinet has not rescinded its decision to proceed with this National Policy Statement, so the National Policy Statement in its entirety is still supported by the original Cabinet's

decision. Things do change, and that's the prerogative of governments. I think my own view, and I stand to be corrected, is that the Board's role is to make determinations on the information that has been placed before it.

CHAIR: So that if the Board were to take what might be called a narrow approach and say it's only concerned with amending the content of the document to the extent that a submitter or submitters ask, is that too narrow because there must sometimes at least be consequential amendments?

MS POWELL: The Board is able to inquire and able to seek additional information. I would imagine that I would not presume or be able to give the Board advice, subject to public process the Board will be able to seek what information from officials as you wish, as part of that process.

CHAIR: So in that section of your statement to us today where you've summarised the content of the Preamble should the Board infer that the Ministry is not proposing or suggesting that the Board should consider whether the Preamble needs amendment or not in the light of subsequent events?

MS POWELL: I would imagine that the preamble would need obviously to be amended to reflect changes the Board (inaudible) to be made to the National Policy Statement, but we need to put that in context (inaudible).

CHAIR: That's what I call consequential amendments.

MS POWELL: I was skirting around your primary question.

CHAIR: Well, would you rather take time to consider it?

MS POWELL: I would like to take some time and (inaudible) feedback in a formal answer.

MRS VERNON: Can I add a part to that Judge and it's along the same - context is how do we - or is it appropriate that the NPS be inconsistent with what is in paragraphs - I mean I'm not saying that it isn't, but how do we align it with the 63, 64, what you've put in 63, 64, which documents really usefully the new start for freshwater and I guess my concern is do you see that there are any inconsistencies with what is on those paragraphs and I guess it goes to what the Judge is saying about the Preamble and what was in paragraph 61, which was the previous Cabinet's direction. So I guess my concern is that we don't want something that's inconsistent.

MS POWELL: I think with careful management there is ample opportunity for the Land and Water Forum to be operating in a space that does not conflict with National Policy Statement, the proposed national policy statement. I think there are multiple discussions to be had around values that New Zealanders hold with water and how some of those (inaudible) problems might be resolved. I think that is a high level strategic conversation that can take place without necessarily impacting on the process of the National Policy Statement which is being asked (inaudible) given.

CHAIR: Thank you. Well, will you consider the question of the Preamble further and if you have any further position on behalf of the Ministry to inform the Board of would you do so please thank you. And thank you very much for your careful preparation of this material which has helped us, it is a good start for our Inquiry.

We're going to take a break now and our plan is that we will hear from the Greater Wellington Regional Council, which is a submitter at 20 past 11 will that be satisfactory. Thank you well we'll look forward to hearing that then; in the mean time we'll retire.

ADJOURNED

[10.52am]

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RESUMED

[11.27am]

CHAIR: The Board would now like to hear the presentation on behalf of the Greater Wellington Regional Council. Are you Mr McLea?

MR McLEA: Yes.

CHAIR: Thank you very much for coming.

MR McLEA: I have a PowerPoint presentation I'd like to go through with you and speak to. I will just introduce myself, I am the (inaudible) advisor of the Greater Wellington Regional Council and I have been there for some time now.

You've got our submission and I don't intend to go through it in a lot of detail, because I don't think it needs a lot of further explanation, but please ask (inaudible).

So in the presentation that I wanted to make today I wanted to make some overall comments on the National Policy Statement. Then I thought I'd tell you a bit about our region's fresh water resources. I thought that might be a good way to provide some (inaudible). We have a proposed regional policy statement which has just been notified and we've been working on it at the same time as this National Policy Statement's been prepared. We didn't see the National Policy Statement until after it was notified. So that its timing, it's a relevant thing for us. What I'd like to do is to distribute copies of that to you and go through some of the provisions in it. I know that you're going to get an awful lot of things through this process, but from our point of view this is probably the most important document that

Greater Wellington (inaudible). And then I'll just make some specific comments on the RPS in relation to our position.

So just some overall comments. Really, giving effect to the proposed National Policy Statement isn't going to make – is going to make a few advances on what we have in our regional policy statement and that's just an observation that we make.

(Inaudible) National Policy Statement is it doesn't really say much about what contributions central government's going to make and the analogy I draw there is in our regional policy statement we include economic statutory methods where we say what we're going to do and we think there's an opportunity to do that in the NPS and I guess to give an example, I suspect again we're going to find, well we certainly do, science – the more science is something that most councils need in relation to fresh water and it's costing to buy that science of CRIs, region-by-region and having a more sort of integration of resource management science at a national level would be something that – the kind of thing that the National Policy Statement might think about as a non-statutory resource.

Just going back to the previous bullet point, where I said that we – it doesn't make – it doesn't advance us much. From that point of view we don't find it – it's not a very helpful document for us and I say that bearing in mind that we have two national environmental standards which we find very helpful and we are very supportive of those, that's the National Environment Standard for Water Measuring Devices which has been proposed and there's the National Environment Standard for Environmental Flows and Water Levels for lakes and so on and that's also been proposed. We are quite supportive of those and we would like to see those completed and we would get a lot of help and use out of those.

We don't see this in the same way. This proposed National Policy Statement, because it's only proposed, doesn't provide us with a lot of support and it's not very helpful to us.

The last bullet there, to us there's a lack of direction on what the national interest really is and I guess to give an example in the National Policy Statement itself might be, there's a definition of degraded resource and notable resource and so on, but the definitions appear – allow regional councils to go off and define those, or interpret those things region-by-region. And that's just one example of what we would like to think the national interest would like to hear more about what that is and what we should be doing.

So I'll come back to the RPS, but first I'll just talk a bit about this region, just to give you a bit of background.

We're a region of rivers and with the notable exception of Lake Wairarapa which has a Water Conservation Order on it, which is (inaudible) itself, and I guess what that means is that we don't have much storage in the region.

And I'll just say that our fresh water issues are similar to many other regional councils in the country, but I – you know, I mean we have the same sorts of issues as - well the Greater Wellington region, but I'd just like to qualify that because it's not something that (inaudible) that's there in some regions and Canterbury's an example where water allocation issues that go on. We have the same issues but they're not quite as intense.

Just getting into a bit more detail, we have water quality programmes and we've identified in 18 of the 56 rivers, river samples had poor water quality

and that's not (inaudible) satisfactory situation as far as we're concerned and (inaudible) put effort into improving those through the resource consent process and also through those non-statutory means that we use (inaudible), providing incentives for riparian and those kinds of things that are very important. We think the non-regulatory methods are what's going to (inaudible) and standards.

I can also say that water (inaudible) is largely due to run off from the land. We have some sewerage discharges in the Ruamahanga catchment, but there are not many other discharges that are causing water quality problems, it's largely run off from the land, and it occurs in rural areas and urban areas. They are two quite different issues to address and I guess the science – we think the science that we have for urban areas is such where we're in a position to take a more regulatory approach. In rural areas, we don't really have the science to move into that, if we decided that was the most effective way to (inaudible).

So just to expand on that a bit. This is the map of the region, those are our water quality monitoring sites. The region is – that's just north of Otaki on the west and north of Masterton on the east. And I said we had 18 rivers with poor water quality and those are the ones shown in the red and the other couple show excellent to fair and you'll see that's Porirua Stream, those two corners there. The Waiwhetu Stream. The Waimeha Stream up there, it's an urban stream with (inaudible). In Otaki there's (inaudible) Stream, so those are some of the locations where there's poor urban quality which is a result of the storm water.

In the rural areas, mostly in the Wairarapa, the Ruamahanga River flows through there and a lot of these are tributaries of the Ruamahanga River. But those are where we have poor water quality in rural areas.

Just talking a bit about water quantity. 65% of the Wellington region is allocated to public water supply – Kapiti, mostly in Kapiti and in Wellington, Hutt, Porirua and Upper Hutt. 33% of water is for irrigation and that's mostly in the Wairarapa. We also have a regional fresh water plan which was made operative about 10 years ago. If you want a copy of that, I'm happy to supply you with one. I don't have it here at the moment. But that was made operative 10 years ago and although it has a minimum – it sets minimum flows for 14 of the rivers in the region and puts allocation limits on 23 rivers and those are the most widely used rivers in the region.

[11.40am]

The other thing is that we have allocation limits on all ground river aquifers, so those are set. What we're finding now is that many rivers and ground river aquifers are now fully allocated and I've got a couple of maps here that – the red indicates full allocation and the slightly lighter red or orange is getting high allocation, a lot of it, as I say over 50% allocation. I mean what that tells you is the river is at – they are pretty fully allocated, certainly in the Wairarapa and Kapiti areas. That was, you know, that was probably true when we set in place the allocation limits and the minimum flows in our fresh water plan as well.

The biggest change that's probably occurred is ground water and the increase in taking ground water in the region and that, I guess that demonstrates the sort of issue that we have where the brown is the Wairarapa and the red is Wellington. That's Wellington, Hutt, Porirua, Upper Hutt and the green is the Kapiti Coast and you can see the Kapiti Coast, this is the amount allocated through resource consents. Kapiti Coast has been pretty steady and there's a growth there in 2004, 2005 when there was a new water supply. (inaudible) quite steady and

we know that there's going to be some increases there, but the Wairarapa is one where more attention to irrigation, it's doubled in that time period. So that's where a lot of demand has occurred (inaudible) the slide that we are on now, and certainly, once again the red is the fully allocated areas and you can certainly see for the Wairarapa, there's quite large chunks of red and 10 years ago we didn't have all this red here. So it's an issue that's developed in the last five to eight 8 years. Fortunately we have those allocation limits in place in our regional plans and we've been able to say, stop in those red areas. But we're developing a ground water model for the Wairarapa, using our revised fresh water plan which is due to start in December 2009, it commences then and we've got this ground water model that's indicating some adjustments that are going to be there for the Wairarapa area.

So that's a bit of a picture of some of the main sort of issues that we have (inaudible).

I'll move on to the RPS review process and what I'll do is distribute these. As I say, it's been notified in March this year, it's fairly thorough. We started it when we did our last State of the Environment report, called "Measuring Up" in 2005. That's when we commenced the review. The 10 year date for our current regional policy statement, which is when we start reviewing it, is 2005. We followed the State of the Environment Report with a public discussion document and then we publicly issued all the policies under topic headings we identified. Got comments back on those and then we moved to a draft regional policy statement in 2008 and sought public submission on that and we've now proposed the regional policy statement.

It's probably helpful just to look through some of these items and certainly we may be able to (inaudible) even further, we may not, but I've just

tabbed at the top of the pages in orange there, the pages that I'll flick to. If you look at the tab on the left on page 13 and that just runs through the topic areas that our regional policy statement addresses. So fresh water is one of those. The purpose of the regional policy statement is to integrate, or one of the purposes is to integrate fresh water management in the region and that's one of its two sort of primary objectives and purposes. So if you get, looking at all councils (inaudible) is to provide a document that is integrated. We find out whether we've achieved that as submissions come in.

Turn to page 35, that is just an introduction of fresh water and if you go to – that was page 34, if you go to page 35 and there's the issues that we've identified for this region and there's four of them. One on the ways to access and three, you know that relate to the fresh water resource and really the issues – we spent a lot of time developing our issues because they are the foundation of what follows. Fresh water, we came up with these three issues, that pollution is affecting water quality in water bodies, there's poor ecosystems functioning in rivers, lakes and wetlands and there's an increasing demand on the limited water resources. The second one and the first one overlap a bit, but one thing we found is that having an ecosystem focus for fresh water is something that helps integrate water quality and water quantity because fresh water ecosystems are affected by us. We found that quite a useful device as we've moved through our policies (inaudible)

On the next page are the objectives and there's three of those. Objective 12, quantity and quality of fresh water meets the range of uses and values for which water is required. So that's uses out of the rivers, irrigation, pasture and so on, this also includes uses in the river (inaudible) degradation and so on and so on. Safe guards life supporting capacity of

water bodies and meet the reasonably foreseeable needs of future generations.

Objective 13, over the page again. Rivers, lakes and wetlands with healthy functioning ecosystems and Objective 14 on the bottom of page 39 “water is used efficiently and not wasted”. So there’s a real focus on the RPS on water allocation.

[11.50am]

Now if you just flick to page 64. That’s where we – page 63, page 64, we’ve there identified the resource management issues of significance (inaudible) . Now we didn’t identify those, our people have identified those as their issues and that’s a requirement we have in (inaudible) Wellington regional policy statements. And if you just flick through those on page 64 they will really relate to (inaudible) as those fresh water issues.

And then we have objectives for tangata whenua – we have resource management objectives for tangata whenua. And those are on page 65 and 66. I won’t go through those. Well perhaps I will. We implore the concept of kaitiakitanga integrated into sustainable management of the Wellington region.

Objective 25, it’s on page 65, loading is sustained, particularly in relation to stream waters, coastal and fresh water, so loading is a particular issue for fresh water in this region.

Objective 26, Mahinga kai and natural resources, we mention customary purposes are maintained and enhanced and these resources are healthy and accessible to tangata whenua.

Objective 27, the adverse effects on the cultural relationship between Māori with their ancestral lands, water, sites, wahi tapu and taonga are avoided. So those are the objectives that we've come up with in collaboration with our seven Iwi in this region.

Let's now move on to some of the policies that we've got and I'll just touch on a few of them. If you go to page 86, Policy 11. And I'd like you to have a look at this one, it's a key one for fresh water. To some extent it's the status quo because our current fresh water plan – first of all it's about – really it's our regional policy statement saying our regional plans have to identify – has to require as a minimum that water quality flows and water levels, and the aquatic habitat of all water bodies are to be managed for the purpose of maintaining or enhancing the quality, ecosystem and health. So that's the direction that our regional plans have to provide. Those policies will do that, to maintain quality, ecosystem and health there's a bottom line. To a certain extent that's what we have at the moment in our regional fresh water plan. The difference is that the RPS, this is just not for water quality which is (inaudible) regional fresh water plan, but it also includes water quantity and aquatic habitat. And in addition to that, we are also saying that we are going to – we're going to look at those rules which – and apply standards and at the current time our ecosystem health bottom line is the policies. So, in terms of the NPS we don't have a (inaudible) stands or about water quality or flows in the rivers and so on, it's just our intentions going forward as we move from our RPS to our regional fresh water plan.

In Policy 11, same time as managing for quality ecosystem and health we are also – we will be managing the fresh water resources for other purposes such as contact recreation, water supply, trout fishing and other purposes that are identified in the fresh water plan. And that's also what we do at the moment, but only with water quality issues.

Policy 12 is our policies relating to water allocation and there we're going to carry on doing what we do at present and that is allocate water in rivers and in ground water, except that we will be doing that through rules rather than through policies. I guess the difference is that rules are more binding. They are, you don't have your rules with any outs.

CHAIR: Mr McLea this is very interesting and thank you for producing this document. What I would like to recommend that you do though is not to cut yourself short on time for the last slide, which is the one that especially interests the Board. So you manage that as you wish, but we'd like to have a little bit of time for questions that the Board might have of you and just take that for what's worth and –

MR McLEA: I will mention Policy 13 and that's where we're addressing storm water and looking at minimising contamination of the storm water with new development and what this policy does is it requires us to include some rules in our provisional plans, because we don't – that will regulate storm water – require treatment of storm water in some circumstances. So that's what – that's the discharges and if you jump to Policy 39 which is on page 106. Policy 41 and this policy is to look at city and district councils and it's targeting land use and land uses effects on storm water through subdivision and so on and it really identifies what district councils can look at when they are considering resource consents and plans to mitigate adverse effects on storm water.

So the, you know, regional councils looks after the discharges and territorial authorities look after land uses. That's where we've drawn the line between the policy statements to some extent. We can still move in and look after water quality effects checks and to date we've been able to

work reasonably well with territorial authorities and (inaudible) in an integrated way.

Just jumping back to Policy 18 on page 89. And we've directed that the regional plan promotes efficient use of water, we've also specifically mentioned off-line water storage, water harvesting including off-line water storage, promoting that in regional plans. That's a method that we know is going to be able to make more water available for people.

[12pm]

Policy 43. And I won't – that policy looks at some of the matters that we'll be considering in resource consents.

Policy 19, on page 90, is where we prioritise water use in the region and effectively that one says that that water use and water supply are priority. That's the only priority we've got. And I've been in workshops with councillors and there's been a lot of discussion about the issue of prioritising and looking at what other product priorities might be introduced and that's where we got to at this point in time. That water supply is the priority and others are (inaudible).

We also have some policies on resource management of tangata whenua in there and I'll let you look at those. Each of those tie in with the regional policy.

Now just to wrap up and I'd just like to include this slide, just coming back to the concerns that we had, I mean these are the matters that in the end cover the NPS that we think that will be particularly bad and they will hinder us (inaudible) RPS in developing a second generation plan. And I think – that's not the reason why we don't think the would, the reason is

because we're developing – you know we're heading off in a slightly different direction. The reason really is that we don't think they are nearly as effective as the way that we're going.

In terms of notable values, outstanding (inaudible) values in relation to the question of water, we find it a bit unclear. Just for example, go to Appendix 1 in the RPS and I'll just take you there. That's on page 157. And there we've identified some rivers and lakes with values requiring protection and I guess they could be notable values. There are two areas there, there's recreation and amenity values on page 157 and on page 158, identified rivers and lakes of significant and indigenous ecosystem values. And we found that as a good way to approach it, we're saying that regional plans and district plans have to consider these areas and reasons why they are significant in the region. Overall, with the notable values outstanding and greater fresh water resources we really question the cost of investigations and the litigation that's going to be associated with identifying these rivers and lakes and putting them into plans beyond the sort of approach in the RPS. So we've covered that a bit more in the submission. So I'll ask you to have a closer read of those.

We feel quite strongly about this timeframe that is proposed and I've been in responsibility for Greater Wellington's - current position of responsibility for Greater Wellington's current regional plan and then make changes to those plans and I'm a bit astonished at the suggestion that the plan to be notified within 40 days of completing the RPS. I think that the statutory requirements in Clause, I think it might be 3, it could be 4, it's in Schedule 1 of the Act, required consultation with some specified agencies and so on and that along would take 30 days, 40 days, let alone the consultation in preparing a regional plan or district plan, with the wider community takes.

The other thing that we would like not to see is that the commission of fresh water resources which excludes femoral streams, and it's a particular concern to us because the femoral streams are fair game for claiming and piping during subdivision in urban or (inaudible) urban areas. And scientists are telling us that femoral streams are an important part of catchments and the streams and removing them significantly reduces ecosystem functioning values. So we've spent quite a lot of time over the last five years or so working with our city and district councils and raising the profile of the femoral streams and protecting them a bit more and the definition here in the National Policy Statement is not going to (inaudible).

So that concludes my presentation. I may have gone on a bit, with the regional policy statement and I certainly would like to (inaudible).

CHAIR: Well thank you very much. We very much appreciate the trouble you have taken to present this to us and the way you've explained to us what's in the proposed new RPS which we're very interested in. There just maybe one or two questions my colleagues have of you, so if you wouldn't mind we'll just see if we can explore that further. .

MRS VERNON: Thank you Judge. You said in your opening statement that the NPS is not a helpful document and you've given us your proposed RPS, which is helpful, thank you very much. Am I correct in assuming that you are saying that the standard that is set in the NPS is less than what you've got in your RPS?

MR McLEA: No, I don't – I mean I don't think it necessarily is less and I think it doesn't provide much advancement, if I can put it that way. It doesn't – if we were giving effect to the NPS when we prepared our regional policy statement I don't think it would be a much different document. You know, if the NPS was in place when we prepared our regional policy statement I

don't think that we would be doing things a lot differently. Apart from the one – the areas I've identified, where instead of talking about significant water resources, we would be talking about notable and whether that's the same I don't. The degraded water resources is something that we had - we identified degraded water resources in our current fresh water plan and in our regional policy statement and it didn't help us a lot and what we're suggesting is that the approach that we've got in the RPS of identifying the purposes for the management of a river, following it through with policies and rules in the regional plan that spell out what water quality, what (inaudible) flows you've got to achieve and so on is a better way to go and if you're not meeting those flows or you're not meeting that water quality, then you've got to bring your river up to that level. They may be saying the same thing, but it's a – it also may be a better way to work, looking, you know, without focusing on the (inaudible) negativity in degrading.

[12.10pm]

MRS VERNON: Those standards would be able to be applied nationwide, I mean given that this is an RPS for Wellington, but what about nationwide, do you think those sort of standards could be applied in an NPS nationwide?

MR McLEA: Well you know, I think regional councils are starting to look at the standards and arising from the – and they've taken a look at – I think in their regional plan they've got standards for water quality. They're going through the – they've notified (inaudible) and they're going through that process. I think you could have standards that are national and it's where, you know, where you apply them and on what parts of rivers and so on that needs to be worked through. If you're going to do that, it's probably a matter for an NES which I sort of indicated that, from our point of view, is a more useful tool for us to use than this NPS. That's just our council.

MRS VERNON: On your original submission you've made several suggestions regarding policies about cumulative effects about the precautionary approach, do you see those as being totally new policies or rewording of one or two of the current ones? And I perhaps look at Policy 1.

MR McLEA: Yeah I think you know, those are areas we find you difficult to implement on the ground I guess, regional councils generally and maybe it's the RMA hasn't – could have been a bit clearer with regard to the cumulative effects. So they are difficult things to work with. I think what we're saying is that some of those things, the NPS could have provided more direction, so that it makes life a bit easier when regional councils are using the term cumulative effects and what it means. At the moment we rely entirely on case law and what case law has to say about cumulative effects, but some direction from a National Policy Statement in that area and there are some other areas where it could be helpful.

MR PRIME: Mr McLea, I'm referring to where you talk about the water quality in the fifth slide of your presentation and your grading of excellent or poor, I guess excellent is where you would drink it. But would poor be, stock can still drink it or?

MR McLEA: You'd have to treat it before you could drink it.

MR PRIME: For humans?

MR McLEA: Yes, for humans you'd have to treat it. For cattle it probably would reach - for stock, you know, the standard for stock and I say probably, because the - it most likely wouldn't reach the standard for stock because the forum is made up of a number of parameters and if you exceed three

of them, then you get to your fourth, you may not exceed the parameter for (inaudible) which means that stock can't drink it.

MR PRIME: So poor, there's a qualifier to it?

MR McLEA: Yeah, poor is a – it's a number of water quality variables and it should say that we measure them, taken from water validity, nutrients in the water, clarity of the water, (inaudible), oxygen in the water, concentrations of E. coli and if we get to the poor, we just use an arbitrary measure. You've conceded three of those, so you may be exceeding the (inaudible) parameter, but stock can still drink that water.

MR PRIME: There's no grading where you would stop stock from drinking it?

MR McLEA: Well there is a – yeah, there is a stock water standard and that is exceeded sometimes, but you know, we make people aware where and when that's happening; it's a land owners business to not have the stock drinking it.

DR HARDING: Yes, thank you Judge. Thank you very much for your presentation and your regional policy statement. I read that with interest. I guess, you know, you've made the comment that this NPS may not add much to what you are already doing, and you've made comments about the notable values and degradation and that sort of thing, I wonder how much of that is semantics? You've already described poor water quality conditions, is that degraded, or do you have some other view of degraded?

MR McLEA: Yes we would consider that as being degraded and that's – if we were implementing that sort of policy, I think we'd be taking those sorts of – that sort of approach that we're taking there. I'm not sure where we'd

have that cut off, whether we'd have sort of poor, fair, good excellent. I mean that cut off is, I guess a matter for – I assume it would be a matter for the region in the proposed NPS (inaudible), but I think we would regard the water as degraded.

DR HARDING: Does that include anything on life supporting capacity or on the biota of these systems in your poor category?

MR McLEA: Yes. Yeah I think if you're getting sediment being deposited in streams where they might otherwise be cobbled bottoms, being (inaudible), so that effecting life supporting capacity.

DR HARDING: On the issue of the femoral streams, I mean that seems to me to be a potentially very curly one. At the present moment do you have some sort of definition of the femoral in your RPS?

MR McLEA: We would consider that a femoral is – femoral stream's are part of the river, because a river is an intermittent (inaudible). So you know a river is – a femoral stream is a river.

DR HARDING: I guess where I'm a little bit confused about is, isn't a femoral stream a recognised river bed that flows under certain conditions or is it a water body which flows when it's raining and then when it's not raining it dries up and – because they all will eventually flow into a stream or river?

MR McLEA: Well I guess it's a matter for the experts, but from what I can gather a femoral stream is a water body that can be a waterway when it flows - when it rains, you know, a stream that flows only when it rains.

DR HARDING: At the present moment, you suggested in your submission that we should consider things like clawing back of current over-allocation of

resources, at the moment you've modelled your ground water and your systems and you're allocating fresh water up until the limit you've decided in that model. How are you dealing with the potential to claw back at the present moment?

[12.20pm]

MR McLEA: I guess the situation for us there is that we have allocation limits and we're allocating up to the – we've got a new – we've got a ground water model, that's just coming out of the woodwork and it's telling us that we may have over-allocated in some places and we know there are – we know two places, (inaudible) where we think we've over-allocated and we're still checking that. So the question for us is if we have to lower the allocation limit then how do we reduce how much people will get - how much water you can take and we haven't addressed that yet. You know, I mean there are various ways that you can do it. You can – when a resource consents expires is it applied for again, (inaudible), but that's one for us for the future. We feel that we're in a – you know, we've actually put ourselves in a good position by putting in our allocation limits and limiting flows 10 years ago. We've done pretty well out of that (inaudible) you know, and it's not going to get a bit harder

DR HARDING: These models that you are developing, do they take into account potential climate, long term climate change effects?

MR McLEA: No, look, I'm not sure that they do.

CHAIR: Mr McLea, the Board thanks you very much for your presentation and thanks the Greater Wellington Regional Council for their submission. We're grateful to you for coming.

To be read in conjunction with
the tabled evidence/statement

MR McLEA: Good luck with your hearings and deliberations. You've got a tough job.

CHAIR: Well now I have the pleasure of calling on the Wellington City Council and I believe we have a Councillor here to present on its behalf, is that right?

COUNCILLOR WADE-BROWN: Good morning. Yes I'm Celia Wade-Brown and I've got the team who are going to come up in case I don't know the answer to your questions.

CHAIR: Thank you very much for the submission and thank you for coming this morning. I'm sorry we've been keeping you for a minute or two, but we've been having some interesting discussions.

MS WADE-BROWN: Well it's interesting for me hearing some about the (inaudible) downstream from Greater Wellington as it were in many ways. You do the national and then they do the regional and then we have to pick up the district plan, so it's quite good. I'd like to introduce first of all the team that I've got with me. I've got Nicci Wood, who is an Infrastructure Planning Engineer. Jen Bray (ph) is our policy advisor and Brett McKay who is our chief planner, so we should be able to cover many things.

This is just a picture of roughly where we're going in our presentation. Do you have copies of our presentation? I have to say, it's not in our submission, but one of the nicer things about your National Policy Statement was it was comparatively short. I probably shouldn't say that, but there are so many documents that are incredibly long with so many chapters and policy things in it, it was quite refreshing. That's not in our official submission.

So I'm going to make a few points about national monitoring and reporting standards, about the sustainable solutions and land use development,

something about the timing of how fast we actually do district plan changes and some issues about terminology and what your terms do or don't mean and we've also got some pictures and so on to illustrate what we see as important to the integrated approach to fresh water management. The idea that it's not just about where the fresh water quality is at the moment, but that we actually might improve some of the quality, stop it getting worse and some recommendations to sum up.

The first thing is that we are generally supportive of having a National Policy Statement for fresh water management. (inaudible) documents to have a national framework for the management of fresh water at a national level. We also have fairly recently submitted on the National Coastal Policy Statement and I think it would be quite useful given there are some of the same issues as from what flows into the receding waters, so there's some consistency there.

Our citizens certainly think that fresh water is important. We had a submission in our long term council community plan which thank goodness we put to bed last night, there was a lot of support for water conservation programmes, for lead detection programmes about water quality, storm water discharge and also some issues about the stream banks and flood protection and so forth. So it's not just the concerns of officials or elected members, it's definitely (inaudible) of all Wellingtonians and as a city we see water quality as something that's important to Wellington, because the way that we market our city to the potential residents visitors is that we're actually a cosmopolitan city, so it's the nature and whether we're talking about the Karori Sanctuary, the Otari Plant Museum, which is a national plant museum or the marine museum on our south coast, we've got to actually live up to the clean, green image. As well as supporting the intrinsic values and I do think we've got some real challenges with changes to rainfall (inaudible) and climate change

issues. I think in the Wellington area it is not a huge change in the overall amount of rainfall but that it will come in larger amounts over shorter times.

We are very keen on the matters in the policy statement that talk about integrated management and we would like to move ourselves towards the three waters management where you have got the consumption, storm water and the grey water sewage all linked in together in how we manage them. And one of the issues that we think is quite complex is that most of those go across political boundaries. For example, things that happen in any unfortunate way in the Tawa area, which is in Wellington city's area, flow down into the Porirua harbour and there is sometimes some complexity when working together on those. There are also some complexities in whose baby it is between the regional council and the city council. Not so much at the policy level, but at the monitoring and going out and actually seeing what has happened to a subdivision and (inaudible) and it's quite difficult for the public sometimes to know who to contact as well.

So we have got rules about what happens on land and then the regional council's got rules about what happens with discharging of water and it's quite complex and I'll come back to that in a moment when we get back to district plan changes.

And again, with our water supply, in Wellington city all our water comes from the Hutt Valley, whether it's from the river, from the aquifer and from some existing supply. The other thing is that we – you see it's quite complicated to a degree what we should do about water conservation with the other councils and Greater Wellington in that despite their good words about conserving natural qualities, they do you actually have a plan to dam the Whakatiki River to produce more drinking water. So I think in any

council or any organisation there is sometimes disconnects between different parts of organisations.

[12.30pm]

We support your considerations about no flow in rivers and so on but again, it's pretty tricky to decide what is too low a flow unless you've got some, you know, some pretty good choices of what to monitor and also that you've got some history in how the river has been up to that point.

This is an example, it's a bit cheeky really, this is not our district, it's good to pick the bad examples from somewhere else. This is an example of really the land being reshaped to fit the housing, rather than housing being designed to fit the landscape and you have some very large scale reshaping, so almost inevitably you're getting a lot of sediment and I guess it's called the "dunny fill" approach in Hills Creek. It's very difficult unless you do a lot of planting in advance or you happen to have the vegetation at the foot of the slope already to manage the sedimentation and we have had a number of issues with sediment ponds not actually being maintained or people taking shortcuts or not quite understanding or there being more rain than they expected. They must have dug them in dry weather, I guess. We've also had some issues with the large scale non-housing development wind farm issues like that. That's mainly a coastal water issue, but it has also run into some of the streams on their way out to the coast.

Longer term, I think it's a question of consumer demand and education, but nevertheless we could show people that's it's a really good way of building work with the land, rather than against it.

I've got some examples of long term impacts here. The one in the middle is actually our own duck pond in the Botanic Gardens where somebody upstream somewhere poured some paint down their grate and of course there is an extraordinary lack of understanding that what goes into grates actually goes into streams and the sea and then somebody – I stopped somebody the other day who was just putting – it probably wasn't too awful, it was sort of washing up water, but who knows quite what chemicals was used to clean whatever it was and they were busy pouring quite tidily down the storm water drain and I said – walked over in a sort of constructive move and said, rather than saying what I first thought, I said, "do you know where that goes" and she looked particularly blank. So I said "that goes straight out into the harbour, you know where there's fish in the sea", she looked all shy and said "oh dear, well what should I do with it" and I said "you can put it down the sink and then it will go into the sewerage system" and she said "well does that go into the harbour too". So we had this small discussion about how, no it doesn't, it is treated, but that's just an example of how little people know about these things. So if at a national level we can help the local people understand, I mean these are really quite generic things that storm water and sewerage are different and hopefully treated differently.

Again some of these – we have issues, I mean these are examples of errors, if you like, by private householders or developers. I have to say that there are times when - I am sure I would be in trouble with Nicci for saying this, but when our own engineers sometimes put infrastructure, public infrastructure that perhaps in the past – you know, has not really contributed to maintenance of stream banks and so forth by having, you know, the parts taken off the road and I know none of us want the roads to disappear either, but it's taking it off the road and once it's off that, it's you know, not worrying about it.

We have got some steps forward with sustainable design, we've got two examples here from Waitangi Park about how storm water is being pumped up and through the (inaudible) and so on before it goes out into Wellington harbour. I mean it's very attractive, it was also a pretty expensive project to do. And that – are they all Waitangi Park? No they are further down, opposite the Stadium roughly and they are being done, Centreport of course is owned by Greater Wellington Council so that might help that they're doing the right thing too. To try and get that sort of thing happening in a smaller scale would be useful as well. There's plenty of guidelines and voluntary mechanisms, but the question is with – so those will capture people that want to do the right thing anyway, things like the green star buildings and so forth are good, but until it's mandatory you won't get the people that are doing the shortcuts. So again, if you have some input somehow onto the Building Code and things like that, that's probably going to have in some ways more effect than a lot of other things.

Now enhancement. I'm actually not sure whether enhancement is the real now, so if you decide to rectify that or improve it, "restoration". Anyway, we work quite closely with other councils in the region to improve the quality of fresh water resources. We worked – Project Kaiwharawhara has got Greater Wellington people and Murray McLea was actually our fish man, he was finding fish in the Kaiwharawhara Stream and so on one evening. We've got several different re-vegetation groups. The stream goes from the Sanctuary past (inaudible) Bush and then down Ngaio Gorge and it comes rather inelegantly by the Interislander, but we're trying to manage it all along its whole length and it's been very good, we've had (inaudible) meeting with different groups who get together whenever somebody's got – the hydrology area at Victoria University came and talked about planting near the stream and so on.

We have also got, and I'll be leaving a copy with you, our biodiversity action plan. What it talks about here is, urban streams include Te Ano Whiro Stream, Kaiwharawhara, Ngauranga and Porirua Stream system as well as a lot of streams, (inaudible) of Te Aro or Houghton Bay, Miramar, inner city and we are also keen on using (inaudible) femoral streams and it says here that Giant Kokopu, long finned eel and short jawed Kokopu are all nationally threatened fish that at the moment are appearing in Wellington water. Again it's really nice to be able to go from the Sanctuary Tuatari and down to the stream there and we have issues as well about our old landfills and what they are or aren't leaching into the streams and how to keep the water out of those as well. So again, it's the management of closed landfills is in a way something - I mean they're good ones now but the old one's, I'm not so sure about.

And we've got a storm water action plan. I don't know if you've got a copy of that, but we've got a copy here. We have a copy, we'll be able to pass it on. That's been developed with the regional council and we're now moving on to do a joint project with Porirua City Council. That project is on Porirua's streams.

We agreed that there should be a National Policy Statement. We'd like to see some consistent monitoring and reporting standards. One of the issues is what is the scientific thing we're trying to find out? Rather than it being purely a perception matter. There are people - (inaudible) forms are a real problem to people swimming, but is that the actual thing you're most interested in if you're looking at sustainability for other species? This is not my submission, but I just wonder whether you're looking for heavy metals in urban areas, might be something you're looking for. Whether we're looking at PH. Whether we're looking at the temperature variability or whether we're looking at the macroinvertebrate index and it would be very good if there were some (inaudible) start people looking for what and

I understand that you wouldn't necessarily apply the same things in Northland as you would in Southland and so on.

[12.40pm]

We have a very complex set of legal documents. They are complex even for people who have been involved in the local Government for a while, like myself. For somebody proposing to put a house up on their back section I think it's almost impenetrable. We've just put in a new (inaudible) district plan change and it just replaces – we've notified one and then found that basically you needed resource consent to do the whole (inaudible) which wasn't terribly popular, so we've just gone out with it in a slightly different district plan change and one of the things there is that some things are going to be permitted activities, because otherwise you do need a resource consent for a fence, but our understanding of the RMA at the moment is that we've been able to take this as a permitted activity because it's small and in a certain area, if it's not within five metres of a stream in the residential area or 20 metres of a stream within a rural area, and there is no dust visible beyond the boundary. We could not say, which is what I would have liked to say, "and there is no sediment going to the stream". And the reason we can't say that is because the stream is not under our control. Once it – if it sees any of those things, then it becomes a discretionary restricted activity and we can actually then begin to say, you know, "there should be no sediment going to the stream". But we cannot make that part of the rule to determine whether it's permitted or not and that seems to me to be as problematic – or that's the advice that we've got at the moment. What we've got is a little note along the side that says that basically any issues - or there are several issues, including sedimentation shall be a matter – might need a resource consent from the regional council. But I'm just aware that most people – when you've got the big stuff, the sort of 20 subdivisions and beyond, then people will read

through the whole lot, but I still think that cumulative effects of blocks of little in-fills can be quite problematic for the streams.

We don't really want to be doing one set of district plan changes for the regional policy statement and then another very soon afterwards for the National Policy Statement on Fresh Water and so on, so a little bit of leeway about timing or getting the regional council to hang to their regional policy statement until this is out, or something would be useful.

And we are not sure about a few – I mean to some extent you're suggesting that each area define the terms, I suppose, as to what we mean by notable values or what we mean by degrading fresh water resources. But I think maybe that something a little tighter would help and it doesn't mention – again, it doesn't mention the question of improving – it's very concerned at the stopping things getting worse, which is a great step, but it doesn't talk about opportunities for restoration.

So I think I've covered all that I have in our submission.

CHAIR: Well thank you very much. That's good. That's very helpful and we are grateful to you for explaining that. There's just maybe one or two questions and of course you can field them yourself or as you choose.

MRS VERNON: Thank you Judge. You spent quite a lot of time in your presentation today and also I note in parts of your submission about the top and the bottom of catchments and having integrated management and I wondered whether it would be helpful if the NPS actually used the term, instead of just "integrated management", in fact it used the term "integrated catchment management". Would that be more useful for where you're coming from?

COUNCILLOR WADE-BROWN: I think it would be. I think if you've got willingness to move it together between districts, you know, the territorial local authorities, then you probably will anyway, I mean the question is whether one should actually have an integrated catchment plan in any stream larger than a certain amount and I don't – maybe I'm missing – I don't see that as a requirement at the moment, but maybe in the preparation of the integrated catchment plan within a certain period would be useful.

MRS VERNON: I wasn't really referring about plans so much, more that the document talks about integrated management but really if you put the word "catchment" in, would that be more useful given that this is an NPS and that you, I mean everywhere people are working together with districts and regions and you've got several cities and district councils in your region, and whether that would be more helpful in a National Policy Statement?

COUNCILLOR WADE-BROWN: It would be helpful from the point of view of the storm water and its effects into the stream. I'm not sure about it from the point of view of our consumption, because actually some of the water consumption is coming from one catchment and then it's pumped up into other places and so on.

MS WOOD: I think it's (inaudible) on getting councils to work together internally I think it's just that change of mindset about people always worked away and not giving consideration to the whole, so whether – (inaudible).

DR HARDING: Thank you Judge. Thanks very much for your presentation and again you've introduced the femoral stream issue. How do you define femoral streams and what they (inaudible)?

COUNCILLOR WADE-BROWN: Well I think it's – I mean one that only runs once in every 10 years is probably not a very exciting thing to worry about as it were, whereas something that runs – I mean in England you call them winter bores. They run in the winter and they don't run in the summer. Presumably the importance of them must relate to some (inaudible) and use their contribution to, either positively or negatively, to habitat (inaudible). I'm not sure whether there is a definition somewhere that we could use.

MS WOOD: I didn't think that regional councils and (inaudible) you've got femoral streams, you've got intermittent streams and somewhere between the two is a stream that doesn't flow on to one that does have a semi-defined purpose, (inaudible).

MR McKAY: The main issue I guess from my perspective, we have femoral streams Wellington in our green (inaudible) areas where land has been earmarked for development and pretty soon we've gone through a structural planning process and a substantial part of the (inaudible) of the city that identified your residential here in the green (inaudible) here and the green (inaudible) there, but within the areas we've defined for residential development there are femoral streams. The purist of you might say, well look we should protect that as well, and there's a little bit of an issue with the regional issue councils about how many of these so called femoral streams should be protected. But if you try and protect them all, there's not much land left for urban development. So we've actually got a plan change under way at the moment which involves a (inaudible) on this very issue. Now, just how much or how many of these femoral streams should be protected within our future urban development areas, if we have design (inaudible) at a certain time, we've got to try and design a subdivision to incorporate these streams or these areas (inaudible a bit more finely grained (inaudible), but it's still over to the

developer to remove them primarily, but to me, that's the thing that's
(inaudible) femoral streams and it's a bit of an ongoing (inaudible) debate..

[12.50pm]

COUNCILLOR WADE-BROWN: The streams that are there, pretty much all the time are very, very small and you get – they have a significant effect on what (inaudible) around them as well and I think, I am going to be speaking personally here, I'm much more worried about people assuming that their culvert pipe streams that are small and are running most of the time than I am of femoral streams. I mean I feel we've got quite a long way to go with the smaller streams that are there all the time than to worry about the femoral ones. but again, I suspect that issue is quite different in different places in the country depending on the geology and rain fall, so it may be that some plant types (inaudible).

DR HARDING: Councillor, may I ask a question direct of Mr McKay, because I'm aware of the very considerable experience he has in this. Mr McKay, the concern the council's presenting to the Board about the 40 day time limit that the proposed policy statement contains and the council is saying they'd like to have some flexibility and that the timeframe is too short, and I very much respect your very considerable experience in these things. What timeframe do you say would be appropriate and what basis might there be room for the leniency or flexibility that you'd like to see?

MR McKAY: Yes, this is a tricky one because you've got a - submissions at the moment to do with the regional policy statement on this very issue. They've said right you've got to deal with all these new issues that we've partly dealt with in passing and there's a fair body of new work that we are having to pick up on and they say at the moment that the time before - at the time of the next review, we should give effect to these things and we're

sort of saying, well just what does this mean? What sort of flexibility are we going to have to address this, because some of the topic areas are quite weighty: landscape assessments in Wellington; hazard management and so on, so some of them involve quite a substantial amount of work. What we really don't know with this fresh water issue is whether they regard our plan as dealing with the issues sufficiently to carry on, or whether they are going to expect it to be more direct to deal with it and so on. Then there's the question well, what work is that going to be and how long is it going to take to actually do the investigation, analysis and the background to it? So yeah, I just thought 40 days, that's the (inaudible). I don't think it, well I think – we've done a plan change in Wellington city to try and protect a heritage of a building, I mean we did that in a fairly rapid time, in the matter of a week or so, but the average plan change I would imagine, you know, you're talking months really in terms of to get the information together and without putting aside any curly issues that arise (inaudible) more work. So yes, I mean what we don't yet is really what we're going to have to do to actually implement it. If you're already doing quite a lot then that might be sufficient, but there still could be elements of it that we do have to do and if it's a sizable amount of work, so it's a hard one to put a deadline on. There's the provision under the Act with a duty to avoid unreasonable delay and you always like to sort of fall back on that. I mean the – so yes, you do have our best – we can put our best effort into these things and you don't necessarily want to delay things, but we just do need that flexibility at the time to get it right.

MS WOOD: If I could just add to that and of course, we do always like to be reasonable. One thing that we've started doing over the last year or so, maybe a little longer, is to have the consultation before we do the formal notification, so that we get the issues out and we're doing that for the residential review and we're doing it for a number of other things and I would see that an amendment of the - district plan changes to take into

account the weighting would be better done at the general stage before you get down to the nitty gritty legalities of quite what the wording should be because then it becomes difficult and you have to make sure that you've got submission knowledge and so on.

MR McKAY: It is slightly further complicated by the RMA amendments that we are faced with and our plan is due for review July almost this time next year, 27 July next year, so we're suggesting well if you have a 40 day rule about a plan, you know, the regional plan, the plan came in (inaudible) have to do a (inaudible) under the RMA of the whole plan, (inaudible), that's a bit of an issue, but we haven't got a review requirement at all.

DR HARDING: So if I may try and summarise the council's position, having listened to what Mr McKay has said, as well as what you've said Councillor, would it be that the Council would prefer to see, instead of having X days or Y months, having something like, as soon as is reasonably practicable?

MR McKAY: Well that would sound good to me, yes. It's something we will be taking up (inaudible).

CHAIR: Well the Board's very grateful to Wellington City Council for having considered the proposed National Policy Statement, having submitted on it and having come today so eloquent and prepared to present to us. Thank you very much indeed.

MS WADE-BROWN: I've got the Biodiversity Action Plan and I've also got the draft Code Of Practice for Land Development which may have some relevance. They can be found on the website.

ADJOURNED

[12.57pm]

Audio file: dpm50

RESUMED [2.04pm]

[Audio not recorded due to equipment failure]

[audio begins]...and the principle of polluter pays brought in for current end use.

MR RICHARDS: Some forms of - let's qualify that I don't think the South Island Marino farmer in the hill country is causing water degradation at all, but he's not an intensive land user.

MR WEIR: Well then he doesn't play for pollution. What I'm saying is polluter pays and its land use, not land use development. The status quo is not sufficient. At the moment we're currently degrading our water supplies.

MR RICHARDS: So if there's one change we seek from you, it's just simply removing the word 'development' from the entire NPS. It becomes a much more palatable document from our perspective if you remove that word.

CHAIR: I've been listening closely, but I haven't necessarily been thinking about it very clearly while I've been listening. But something occurred to me from the comment about, "There are elements who are still resisting". What I'm trying to understand is, are they resisting to protect the self interest, or do they think that they've got altruistic reasons for their resistance?

MR RICHARDS: I think it's largely fear of the implications, self interest. But backed by a genuine fear for the future, because there is not a clear path forward in terms of the implications and we're talking intensive dairying

here, obviously they have - I guess it's not something that's able to be addressed by this committee but if one looks at and the fundamental agricultural model that we've developed in New Zealand there is a very high component of, effectively, equity tied up in the land value rather than the actual business model, other than the absolutely peaks that we've had in the very recent past where cash flow has been a obviously pretty good return on investment in general across most agriculture is actually very poor but the land value just keeps going up and up and up. And so as soon as there's a good period that surplus gets capitalised back into land, cash flows become very fine. It makes the flexibility of those individuals to respond to regulation or something that will constrain cash flow very sensitive and particularly obviously of their leverage, or if they've got significant loans, and so these people do genuinely fear what is going to happen to us, and I think in terms of what we're saying in the submission, that that really reinforces this point about how in some cases a situation has progressed and in fact progress dramatically in the last few years to the point where it is very hard to unravel without potentially seriously injuring individuals. And I guess, if you look at the worst case about this model is well, it might develop in broad investment advice would be to have a broad portfolio, if you look at the average dairy farmer, just everything, equity, cash, everything is tied up in this one narrow sector. So they're very highly exposed.

So this is why we built in the comment here that we recognise in the cases there is going to have to be transition and that transition might take a significant period of time. In terms of the Rotorua situation, the – how that's transpiring is that the resistance is continual questioning of the fundamental science. I think the greater stakeholder community is saying no we accept the generality of the science; that there may be some variation in preciseness about the margins. But the fundamental principle is pretty well mapped out via by the science now and we understand pretty

well, what level of reductions have to be achieved. And I guess the model, certainly on my model that I've been trying to portray, is that they have a target of reduction set in the Rotorua Lakes Management Plan and that's already in the public arena. The question now is to set that timetable, and to set it with the expectation that you've got a target, it may be a seemingly unattainable target, but we're talking 10 or 15 or 20 and that has to be decided. But once that's decided, we are immediately starting to send signals to people who are investing to start thinking about how they're going to adjust over that timeframe. And one would expect logically that the adjustments will be quite slow initially because they can only adapt with the current technologies, with the current availability of knowledge. But at the same time there has to be from that sector a signal that says you must invest significantly in the research and to adjust your methods and your technologies because the clear 5 or 8 or 10 years out here is going to start to get quite steep. And at some point, in terms of that greater community involvement, people are going to be looking at the tracking. Are you meeting the target? Are you offline? How far offline and what does this imply? And maybe, worse case, it may be simply you're clearly not going to meet the target, therefore, what are we going to do possibly becomes requirements for land use change. Or if they're lucky, and I genuinely believe, even though I'm not a dairy farmer that there is quite a bit coming over the horizon that will give them in many cases the opportunity to go a long way towards meeting it. But they will not get there unless the signal starts today to send that message. That, yeah, there is actually a finite time, they are going to have to achieve certain targets, and if we don't get that process underway and signal clearly, then people will keep investing on the basis that the same model values will continue to generate land compensation effects or requirements of trying to make an adjustment further on the wider community will increase and from our point of view, as foresters, the Rule 11 (inaudible), we are locked down still at 2 kilograms of nitrate per

hectare per year. All the Māori land is similarly locked in. So basically, we remain there as a de facto buffer for the wider situation. And under that Rule 11, the industry agreed, and we're going to take it further on the basis that Rule 11 would be a temporary mechanism until something better was worked out and some sort of mechanism to progress was worked out.

And I would have to say that that timeline is coming to an end. We're coming up to the review period for that Rule 11, and the progress is not looking good and so not only our industry, but I think I can speak, probably, to some extent for the Māori stakeholders, we're starting to feel a bit impatient, because that resistance and continually going back and questioning the fundamental science, rather than saying, right we will move on let's start going down the track. It's taking quite a while to become obvious, and they've got to speed it up really. And I see that around the whole table and in the other stakeholders too, they are saying this is your problem. The history is a community problem, because there was some sewerage, and there was all sorts of things, there are legacy issues, so that has to be picked up; it is being picked up. But the future is all about the new nitrogen coming through from today's operations in 50 years time and that must be addressed by the sector that's producing it. And I guess that's what we're looking from the NES as well to help give those signals on a broad scale.

CHAIR: So, looking at it as we on this side of the table are required to do, looking at it from the point of view of the NPS, and looking at the changes to the NPS that you've specifically asked for, which of those changes directly addresses that point?

MR RICHARDS: I think it's effectively mechanisms or a statement within it that do emphasise the effects base and the (inaudible) to pay. Again, may not

be achievable in the short term, but all policy development in the long term should be signalling that that is the direction that things will head. I think that would be a huge step forward in that area.

I think the other one is in terms of defining some of the practical frameworks and the Horizons one is a good example, where they've done effectively land use capability on the basis of assimilative capacity of the land and what they're saying is that if you're undertaking an activity with emissions below that capacity then it's a permitted use, if you're it then you'll start to need some sort of - whether consents is the right way to go, or arguing, but there needs to be some sort of regulatory framework that is at the same time signalling, "Okay, you can do this for longer, but that's the level we expect you to get down to over a period of time". How that's managed will be, you know, something to be sorted out on a region-by-region basis perhaps, but I think that's a good example of where the policy guidance of that overview framework that says, we are looking at a similar capacity within - or of the receiving environment and we expect people to be working to keep it down to match that. That's the long term sustainable level if we're to achieve acceptable water quality standards.

MR WEIR: Just drilling back in and drilling in, your question about words and what can you on that side of the table do to this document - I think you can send a very clear message to Regional Councils their job is to control the effects of intensive land use. Forget about controlling land use development, your prime objective is to control the effects of intensive land use and then it all flows out from that.

CHAIR: And where's the place in that for recognising cumulative effects? See you can say "well you've got to be below that".

MR WEIR: Well, we have to establish the assimilative capacity of the catchment.

We have to - and I guess I know Taupo moderately well, if the assimilative capacity of the catchment is 10 kilograms of nitrate per hectare across the entire catchment, that number is about right, 10, 11, it's that sort of order of magnitude as I recall, how would we address the cumulative effects? The sum total of all the nitrates being emitted into that catchment cannot exceed 10 times the number of kilometres or hectares in the catchment. I suppose that's the framework, and then it comes back, if you're going to (inaudible) with a market map based on nitrate trading, which hard, really hard, if not impossible to work in a small catchment, but maybe workable in something the size of Taupo, then it's unders and overs. It's emission trading as per climate change stuff, those that emit more either buy offsets, or they reduce their emissions, and there comes a point at which buying offsets is too expensive. It's cheaper to actually buy a (inaudible) for the farm and stick a biodigester on it and actually reduce your emissions on your own land to an average of 10 kilograms per hectare per year. I'm not trying to help you with words, I'm talking about basic principles, because our principle is throw the whole thing out, it's so badly written. You might be better to start with a blank sheet of paper once you've come up with where you should go. But (inaudible) might get a bit offended if I say it's really that bad and needs to be in the trash bin.

CHAIR: But it's in your submission -

MR WEIR: The first step is to throw it out and start with a blank sheet paper, if you don't think you can do that, change those couple of words and then we're halfway there.

CHAIR: Well, thank you for the clarification. Thank you for your presentation, we've been very fortunate to have you give us this explanation of your

To be read in conjunction with
the tabled evidence/statement

submission, which all goes into the area that we've got to consider, along
with the other 148 submissions. And thanks indeed for your time.

ADJOURNED

[2.42pm]

Audio file: dpm51

RESUMED

[3.42pm]

MR KEENAN: (audio begins)... today is Lee Catley (ph) our National Communications Advisor. Communications of our water policy actions with our growers is crucial to our continued representation.

I'd like to give some background to Horticulture New Zealand. Horticulture New Zealand was established on the first of December 2005, combining the New Zealand Vegetable and Potato Growers and New Zealand Fruit Growers and New Zealand Berry Fruit Growers Federations and also now includes Olives New Zealand. We represent over 7000 active grower members. We manage issues of a generic nature such as resource management on behalf of all our grower members and we're currently active in about 20 plan change processes throughout the country from initial submissions through to appeals before the Environment Court. Many of the issues are common between plans.

Affiliated to Horticulture New Zealand are some 20 product groups that represent and address product specific issues. Process vegetables; I've listed some of those groups there. Some of the bigger ones are groups such as kiwifruit, pip fruit, the fresh vegetable product group and the like. There are also more than 40 district grower associations that represent growers at local level and with whom Horticulture New Zealand works with in conjunction on resource management issues.

We're also actively involved in the development of government RMA policy and RMA plan processes throughout New Zealand and recognise the far reaching impact that the proposed National Policy Statement on Freshwater Management could have.

In particular, Horticulture New Zealand has been actively involved in regional planning processes to ensure that the water requirements of the horticulture sector are recognised in regional plans across the country, so is aware of the range of planning approaches used by Regional Councils for water management.

Horticulture New Zealand has a well developed industry quality assurance programme, New Zealand Gap, which provides a structure to implement voluntary targets for environmental management in the horticulture sector including those related to water management. The approach is being developed in conjunction with Regional Councils where they support the concept of industry audited self management.

In addition, Horticulture New Zealand has been involved at all levels of the Sustainable Water Programme of Action, the former government's programme to address the management of freshwater resources.

Our submissions on the proposed National Environmental Standards cross-referenced to the development of this proposed National Policy Statement. We are currently active members of the Primary Sector Water Partnership that should be and members of the Water Measuring Devices Implementation Task Force. And are on the leadership group of the Land and Water Forum, an integral part of the current government's programme labelled "A New Start for Freshwater".

Just some industry stats – I've also given two copies of our Fresh Facts book out which just provides a handy overview of the horticulture industry. Horticulture exports have increased from around 115 million in 1980 to over 2.94 billion in 2008. It's roughly nine percent of total merchandise exports and 15 percent of all New Zealand food and fibre exports. Domestic sales of horticultural products for 2008 are estimated at about

2.59 billion dollars. So it's around 5.53 billion dollars in fresh on board export value and domestic sales. I suppose one of the key points to that is that our export sector is really supported by our strong domestic sales and relies on that.

Total investment in the horticultural industry for 2008 was calculated to be around 48 billion. Horticultural production activities cover around one percent of New Zealand's total land area. And while 54 percent of New Zealand's land can sustain agriculture, just five percent can support horticulture. While water is a precious and vital resource, land is equally so.

I just have a graph there that shows growth of horticultural exports over time to indicate how significant growth has been over the last decade. Well no over the last 20 to 25 years.

Water is essential for the production of food. Horticultural production in all regions of New Zealand is reliant on reliable resources supplies of fresh good quality water suitable for sustained crop production, post harvest washing and processing. This is why Horticulture New Zealand has been proactive in preparing our own National Water Policy and this is on pages 3 and 4 of our submission to you. I'm sure the Board has made itself familiar with the submission so today I wish to concentrate on who Horticulture New Zealand represents, and now I'd like to reiterate some of our key messages to the Board.

In terms of involvement, firstly I'd like to ensure the Board that we are committed to assisting in any way that we are able to. We are aware of the difficult task that has been presented to the Board. It is the responsibility of all involved organisations to engage proactively and constructively to resolve the conflicts inherent in Freshwater Management.

We support development of a National Policy Statement in Freshwater Management.

As we said to Select Committee regarding the phase one review of the Resource Management Act, we are opposed to expansion of ministerial powers to suspend development of National Policy Statements. As an organisation we have put considerable effort into this policy work for the entire period of the development of the policy. We are certain that we would not have invested as much time and effort into the process if we were unsure it would produce something.

For our growers, the lack of national direction in freshwater management is having significant effects on productivity, upgrading investment, new entrant costs and compliance costs. The variation in responses to water management at the regional level is quite simply phenomenal. Our organisation is facing significant challenges representing growers at the regional level, particularly given the uncoordinated notification of second generation planning across the country. Any national guidance or direction this Board is able to produce will be an improvement to the current situation.

In terms of defining issues, it is increasingly obvious that few are talking a common language when Freshwater Management is concerned. I will expand on the concept of efficiency in the next section. But our other concepts in the proposed NPS also require some explanation.

[3.50pm]

Our submission is clear that we support a national approach that establishes a method to determine notable values and a nationally consistent description of a full range of potentially notable values. The

concept of restoration is also problematic without provision of some form of benchmark.

Similarly, Horticulture New Zealand has experienced much variety in the interpretation of what is or is not land use development. Horticulture New Zealand has also requested that a definition of reasonable domestic take. And generally Horticulture New Zealand supports expanding on the definitions that are currently proposed as a means to develop more common and consistent language to reduce some of the conflict at the regional level.

With regard to efficient use, Horticulture New Zealand has requested the Board commission some work on efficiency given the proliferation of regional rules that refer to it but do not define it. Technical efficiency, allocated efficiency, economic efficiency and dynamic efficiency are referred to in the literature. And Horticulture New Zealand notes that the end goal is very different depending on what form of efficiency is being encouraged. For example, using big gun irrigators on leased land gives high economic and allocated efficiency scores but a low technical efficiency score. Efficiency becomes even more problematic without definition when it is linked to priority. Intergenerational costs and benefits are also a factor, particularly where regionally significant water resource development is being considered.

While Horticulture New Zealand has sought a holistic definition of what is commonly referred to as dynamic efficiency we would accept separate definitions for the other forms of efficiency as a middle ground given the misunderstanding is being generated by the use of that dynamic efficiency term and the difficulty of actually defining it and we appreciate that that is a difficult task.

With regard to consumptive use, Horticulture New Zealand supports the current definition of consumptive use and has adopted the proposed definition in submissions across the country. The definition is sound because it recognises that a time delay is also a consumptive use because it denies other users access to the water stored. The definition represents the most equitable definition, in our view.

With regard to offsets for water resource development, effective water resource development often requires the ability to offset or mitigate environmental effects with a positive benefit elsewhere. Commonly regional plans provide no option to consider this approach. Horticulture New Zealand considers there should be the ability to offset or mitigate an environmental effect within the catchment or receiving environment of the freshwater resource. Horticulture New Zealand seeks that the proposed NPS provide for water resource development that has either no net degradation of the water resource or has a net improvement of the water resource. Negotiations on the biodiversity chapter and the proposed Horizons One plan sought this offsetting clause as a way to provide opportunities for water resource development with a caveat that there would be a net biodiversity improvement.

Approaches that do not allow this flexibility have been problematic for the development of on farm water storage in the Waikato and Auckland regions as an example. In these regions inline damming of all surface water is prohibited or proposed to be prohibited, in the case of Environment Waikato. Growers prepared to invest considerable resources in biodiversity and water quality improvements to establish on farm storage are restricted from doing so. We seek the proposed NPS to encourage the development of offsetting policies.

In terms of long term investment, many growers are perplexed by the variance in length of consent that is provided between regions. At the extreme end of the spectrum in the Bay of Plenty some kiwifruit growers have faced one year terms for some years. Growers in Gisborne are subject to a standard five year term. Ten year terms are popular elsewhere. Waikato is proposing 15 years and some councils, such as Environment Canterbury and Otago Regional Council have a history of giving consent of 35 years. Consider how manageable this is for an agribusiness that crosses up to five regional boundaries. And this is not uncommon given the review clauses that are in most water take permits that shorter terms provided for are also considered unnecessary by Horticulture New Zealand.

If technical efficiency is to be encouraged on permanent horticultural blocks, growers require some certainty about how long their tenure will be given that access to water is a necessity for most horticultural crops. We seek that the proposed NPS give guidance that encourages consideration of longer term consents for water take and we have also sought through submissions on the RMA phase one amendments that consent term is automatically issued for a period of 35 years unless there is a justification for a lesser period and this is the opposite in practice of what is occurring now.

In terms of crop rotation, while many growers own land they also lease considerable areas so that they can achieve suitable rotations for their crops. There is also an emerging trend among some growers to swap or share land for crop rotation purposes. Rotation is critical for horticulture for reasons like maintenance of good soil health and good soil structure and suppression of soil borne diseases. Any status other than permitted status presents many problems for growers that have shared or leased land arrangements. Land use consents go with the title of the property

and are the responsibility of the land owner, not necessarily the grower. This creates social and contractual issues that may result in a dramatic decrease or halt to leased or shared land arrangements which provide for more sustainable cropping rotations. Most sharing or swapping of land is done by social contract, a handshake and a verbal agreement to treat the land as if it was your own. The splitting of take and use consents creates similar issues.

Because of this, Horticulture New Zealand places a very high value on permitted activity status. We recognise the responsibility we have to the environment and we have worked hard to develop systems that provide an incentive for sound environmental management by rewarding good practice with permitted activity status. For example, Horticulture New Zealand has been actively working with regional councils like Horizon's Regional Council to establish permitted activity rules that incorporate audited self management to manage land use effects. Horticulture New Zealand seeks flexibility within the proposed NPS to encourage and promote management of effects through independently audited management tools.

Our last cycle of compliance, the horticultural industry has developed a vehicle to encourage and deliver good agricultural practice. This system is referred to as NZGAP and the GAP does stand for Good Agricultural Practice. Since 1999 growers have needed to meet the requirements of NZGAP. Growers need NZGAP to supply supermarkets and export markets. Hort New Zealand is now consulting with councils to adopt NZGAP and is working to add the compliance tools that regional councils can have confidence in. The principal rewards for growers are one regulatory system for all regulators including the customers and recognition of environmental leadership and brand placement. And clients with NZSA409 2004, the Management of Agrichemicals are the Fertiliser

To be read in conjunction with
the tabled evidence/statement

Code of Practice and Spread Mark are part of the New Zealand GAP requirements. We have also recently finished a four year programme to develop and oversee a nutrient budget for most arable and horticultural crops and combinations thereof.

For the reasons above, Hort New Zealand supports regulation that incentivises good practice and good environmental performance and that also provides a regulatory backstop where there are real compliance issues. Currently the proposed National Policy Statement states that encouragement of good practice should be adopted as a minimum.

[4pm]

Horticulture New Zealand seeks the proposed NPS provide more positive direction to regional councils to assist industry with the development of best practice. Regional council support of good practice makes all the difference.

Horticulture New Zealand has two concerns about the timeframes within the proposed NPS. Firstly and most importantly, the timeframes fail to recognise how long it takes to make good practice happen on farm. Development of soil conservation codes and practice and standards for agrichemical use have demonstrated this. Our work to familiarise growers with a new nutrient management tool has also experienced unexpected delays. Often unreasonable timeframe expectations will lead to failure of extension. Extension is undervalued. Quite often the human resources required has simply disappeared. Regional councils still only infrequently adopt the approach of working with communities to foster and encourage change. The cost associated with an application to command and control regulation are often the result.

Secondly, the time and resources required by territorial authorities and regional authorities to implement the changes proposed in the NPS are simply unworkable given the shortage of skills and resources. It is recommended that the Board take full account of the LGNZ submission relating to these matters.

As a summary, I'd like the Board to note the following points: All agriculture is different. Even within horticulture we have some 110 crops under our advocacy umbrella. All of the effects and demands from these different systems vary drastically. Horticultural and arable production can move from place to place a lot more than other agricultural systems for good reasons. Horticulture is very efficient in terms of the economic output per unit of water required. Often the value per hectare is very high. As are the inputs such as capital, labour and machinery that are required to produce this high economic return per hectare. Our systems therefore require a correspondingly higher reliability in terms of access to clean, fresh water.

Regional policy variance is creating significant issues for many of our members. With up to 80 percent of produce being grown by less than 20 percent of growers, most operate in at least two regions and some operate in up to five. For this reason we strongly advocate for national direction where it is appropriate; where we consider it is appropriate we have referred to it in our initial submission.

Horticulture New Zealand places considerable emphasis on environmental leadership. We don't talk about the right to farm, we talk about the right to grow sustainably. We support the development of national direction through the proposed National Policy Statement and request that the Board carefully consider our suggestions in their deliberations.

Thanks for the opportunity to present today on behalf of New Zealand's growers.

CHAIRMAN: Thank you indeed for a very coherent presentation. It's really helpful thank you Mr Keenan.

MRS VERNON: First of all I'd like to compliment you on your Appendix 1 of your original submission with all the detail about voluntary targets for environmental management. I thought that was most helpful and very interesting, so thank you for that. I have two questions. One is actually on your submission this afternoon and one's on your original submission. If I go to paragraph 2.8, just a question - I note that you are on quite a variety of different forums and groups discussing the issue of water and agriculture and other things I guess. But my interest is in the "A New Start for Fresh Water"; I just wonder, having been involved with all of those groups, some are new and some are old, do you see any – and you've clearly been following the NPS right through from the beginning, do you see any inconsistencies with what this "New Start for Fresh Water" is promoting and what is currently sitting in the NPS that may make it difficult for the NPS, or that changes the horticultural position in any way?

MR KEENAN: Firstly, I think in a way Mrs Vernon it's very difficult to tell, because the "New Start for Fresh Water" is very fresh and we made the decision to get involved in the Sustainable Land Use Forum, it became obvious that late in December that the collaborative governance process which was being pushed strongly by National was going to be adopted. We still have some uncertainty about the outcome of the collaborative governance process. We have an understanding of the desire to develop a consensus view of the 65 odd organisations that are involved. However, I recall when I was at the MfE working in the Sustainable Water Programme of Action that we had nine separate reference groups working

to establish some sort of policy direction and input from the community. I think what is different between that round and this round is that all of those parties from those different interest groups are actually in the same room. And I think that that is probably a development that may herald some change. However, I'm struggling to point out any real particular – oh no, no sorry, I'm incorrect - under the previous Sustainable Water Programme of Action there was no political desire to reform the RMA as part of it and the Phase 2 implementation of the RMA does propose regulatory reform which is probably another key difference. Yeah, but other than that policy tools are still being developed by officials and policy tools are being developed by officials in another process outside of the Land and Water Forum process.

MRS VERNON: And the second question goes to your original submission and it's paragraph 6.2.1, page 10, it's a decision sought on Objective 2. Then I'm quite clear on the rewording that you want, but the question I would like to ask you is because we've had it raised by some other submitters. And it's the term "land use development" and I would just – I note you haven't made any comment about those three words, but I would be interested in your opinion of the words "land use development" whether it's should just be "land use", but I noticed you've changed – you've taken out the word "effects" in your rewording, but you haven't taken out the word "development".

MR KEENAN: If I can refer you to section 7.17.

MRS VERNON: Of your original submission?

MR KEENAN: Of the original submission. I just note half way down that paragraph, "it is not clear how land use development will be interpreted. The definition provided in the proposed NPS refers both to land use

intensification and land use change, as well as subdivision and we note that they're poorly defined in resource management policy."

MRS VERNON: Equally though, it doesn't say about removing the word "developments" that's all. I'm just interested in your comment on that. I accept what you say there.

MR KEENAN: And know I suppose that that's also key to my comments today regarding definition and developing a common language around that because as I did – I think I did note about "land use development" as one of the terms that we are seeking some clarification on in terms of the proposed National Policy Statement.

[4.10pm]

We're seeing huge variety of interpretations on it from quite restrictive use of it, and particularly for example, recently we looked at the term "re-development" which was meant to be referring to any new development that results in a change of land use, as opposed to development which is a much more holistic view of just "use" basically, or "increased use", as it's sometimes referred to. So I'm very open to some interpretation of "land use development" from the Board.

MR PRIME: I just wanted to ask about the terms of consent where you're suggesting 35 years. I wondered if you had a view, would that be a – I'm trying to get an idea of what would you see as a maximum, it seems a long time in horticulture terms (inaudible) crops, if you compare with forestry, I guess, which is around 35 years for one crop or 30 years for one crop.

MR KEENAN: I think that safeguarding that is the ability of the consent authority to review all the proposed new conditions on the consent. I also think that

it is vital to encourage investment in infrastructure in terms of the life of the average business decision. In terms of the economic cycling I could give the example of Leaderbrand up in Gisborne which grows something like 60 percent of New Zealand's lettuce. Where they are on short term consents for five years because there is no water plan developed by the council and that's how they manage the effects of water takes. However, that five year term gives them very little security as a supplier and as a result they've invested very little in their water storage or water resource infrastructure, because they cannot be guaranteed the certainty of investment and they haven't got the time to depreciate their investment over the course of the life of the consent.

DR HARDING: Just viewing that point a little bit more, I mean, I take on board the fact that obviously your growers want surety in investment, but the 35 year timeframe is something that's used in Otago and Canterbury regularly. But, is this just an attempt to get the longest period of time you can? I mean is – what sort of number, what sort of timeframe is actually realistic from a business point of view, bearing in mind that our understanding of water resources is changing continually? We've got issues of climate change and that sort of thing, but we're still discovering what those long term effects are going to be.

MR KEENAN: Yeah. These are some very interesting issues that we are still discussing. When we developed our National Water Policy we focused quite heavily on some real core aspects which would seem to be fundamental amongst many of the growers that we talked to. One of them was about trading in consents. Most growers are absolutely fundamentally opposed to trading for environmental reward of consents. But they are not opposed to transfer. And many of the growers feel that there should be an unalienable right of water with the land, although some don't. And that really goes to the heart of what I think you're trying to get

at. I think it becomes less important if you have the appropriate mechanisms in place to encourage allocative efficiency in terms of things like water user groups for example. The establishment of water user groups that can share the resource in times of shortage and with the development of water measuring devices now we have systems that can encourage very good and quick technical transfer to enable that to occur. I think we can go a long way within our current system and give the security of supply for a 35 year take to ensure that we get the best value out of what is a very precious resource.

DR HARDING: Also in the presentation you've given us today you talk about concerns about the timeframes proposed in the NPS. That they fail to recognise how long it may take for good practice to happen and that sort of thing. Can you give us some idea of what you might consider to be reasonable timeframes?

MR KEENAN: Okay. We've got some really good examples of this from, just for example our work on the Franklin Sustainability Project which was done up in the Pukekohe region. That was done - initiated in 1996. I think the good practice was developed in 2002. It cost over a million dollars of industry money plus associated government money, so it was leveraged off that. It's really been bought into by the growers, but still we find we have to – we still have to keep going and reaffirming that. And it's so important to have the follow up and if you don't constantly work at these things they don't last. And good practice changes, so you have to review good practice the more that you do. If I look at Horizons, we've taken four years to develop our Nitrogen Managers for Environmental Accountability which is basically overseer for Hort. We're now going around with grower workshops trying to establish that. At the same time we're trying to put it into a plan so that we have – because it's the first time a tool has been developed that can measure nitrate leaching. It's only a model. The

growers are very suspicious of it because it doesn't necessarily match what they're seeing on the land. And you can't discount those intuitions. These people have been on the land for a very long time, so you need to work through a process of validation. You need to have worked through a process of community trust building and you have to all do that within the timeframe the regulators are actually sort of proposing to develop.

I could provide for the Board some of examples of how much cost and time that's been involved in developing that national tool for (inaudible). It's thankfully been supported by central government. But the other point to that is that we're an industry organisation. We represent our growers. We are there to advocate for their growing conditions and we have very limited direct regulatory influence, other than our customer requirements for New Zealand GAP and the like. And partnership with regional councils is absolutely key to actually providing the regulatory backstop for our good practice. It's really difficult. But we are working on it and we are having some success. We're developing codes of practice for Horowhenua. We're developing in the Ohakune region. And those are because they are the areas that have been prioritised. We're working at the same time through our Primary Sector Water Partnership in Canterbury to establish a tool on land use intensification and the list goes on.

My point is not necessarily what - we understand the communities' expectations, we just really struggle with the timeframes within which we're meant to deliver those expectations.

DR HARDING: Accepting all that, one of the things that this Board has to do is to think about what are realistic timeframes.

MR KEENAN: I think it's very – it's very dependant on how the policies and objectives, particularly the Regional Policy Statement, falls out of the

National Policy Statement. I think it's particularly important that when those plans are notified there's been considerable thought put into how the policies recognise the (inaudible).

[4.20pm]

DR HARDING: Just one other question, in your original submission you talked about Objectives 4 and 5, you suggested a replacement wording which added the word "net", so on page 10 of your original submission, 6.4.2 "replace Objectives 4 and 5 with the following new Objective 4, 'ensure the net life supporting...(Reads)...and avoiding net degradation'." I'm just interested by the injection of that word "net" in those two places and what your interpretation of net would be in that regard.

MR KEENAN: This refers to the material I gave today on offsetting and offsetting policy. In particular, it's a concept which is promoted by the electricity generators. I can't claim it as my own. I've just found it a very interesting concept and it's a concept that we have explored and there is considerable support for in the horticultural community. It's the concept of providing either a net improvement in terms of development, or no net effect, but not necessarily having to – it's more in line with mitigate than it is void. I'd say that would probably be - so for example if it's a prohibited activity on all perennial water courses in the Auckland region to put in inline dams, that virtually limits all of the opportunities for on farm storage in the Pukekohe area. However, if the farmer was able to offset a development of one tributary into water storage and offset that through environmental enhancement of another, then that would be – that would encourage environmental enhancement and economic benefit. We had the debate over the biodiversity chapter in Horizons over what do you consider to be "equivalent". Especially when you talk about ecosystems. So for example is the replacement of Montaine (ph), Tawa, Potukap (ph)

with a coastal wetland considered equivalent? However I think that we could - in many cases we could make it a call on what is equivalent or what are some of our more rare and are significant indigenous ecosystems that we would like to see enhanced or maintained and protected.

DR HARDING: In a practical (inaudible) of applying sense, would this be met at a whole catchment lease?

MR KEENAN: I believe so. I believe that we have actually asked that it be restricted to within the catchment. For reasons of management really. It probably becomes unmanageable if you need to try and decide what is equivalent beyond the catchment. Your real outcome is in improvements in resource condition targets that are set by either the community or the regional council.

CHAIRMAN: So this net idea, which is something to do with offsetting – I’m a bit behind in catching up with this you see, something to do with offsetting adverse effects is it?

MR KEENAN: Yes, yes it is. I mean we are aware that there are adverse effects from the development of things like water storage and structure or dams, or there are land use effects associated with almost every rural productive activity.

CHAIRMAN: Almost every activity.

MR KEENAN: We are also very aware that there are very positive – yeah every activity, I mean let’s – I’m not going to talk about urban water quality but let’s focus on where we can get in the rural production environment a net

positive effect for the economy and the environment, I think that that would be a very good start.

CHAIRMAN: So does there have to be some causal link between the adverse effects and the offsetting effects, the beneficial effects?

MR KEENAN: In terms of biodiversity one of the things that we have looked at, because it's so difficult to link cause and effect, particularly around things like sedimentation where it becomes a lot more – where the nitrogen is leaching from one block of land or another block of land, or whether the effects of water storage in a catchment have resulted in a decrease in water temperature or whether it's something else; whether it's a lack of riparian shade. So it does become quite complex I understand. Particularly when you might say “we will offset for biodiversity reasons” or “we'll offset for water quality reasons”. The water quality results are often very delayed as I'm sure that everyone's very aware from the Taupo situations the delay – the temporal delay in the effect from the cause was quite difficult. But, I still believe that offsetting in some situations, particularly where you're looking at regionally significant infrastructure are still viable alternatives. And we are seeing quite positive environmental effects and recreational effects from the Opuha Dam for example down in Canterbury where irrigation storage has also allowed supplementing environmental flow in the river. And it's also provided some habitat restoration. So, at that level -

CHAIRMAN: Can I follow the second example. The first is fair enough and thank you for that. But just thinking of the habitat restoration, just explain to me how that works, just taking the Ophua dam as an example.

MR KEENAN: Yeah, it's probably about riparian work or works around the dam itself. It's been a while, but I could give a better example than that

actually. I could give an example in the Bay of Plenty where one of the kiwifruit growers who has a significant contribution to Kiwifruit Gold production has installed water storage on almost every block of new kiwifruit that he's planted. And with that water storage he has completely replanted the riparian corridors which are associated with his land. So, he's basically tried to develop some biodiversity values and some, you know, habitat restoration or putting back on indigenous species to try and – well he's not doing it because his consent tells him to do it, he's doing it because he wants to do it. But that's an option, I think, in terms of the effects.

CHAIRMAN: Yes and you're seeing that as being official and offsetting. But where do you draw the line between that and the rather gross attempts, we won't indicate any particular section of the community, sometimes make to in effect, "buy" consents?

MR KEENAN: Buy consents?

[4.30pm]

CHAIRMAN: Buy consents. Not of course by folding stuff, but by promising to do this, that or the other thing, that they think will give them a total package that'll offset the adverse effects of what they would do or they wouldn't otherwise get consent for. Where do we draw the line between the two? That's why I ask, does there need to be some causative connection or link? In that case that you've given us as an example of a good one in Bay of Plenty, the riparian improvements are on the same property. And that was true of the riparian restoration that you described in respect of the Opuha dam.

MR KEENAN: But where it's between properties it becomes –

CHAIRMAN: Or elsewhere in the region or perhaps even in another region. It's easy enough to draw extreme cases, but it's harder to draw where the line is for the marginal cases, isn't it?

MR KEENAN: Yes. It is.

CHAIRMAN: As always?

MR KEENAN: As always.

CHAIRMAN: So do you have any idea about where a line could be drawn to make this kind of offsetting and net degradation objective acceptable?

MR KEENAN: I think that in terms of resource management there's always going to be calls that need to be made at the regional council with - levelled with the community involved. And I think there's -

CHAIRMAN: Yes, but won't the regional council and the community say "well we deserve some national guidance on where we draw this line".

MR KEENAN: Yeah.

CHAIRMAN: That's where we're heading at the moment and if you've got anything to help us with that of course we'll be grateful.

MR KEENAN: I'd like to think on it for a while if I could. And would I be able to provide some supplementary assistance?

CHAIRMAN: Of course. Of course you could.

MR KEENAN: One thing I am doing is assembling, as we speak, a group of nine growers from different regions and different industries to act as a sounding board for development of our approach to this collaborative forum and that's one of the questions I'd very much like to put to them.

CHAIRMAN: Well you consult whomever you wish, but if you on behalf of Horticulture New Zealand would like to explain this - how this aspect of your submission would work with more thought than you could be expected to give the question right now. Then we'll give you time in which to do it. But we would not want to give you an unending period of time, because we've got to get on with our task.

MR KEENAN: Yes. So when would you like a response by?

CHAIRMAN: Well, shall we say six weeks?

MR KEENAN: Six weeks.

CHAIRMAN: That would be adequate for your purpose, wouldn't it?

MR KEENAN: It certainly would.

CHAIRMAN: Can we say how helpful we found your submissions today. And thank you very much for coming and coming a bit early so that we could make progress this afternoon.

MR KEENAN: Thank you all very much for the opportunity to present.

ADJOURNED [4.35pm]