

To be read in conjunction with
the tabled evidence/statement



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

TUESDAY 11 AUGUST 2009

HELD AT THE HERITAGE HOTEL, 35 HOBSON STREET, AUCKLAND

HEARING OPENED [9.33 am]

APPEARANCES

Mr S Berry, Mr D Speirs, Mr T Petch and Ms K Mayes, Environment Waikato
Regional Council

Ms S Stewart, Ms A Candy, Mr M Hassan and Mr P Holm, Manukau City Council
Mr P Thomas, North Shore City Council

Ms R Andrews and Mr M Glover, Waitakere City Council

Audio file: dpm 0120

CHAIR: Good morning madam and gentleman we're considering the submissions on the proposed National Policy Statement on Freshwater Management. And we've been hearing submitters presenting on their submissions in various parts of the country and this week we're hearing the submitters who choose to be heard at Auckland. And this morning our first presentation is for Environment Waikato and Mr Berry I believe you're counsel for Environment Waikato today?

MR BERRY: Yes I am Sir and if I may Sir I've handed to Mr Rice some folders if I may table those.

CHAIR: Thank you.

MR BERRY: Sir you would have seen these original submissions lodged by the Waikato Regional Council. What we have there Sir if I could perhaps take you to the folder just to explain what you have with you. The very first document Sir is an outline of the submission I propose to present to you today. The schedule behind it is it picks up on the left hand column to a leaflet we sought originally with the EW submission. One of the things I'll explain to the Board Sir is that in very large measures EW supports the release sought by Local Government New Zealand which sought rather more specifically than you will have seen in the Regional Council's submission. And so there are aspects of that where we've drawn the Boards attention to the Energy NZ submission and then in the right hand column a much more refined or specific relief which is being sought. I knew you'd be looking for that in light of the much more general elite which is the original document. Behind that Sir is that submission even though we know you would have it and various other documents that are referred to in the submission itself.

CHAIR: Yes, yes thank you I can see Variation 6 there.

MR BERRY: Would you like me to proceed now Sir or?

CHAIR: Yes just when and how it's convenient for you, we're all attention and wish you to present it in the way that you find comfortable.

MR BERRY: Sir whereas I would normally stand to present submissions in this atmosphere and context I wonder if you might mind if I sit down?

CHAIR: You just suit yourself entirely, we'll be quite comfortable.

MR BERRY: Thank you Sir. I'll get onto it in a minute or two Sir, but before we start if I could take you to page 3 of the submission which I handed in and just introduce the Regional Council people who are with me today.

On my far right is Mr Tony Petch he's the Group Manager, Resource Information Group and the acting Group Manger for the Policy Group of the Regional Council. He therefore has an overview of the policy issues but was particularly involved in the Lake Taupo case which we'll be referencing as an example of some of the complexities that are encountered in dealing with protecting the high quality water body. Immediately to my right is Katie May she's a Programme Manager for the Policy Group she was closely involved in providing advice in the context of the Waikato Tainui River settlement and that is being referred to in two contexts Sir. The first because it gives an insight into the costs and time frames involved in addressing a degraded water body being the lower Waikato River. And also because the settlement itself is deemed to be an NPS so making a submission in relation to the relationship to other NPS's. And on my left is David Spiers, he's the Programme Manager for River and Catchment Services with the Regional Council and has really been the person who's primarily responsible for shepherding Regional Plan Variation 6 which is a water allocation variation.

So while Sir it is not intended to call any evidence today there are a number of matters traversed in the submissions which if you are minded to

allow that Sir it may be worth while having a bit of a conversation with the people who are addressing who are available on that as that myself as a talking head maybe I cannot take too far.

So if I may Sir take you back to the start. Section 1 simply introduces the Waikato Regional Council and as you've noticed Sir operates under the trading name Environment Waikato, we sometimes call it EW. For those members of the Board who are not familiar with the Regional Council and I know at least one who's intimately familiar with the Regional Council then one of the schedules just simply captures what the Regional Councils functions and responsibilities are and in particular provides an overview of the regional planning instruments that are most relevant to freshwater management.

CHAIR: Just help me with finding that please?

MR BERRY: Yes Sir, if you go to it's essentially page 38 of the main script Sir.

CHAIR: Oh yes thank you.

MR BERRY: I might just at this point pause, Sir, because Mr Rice advised that the Auckland City Council is not appearing, we had understood that we would have an hour to present and I think 20 minute for questions. And certainly we've framed our presentation although it's a bit of a cooks tour Sir we can't read every word of every page of the submission.

CHAIR: I'm sure you don't need to.

MR BERRY: But we felt it was important to lay it all before you and essentially walk you through it. But if so that's how we've arranged the morning Sir but we just wanted to signal that if you, in light of Auckland City not appearing, we have flexibility to remain a bit longer if that was going to assist the Board.

CHAIR: Well of course we welcome your company and it's quite likely there will be some modest amount of questions from members of the Board to yourself or members of the team. And let us see how that goes but if you've planned to present within the scope of an hour we are content with that and we won't be pressing you to drag it out. Let's hear what you planned to say in the hour and let's see if there's any questions. I doubt if that would take more than 10 minutes or quarter of an hour but we'll see.

MR BERRY: Thank you Sir and also just to signal that the team who is here would be very relaxed about dealing with things on the way as well if you would prefer to deal with it that way.

CHAIR: Thank you.

MR BERRY: So Sir at 1.3 we note that the Regional Council formally supported of the Freshwater NPS indeed for the most part it's expressed in such general terms that it's difficult to take issue with. And although to that extent it could be seen as perhaps providing little guidance to local authorities other than I guess an explication of section 5 in the context of freshwater.

[9.43 am]

1.4 is a concern that says that if the framing of the NPS does appear to affect an assumption that the issues which are addressed in that document have not already been a subject of significant and detailed analysis in legislative or regulatory action by Regional Councils and insofar as that assumption has resulted in the hard and fast requirement to promulgate Regional Policy Statements or Regional Plans which may not in some regions be necessary and we've sited there the example of RVP6 in which this Regional Council has already graphed the nettle of water allocation. And so the submission is that it's of fundamental importance that the NPS doesn't create requirements to undertake work which isn't

necessary or which undermines or overrides that which has already been done. And that is a point that is well made in the Local Government New Zealand submission.

We submit that there are aspects of the NPS which should be recast or amended and for the most part the release sought by the Regional Council was in fairly general terms. We do recognise that may not assist you in your final deliberations and we have firmed up the relief that the Regional Council now seeks ensuring that the more definitive or refined release is within the scope of that original source. And that's the purpose Sir of giving you this document and while in the main script here we are concentrating on three or four areas this visual hooks up all of the relief in the EW submission. So that to the extent that the Board may have perceived a short coming in some of the relief sought, we've attempted to address the entire submission in this document.

So that picks up 1.7, 1.8 Sir just simply sets out in the same way as the table of contents has what we will be covering. Firstly structure, second three subtopics in the context of water allocation or two really, there's an overview then there's the setting priorities, transfer ability. Turning to water quality we provided again an overview of the submissions focussed primarily on the issues relating to the identification of key values and the timing and management of priorities for addressing degraded water bodies or maintaining the quality of existing water bodies.

And lastly the relationship between National Policy Statements and the National Guidance. I just note for completeness at the bottom of page 2 that there were further submissions lodged, we don't propose to address those specifically but to the extent that we take issue or they take issue with some of the points made, that's the reason for it explaining where we're going. The next section explains Sir the documents that are in the red folder and at 1.12 I have an order not to load the Board up with too

many pieces of paper have made reference to documents that are referred to in the submission but not provided at this point. We have copies here if you felt the need for them but they're more contextual or peripheral than central to your deliberations. We can hand one set of that to Mr Rice at the end if that would assist?

CHAIR: Yes I think that would be the bright thing, thank you. If you can just leave them with Mr Rice and we can access them.

MR BERRY: Thank you Sir. I've explained who is here so if I can turn to the first substantive topic and that is the structure of the submission. And each of these chapters Sir what I've done is firstly set out what the original submission said and then move on from there, so that's essentially what 2.1 does. And at 2.2 I say, "While it is acknowledged that the Freshwater NPS sets out goals and a series of objectives which read together identify the issues to be addressed. The Regional Council submits that the structure of the NPS particularly with respect to policies gives rise to a lack of clarity as to how Freshwater management issues will be addressed. And in that regard the policy section is process oriented rather than issues focussed and as a result the issues that have been addressed are lost and some of the directions as to process. The Regional Council is concerned that that approach may pose some difficulty in interpreting and implementing the policies." And we note there that the LGNZ submission raises similar issues and submits that an issues focussed approach would assist.

The purpose Sir, referring specifically to Local Government New Zealand submission is because the Regional Council participated in the preparation of that submission as well as a member of that organisation. And the relief of both the submissions in that and the relief sought are somewhat more fulsome than in this document and so it's really a short hand way of saying we own that submission, we own that relief and we

are happy to adopt some of the relief sought in that submission which is before you. And to the extent that any of that Sir created to the extent that there's any aspect of the more refine relief that you brought maybe outside the scope of the original general relief sought by the Regional Council, the Local Government New Zealand submission provides a safe bolt hole for us.

So the relief sought, the Regional Council generally supports the draft alternative NPS prepared by LGNZ particularly insofar as it adopts an issues focus rather than a process oriented approach which enables the issues addressed by the NPS to be clearly identified. And in particular we submit the issues identified by the LGNZ alternative represent a comprehensive and appropriate list of issues to be addressed by the NPS and also to support the structure of the policies section of that alternative which sets out the policies to address each issue. And in our relief box we simply note that that structure support.

Now turning to the first of the substantive issues, the original EW submission in relation to water allocation relating to the setting of priorities and the transferability of water permits. I've simply listed there for completeness the relevant aspects of the NPS. I don't think I'll take you through those it's really just a checklist and the relief is set out more broadly later. So the first aspect of this submission relates to setting priorities and the Regional Council submitted that the NPS should prioritise allocation of water for domestic and municipal supply but enable Regional Councils to set priorities in terms of allocation for other uses taking into account relevant factors and I've set out the submission there.

4.72 of the submission supports the NPS insofar as it requires Regional Councils to guide and direct Regional and District Plans to manage demands for freshwater in a manner that provides reasonably foreseeable domestic water supply over other competing demands

provided that appropriate demand strategies are established. The Regional Council embraces that direction and agrees that supplies for domestic and municipal supply should be given priority on the basis that an adequate and secure supply of (inaudible) water is vital to the wellbeing of any community and vital to economic growth and social and cultural wellbeing in a section 5 sense and of course Sir I mean the RMA there. Reliance on a first come first serve basis of allocation has the potential to put such supplies at risk. The Regional Council has already implement policies via RPV6 which ensure that domestic and municipal supply is given priority in terms of a more favourable activity status. The process in applications for domestic and municipal tanks are ahead of others during a common expiry period. And there are lesser restrictions than on other tanks during periods of water shortage.

Now Sir, looking back at 4.7.1 it says, "The Board of Inquiry may find the detailed findings in relation to RPV6 useful." We recognise that that does not seek relief as such. However EW's experience of promulgating RPV6 and processing a significant application for domestic and municipal supply under the provisions of that variation and that's the Hamilton City Council water take which we'll come back to. Have given rise to valuable insights which the Regional Council would like to pass on to the Board in the hope that it may influence the direction and guidance ultimately provided by the NPS. It is therefore proposed to provide an overview of that document highlighting the issues which arose in the context of that particular application. Just note at 4.7 that there are a couple of aspects of the cabinet paper the new start for freshwater which could be seen as relevant in this context and just note that at 4.8 there are a number of parallels between the areas of improvement expressed in the cabinet paper and those areas of innovation in RPV6. In particular the prioritisation of domestic and municipal water supply and to shift away from the first come, first served allocation model.

[9.53 am]

CHAIR: Well I'm going to interrupt there to say first that neither that nor any other cabinet paper is in evidence before the Board. And to say second that unless you can persuade me otherwise, my initial view is that as a matter of law the Board is expected to make its decisions independent of the government. So that even if the cabinet paper were in evidence before the Board I doubt subject to what submissions that you might make that it would be right for the Board to allow its decision making to be influenced by it.

MR BERRY: Sir this is noted for nothing other than contextual reasons to say that to the extent that the NPS is heading a particular direction and the Regional Council adopts that approach then the thinking elsewhere is similar and we're not seeking to suggest that you should be influenced by what this is saying other than a broadly generic contextual comment. And Sir I'd be aware that - and there is no element of our submission which says you should be influenced by what they're thinking in the context of the cabinet paper which is only setting general directions as part of a broader set of initiatives which, obviously this is an extremely important and central part. So that's the beginning and end of that Sir and we didn't propose to table it or put it into evidence because it's not our document.

CHAIR: Thank you.

MR BERRY: Regional Plan Variation 6, we set out there the background to it and I don't propose to take you through that other than to note that the Regional Plan Variation 6 was introduced to manage the allocation use of freshwater throughout the Waikato region and to determine priority users during times of shortage. The decision itself on RPV6 is voluminous and all I have done in the context of this Sir is to give you the chapter in your folders as well on domestic and municipal supply and I've sighted a couple of passages of that in the schedules.

The short point Sir is that the Regional Plan as it was originally promulgated in the late 1990's wasn't really designed to deal with the level of increasing demand or competition for water and it was perceived that there were shortcomings in chapters 3.3 and 3.4 of that document which was simply withdrawn and replaced with RPV6. Which, if we are in the context of a resource consent hearing, suggests that even though whatever stage it's reached in, it's Genesis under the first schedule, it does represent the only word in terms of water allocation in the Waikato region. The rest of this page is simply traces. If I could put it this way, the whakapapa of RPV6 by saying that in light of the perception of the need for that there was an issues and options paper prepared, a lot of consultation was done, a discussion document was released which all led to RPV6 in the form that its currently in. 4.13 captures the sheer magnitude of the council hearing in relation to that and the decision which was issued by a highly qualified panel including an independent senior barrister who chaired the committee. And delivered what we, with respect, considered to be a very comprehensive and well reasoned decision. Which resulted in an amended version of the variation which is in your folder.

The next section of this submission from page 9 provides an overview of RPV6 and this is more here Mr Chairman, members of the Board, for context to show the how to of water allocation in the context of this particular instrument. And so the primary purpose of setting it out is one to show the complexity and sophistication of the approach which you've acquired in the context of water allocation including the concept of allocable flows in 4.18, RPV6 establishes allocable and environmental flows for surface water sustainable yields in the case of groundwater presuming how much water is available to be taken from individual surface water and bodies and so forth.

Over the page, competing applications are given priority consideration in the following descending order and you'll see Sir at the top of the list is domestic and municipal supply renewals and then new applications for domestic and municipal supply existing tanks and then others. And in assessing a water permit application Regional Council has to have regard to whether the applicant has demonstrated a need for the rate of water sought water efficiency and so forth. Levels of priority are set to apply during water shortages, I'm at 4.25 now, for surface water bodies in the order of priority from least to most restrictions there's domestic and municipal having the highest priority as is necessary to ensure human health and so forth.

I apologise Sir for moving fairly rapidly but there is a lot of material to cover. All other takes allocated with the allocable flow and the rate of users for allocated water. Now this really is leading to the remark at the top of page 11 which says that under the variation applications for water permits for domestic and municipal takes require to be supported not only by an AEE under the fore schedule but also they're not to be a non-complying activity. A detailed water conservation and demand management plan which, given it's such a mouthful, we call water management plans under the variation. And the purpose of such plans is to ensure that the water take in for such purposes is used efficiently and to provide insurance to competing users that water is not being banked, if I could put that colloquially.

The water management plans are required to contain detailed information as prescribed in RPV6 and Sir Appendix C at page 42 sets out the relevant rule RPV6 itself was in your folders but I thought it would be easy for quick reference to refer you to that. And needless to say it's a fairly long list which requires prescriptions of the water supply system, assessment of existing and future demand for all of the purposes set out in 2. Any existing water pricing procedures, planning for articulation of

networks, patterns of water use practices, water savings targets, KPI's and so forth. It's very sophisticated requirement in terms of information which is really designed to ensure that municipal supply authorities have their eye on all of those balls in developing up their application for a municipal take. That will enable the Regional Council there satisfied that the take sought over the life of the consent and efficiency on an ongoing basis and in that regard at 4.29 I note that the water management plans were intended to be a living document which were frequently updated and amended to take account of the latest information including decisions by municipal water supply authorities to implement particular measures. And they are then imported into our water permits via the conditions of the relevant consent.

Now a key issue that arose in the context of RPV6 related to the scope of the water take which would fall within the definition of domestic municipal supply. I've set out the definition of domestic and municipal supply there. And I won't read that but the committee did receive submissions that are very narrow definition of domestic and municipal supply should be adopted in order that in the context of the variation priority shouldn't be given to non-essential uses in the context of the municipal element. Some submitters indeed sought to restrict the definition of domestic and municipal to a per capita allocation per individuals which is really only domestic. And the municipal supply authorities appearing before the Regional Council committee strongly resisted this argument and argued that the most effective and efficient, in the section 7.B sense, way reached council to meet its obligations under Local Government Act, the RMA and under health legislation, is for each council to adopt what we called a portfolio approach to management of the water take that enables a municipal supply authority to take an overall view of water needs and to limit takes and or uses of water taking account of prevailing circumstances, for example, times of drought.

[10.03 am]

The philosophy Sir, there is that Council Inc knows best how to runs its district or city and that there are a multitude of uses of water which when times - when water is not in short supply then the watering of parks and that type of thing is entirely appropriate, but there needs to be a regime to enable that to be pegged back. And that it would be very difficult in the context of a municipal take to necessarily try and prove that these purely municipal uses - or to try and compare and compete with other competing users of water, for example, irrigation or energy generation because it's not necessarily comparing apples with apples.

The Hearing Committee accepted that a broad view should be adopted towards this approach and did not wish to introduce distinctions that may hinder efficient use and allocation of water and in the passage that I have sited there it just notes the various uses to which municipal supply water is put, beyond what you would call purely domestic supply. So it's quite evident to us that different local authorities will have a different mix of various municipal uses. We consider that municipal uses other than strictly domestic supply can be addressed in the context of a water management plan as proposed to the variation.

We consider it would be very unwise to make decisions now about which municipal uses should be allowed and which should not be allowed. We consider that questions of weather and the extent to which people should be washing their cars or sprinkling their lawns should be left as a matter of efficient use in the required water management plan contemplated by the variation and we should not be attempting to make fine distinctions in the Regional Plan.

Sir, in the context of this NPS, we submit that it's sensible and it would be appropriate in terms of promoting sustainable management and in the interests of procedural efficiency if the NPS were to recognise this portfolio approach and that - in terms of defining domestic and municipal supply for the purpose of Policy 1(I)(ii) in order to avoid this debate occurring in the context of each regional planning instrument which is required to be amended to provide the level of priority contemplated by that provision. So, I guess all I'm saying Sir, is that debate was had in the context of this variation and if the Board accepted that that was an appropriate approach, then it would be useful to provide that as a direction in the NPS rather than to have that debate, which would be essentially identical or similar in the context of each subsidiary instrument.

Now Sir, what we go on to cover however is that defining it for the purpose of a policy instrument and then trying to apply that in the context of a particular application was interesting to say the least, and in the context of the Hamilton City application, which I cover here, was an application by Hamilton City to renew its existing water take. The council approached the application on the basis that we were living in an RPV6 world, filed a comprehensive water conservation demand management plan, applied for a stepped take so that any water that it didn't need through each six year period could be allocated and managed by the Regional Council, put forward very comprehensive conditions in relation to compliance with the water conservation bio-management plan, reporting on progress on efficiency measures and so forth.

I don't propose to take you through that other than to say Sir, that a similar debate arose in the context of the particular application and it arose in the context of RPV6, that what should be allowed to be taken in the context - well, certainly the battle lines which were drawn by the submissions, Hamilton City sat down with Genesis, which was the principal protagonist

and said “how can we make you happy?” Because the definition of domestic and municipal supply essentially in the context of the particular application begged the question of what should be in and what should be out of the municipal pot. And the upshot of all of that was that in the context of the particular application it was quite clear that it was necessary to define with some precision the quantity of the existing municipal take which was being supplied to, for example, industrial users which would fall beyond any strict definition of municipal supply, but which is part of the existing take, saying, “Well if that’s going to be part of your take, let’s try and define what quantity that is and let’s define for the purposes of future applications what’s inside the tent and what’s outside the tent.” And, what that resulted in Sir, and I’m interpolating now, because it’s quicker to do it this way, was instead of conditions imposed on the - which were agreed with the submitters and which were imposed on the Hamilton City take, which I’ve put in at page 44, if you wanted to turn to those, you probably don’t need to, by which and I guess if we went behind the veil we find that it was originally proposed that the water permit should define the purpose of the take by reference to the definition we find on page 11 of the submission, which is the RPV6 definition, but in the context of a particular take, it’s fairly unhelpful because it’s not precise enough to decide on any particular day what’s in and what’s out and would therefore create difficulties of both interpretation and compliance and so where I’m driving to Sir, is to say that while the definition may be fine for present purposes, in the context of a particular allocation more precision is required. And that creates a distinction that I’d like to come back to.

CHAIR: We hope you will. Because I understand that one aspect of all of this is to avoid urban process industries getting an unfair preference over agriculture and horticultural production industries.

MR BERRY: And it may be that Mr Speirs would like to comment, but I guess where we're getting to - well I just heard him say, "Yeah, yeah," so he obviously agrees. For this reason, we - and this is, I guess, a result of the passage of time, but we now consider that the definition of domestic and municipal supply which we happily put into our submission as reflecting RPV6, could do with some panel beating. And Sir, the box at the bottom of page 15 is how we submit it might be shown up in the context of the NPS, "Regional Council shall in their regional plans make provision for domestic and municipal supply, including for human drinking and sanitation needs, individual household use and for the purpose of meeting the general responsibilities of municipal supply authorities."

CHAIR: What, like fire fighting?

MR BERRY: Yes Sir. And however that might show up in the context of a particular application by municipal supply authority and I guess that's the distinction that we're making and it's quite a fine line to draw. And I need to explain at the end of the box Sir, because it's a little obtuse when I look at the language now, it says the, "LGNZ submission proposes that domestic municipal supply be defined in that way. WRC submits domestic and municipal supply must be defined on a regional basis and that the NPS doesn't define domestic and municipal supply." What we're really saying there Sir, and it was slightly careless drafting, is to say that on the face of the NPS it would be very useful to make clear in the underlying words that portfolio approach is appropriate, but that in any particular case, the - what is inside the municipal pot will be something which if the type of approach which is contemplated by RPV6 needs to be actually defined on a case-by-case basis as to what's appropriately in and what's out.

[10.13 am]

CHAIR: Does it also need to be defined in a contestable process?

MR BERRY: Sir, I think - I mean, certainly in the context of the Hamilton City water case, it wouldn't need to be a contestable process as long as the type of formula and what happened was that Hamilton City put in a friendly appeal on RPV6 which says that it should be defined in this way, but not only that, and this is what I guess I'm coming on to, that the - it also seeks - and the appeal is in here, that alongside the formula of domestic and municipal supply is a recognition that the component of the municipal take need to be defined by reference to - and there's a formula in the relief that I've put before you, by which the components of that take can be defined. Now, if there were no submissions, it would still be a matter for the applicant and the Regional Council to, I guess, debate what should be in and what should be out and to that extent - to the extent that the resource consent process is inherently a contestable process, then I'd agree with you without necessarily saying that we need a fully notified or fully contested application in order to arrive at the answer. (Inaudible), I'm not even sure I understood what I've just said.

CHAIR: No, you were speaking very clearly, but it's a process that allows for deals between the council and the industry concerned which might, within that locality's judgment, be defensible, but which might still have the effect of giving a preference to an industry within the urban area over agricultural and horticultural takes elsewhere in the region, but drawing from the same source. And it's that kind of competition for the water that probably doesn't arise at all in Hamilton, but we've to think of small towns, not big cities, where one industry, perhaps a process industry might be very important to the economic survival of that town and so that the council might be tempted to some deal, and I need say no more need I?

MR BERRY: No Sir, I mean - and the council, by that you mean the applicant council?

CHAIR: No - well, it might be the applicant council, or it might be -

MR BERRY: Because that would be my response Sir, that I think the Regional Council would - and Mr Speirs may wish to comment, but I certainly think that the purpose of the water conservation demand management plan is to ensure that issues of equity can be addressed in the context of such applications and indeed, these issues have been addressed not just by Hamilton City, but by a group called the Waikato River Municipal Users Group, which includes Waikato district and Waipa district and so - and they all agree that that type of formula is appropriate, so that those issues of equity can be fully on the table in the context of those applications.

CHAIR: Thank you for that. As you complete your presentation, if there's anything further you want to say that bears on the kind of assurance that a Board recommending an NPS would want to get, that the end process would be transparent and "fair" is probably not quite the right word, but it comes to my mind at the moment, between different classes of would be takers, we'll be interested.

MR BERRY: Well I guess Sir, I mean, my response would be that if the definition - if that debate could be framed in the context of the water conservation demand management plan which must be filed with the application, that becomes the context in which that equity issue can be addressed. Could I ask Mr Speirs to comment Sir?

MR SPEIRS: Yeah, I mean it's a good point that one of the things we grappled with a lot was this idea that if we gave a municipal authority priority, were we in fact giving priority to the industry? Were we driving industry into

municipal areas? Because, hey we can get priority if we tap into the municipal water supply. And so the way we've structured the demand management plan process by requiring it to be submitted first, by having the debate as part of that, and by putting a box around the what's in, is that we've acknowledged for instance that existing industry is likely to be critical to the wellbeing of a community. We do have examples of small rural communities, Te Awamutu water supply for instance, where 50 percent of the water supply goes to the dairy factory.

CHAIR: Good example.

MR SPEIRS: In the context of this, that has a level of priority that is in the context of the municipal authority's duty to that settlement to provide community wellbeing. Were they to want to extend the level of that take and have priority for that, that's a different debate, that's a debate that is structured outside of this and is had through a separate (inaudible)-type process. So drawing that distinction as I think was said, there is a fine line to draw there and it is a difficult one, but we have to be in a position to acknowledge that there are significant investments in industry that are required to make an urban authority function. But, any future growth has to be had in the context of fairness with growth happening in other industry areas that aren't necessarily part of that urban, so the priority has to be split, I guess that's the simple - simple in theory, in practise, it is somewhat difficult. And hence the portfolio approach gives you the ability to be a little bit flexible in terms of those conversations.

MR BERRY: Sir, if I took you to Appendix E on page 45, Sir - I must admit that I have some difficulty - I put this before you but it wasn't clear how the Board would - it would necessarily show up in the NPS, but the change to the definition of domestic and municipal supply is set out in a), including limited provision for industrial and agricultural use with the advisory note -

Sir, because it - I mean Hamilton City does supply for example Waikato district and Waipa district, which includes some rural areas and there are existing industrial takes, which would be from a logical perspective impossible to split out.

CHAIR: I understand that.

MR BERRY: So we're really saying the volumes of the domestic and municipal take that can be utilised for industrial agricultural use will be determined by the consent authority in accordance with a rule and then the request is for a rule that says: "limited provision for those uses shall be determined by the water management plan," by defining a mechanism by which high industrial uses will be identified, namely if you're a big taker, you're out and you need to make your own way, even if for example the council makes the application on your behalf, but it's not part of the privileged position of the domestic and municipal take. In establishing the volume of water supplied to the high industrial and urban (inaudible) uses at the time of the application to renew and existing water take, and this was specific of course, but the concept Sir, is the best we could come up with in terms of trying to grapple with the issues that you've been putting before us and it's the very reason why perhaps in a slightly ham-fisted way Sir, we've been trying to put it before you just to share what we learned as a result of trying to apply those provisions in the context of a particular and quite large take.

Now I'm aware Sir we're pushing it for time, but I'll get moving pretty fast. The second half of 16 really says once we've defined domestic and municipal supply and put it at the top of the list, then - and I'm at 4.44, the Regional Council's submission is whether and the extent to which competing uses for water beyond domestic and municipal supply should be prioritised and in what order should be determined by Regional

Councils in consultation with the communities, rather than via an NPS on the basis that the allocation issues, and nature of demands faced by each region will be different. I think I can leave that there.

[10.23 am]

So, the points we're making, and it may be that I'll do this in each section, is that we submit the direction to Regional Councils to manage demands, including prioritisation where appropriate should be maintained, but that the NPS should not provide direction as to how other demands should be prioritised. And then the priority there, the relief sought is really adopting what the LGNZ has asked for. And these reflect Sir, what is in your schedule, they're the same, we just tried to pull them into one place for ease of (inaudible).

Transferability of water permits, I think we can move through that fairly quickly. That's a matter which is briefly addressed in the NPS insofar as it requires Regional Council to provide guidance and direction to regional district plans. The council's position is that it is important that the NPS provides policy support for the ability of Regional Councils to establish transferability of water permits.

5.6, we're saying providing clearer direction for the transfer of water permits has the potential to ensure that water goes to uses (inaudible) highest economic value allows more access to fully allocated catchments, ensures efficiency, will encourage investment in new water uses and will remove incentives to hold more permits than are required, nobody banking. And so the relief sought, the Regional Council supports the policy support for the transferability of resource consents in Policy 1, but considers that it would be helpful to provide stronger recognition of the importance of transferability of water permits in order to encourage use of

water resources and to allow more people to gain access. I guess the key point is that making a distinction between the take and the use is important and that's the point that I've made in 5.12. So that the use of the water doesn't necessarily need to be linked to the take so that the transfer can occur. And the relief sought Sir, is set out on page 19.

That concludes our comments in relation to water allocation and we were going to turn now to water quality Sir, if you want to pause there to deal with any remaining issues, but otherwise we'll keep moving.

The two aspects of the submission really dealt with key values and the concept of a long term target in terms of consumable and fishable, but allied to that the importance of enabling Regional Councils themselves to prioritise catchments for the purpose of achieving those values, so it's a fairly similar theme to that in relation to allocation.

In terms of key values, I'm at the bottom of 20, Regional Council submits that the NPS should contain a long term objective to reach a swimmable and fishable standard where natural conditions allow, but the timeframes in which that objective is achieved must be developed by Regional Councils taking account of relevant factors.

The top of the page has the actual submission.

We support the concept that national leadership be provided by the NPS in terms of putting a very clear stake in the ground as to an appropriate long term objective. The Regional Council recognises that many waterways are significantly degraded and that it may not be feasible under current technological or economic and social conditions to achieve that swimmable or fishable in a short term. It may be never in some cases.

And when I wrote that in the submission one of my colleagues at the Regional Council said “never say never,” and I think that’s the point.

We said that the Regional Council does not accept that this - that the fact that that may be very difficult doesn’t alter the desirability of establishing essentially that Holy Grail as a matter of principle for creating such a long term goal as a basic yardstick. That avoids - such an objective would avoid the need to debate that issue at a regional level via Regional Policy Statement and regional plan processes and can then form the basis of plan provisions which admit specifically to sections in terms of achieving that objective or the timing in which that should occur. So that, I guess, as a matter of principle, I say we should really not give up on the idea that all of our water should be swimmable and fishable, but we need to look in specific cases when we do an inventory of water resources that this one can be on the back burner while we put our effort into that one. Because limited resources mean that we can’t do everything at once.

And that is the central thrust of the submission. There’s a concern expressed that any policy recognition should not result in a pollute-down to standard for water bodies. Having said which it seems clear enough that the policy support for identifying outstanding and degraded freshwater resources as part of notable values would ensure that that doesn’t apply.

The Lake Taupo case provides a good example of a case in which adherence to a general fishable or swimmable standard would have allowed degradation of the water quality of the lake and I just note at 7.9 that observation about avoiding a pollute-down to a standard would’ve allowed a 10-fold reduction in clarity before action was necessary at all. So obviously, when we have a pristine water body, then that’s something which gets identified and certainly it’s much more efficient to try and protect that quality than to allow it to degrade and then fix it.

To the extent that the submission lodged could be interpreted as seeking a technical definition of fishable and swimmable, that is abandoned. Imposing such standards involves highly technical issues of the type we've seen in the microbiological water quality guidelines and so forth and so we're not suggesting that the National Policy Statement should try and put that in. And of course, regional plans already contain provision to specify for that region what the equivalent of fishable or swimmable might mean in that region, and I'll pass over that.

So, conceptually, and I'm at 7.13, swimmable and fishable are appropriate long term objectives to adopt as a yardstick by which water quality could be measured, but any policy framework to implement that objective should acknowledge that for some degraded water bodies that may be difficult to achieve and it's not - in our submission Sir, I guess we're happy to let you off the hook in trying to define what that means in the context of this document.

In terms of prioritising actions, that is the second aspect of the submission. The key concern there is to ensure that the setting of priorities for achieving the objectives of the NPS is a matter for Regional Councils to determine having regard to the social, cultural and economic circumstances - I'm at 8.5, rather than being directed to act within a certain timeframe. And in that regard the Regional Council submits that the 2035 timeframe, albeit specified in the Preamble, is arbitrary and unrealistic and in particular, overlooks and underestimates the regulatory processes costs and timeframes involved with either all of achieving the protection of high quality water bodies such as Lake Taupo, addressing the improvement of degraded freshwater resources such as the lower Waikato, or ensuring the degradation of existing water resources is prevented and that is maintaining water quality in its present state involves

much more than simply doing nothing, and involves a decision and an allocation of resources as well.

So we submit that it's appropriate for the regional community in each plan or policy statement to decide that some waterways may receive very little attention, while others will be the subject of significant effort and expenditure during the life of that planning instrument.

Now we've given two examples here Sir, and I can basically speak to these by quickly turning the pages. Firstly, Lake Taupo, when it was recognised that the pristine water quality of this lake was being compromised to some extent by nitrogen discharges into the lake as a result of land use changes that had increased beyond the - what we call a manageable load, the load of nitrogen that would go in naturally, was resulting in a very minor decline, but albeit, recognisable decline in the water quality of the lake. A decision was taken to control further land use intensification and to put a cap essentially via imposition of land use controls in the catchment to ensure that the - there was no increase in the quantity of nitrogen entering the groundwater or river system and entering the lake, which in many cases was taking decades to arrive. And, as a result of which, the objective which the Regional Council has adopted following lengthy consultation with stakeholders in the community was to try and achieve current water quality levels by 2080 knowing that with all of the effort which is being made, that the water quality would decline as nitrogen which was in the system arrived, but knowing that there was a reduction in what was coming down the line and an 81 million dollar fund in order to reduce by 20% the nitrogen that was entering the lake from existing land users.

[10.33 am]

MR PETCH: The cap, very important. I think that the principle in relation to the timeframe is the latency of our geological and biological systems, so we can take action now to hold the amount of nitrogen entering Lake Taupo, by travelling through groundwater and into the river systems and into the lake, we won't expect to see a response for at least forty years, but we must take action now. So that puts in the context timelines, so I think our thrust here about setting realistic timelines is that we have to take account of latencies within our ecosystems that span many decades. So a fixed time will be unachievable, even if we effectively shut down systems now, send or revert them back to pristine over that period of what now amounts to about twenty five years. There is so much pollution, if you like, within the system that has yet to arrive (inaudible) all the bodies that we're careful about timeframes that we have specified (inaudible).

MR BERRY: And in the context of Lake Taupo Sir, when the catchment was readily identifiable, there hadn't been significant conversion to dairying and so forth, but nevertheless the development and implementation of a measure, and it's novel, and it's just passing out the other end of the First Schedule process at the moment, by which farmers have to accept the need to make a resource consent application to farm, didn't go down so well as a principle.

CHAIR: I think we were all aware of that.

MR BERRY: And Sir that's just one small catchment. And I guess what we're saying is if you then took that bundle of issues and tried to apply it to the Upper Waikato, the picture would be much more complex, much more difficult, it would take much longer and the transaction and opportunity costs would be that much greater, and so you could translate this issue to any degraded water body and say, "Well there's going to be some similarity of issues, but there's not going to be any one stop shop, or fix."

And it's really in that context that the Regional Councils need to take account of those social, cultural and economic factors in deciding how it's going to prioritise actions.

And the Waikato River example is just another example, and if I could move fairly quickly Sir, I'm aware it's just after half past ten, if you're happy for me to continue?

CHAIR: Yes thank you.

MR BERRY: Thank you Sir.

CHAIR: Shall we aim that you've completed by quarter to, would that be a reasonable? Then we'll take a break and then we'll have another few questions, would that be all right?

MR BERRY: Yes Sir, I'm sure we can achieve that. I wish I could speak as fast as my daughter does.

Sir, the next is just another example, so whereas Lake Taupo is an example of the difficulty of protecting the pristine water quality of that lake. The Waikato River example - for the most part the upper end of the Waikato River has had a very high quality, but below its confluence with the Waipa there is a suspended settlement load that goes in from the Waipa Catchment. That was a real concern for Waikato Tainui, and that has shown up in the context of the Waikato Tainui River Treaty Settlement, and I guess the point we're making here if we boil it right down is that, that became an essential part of that settlement and at April 26th we note that the Waikato Tainui River Settlement includes a clean-up fund for the Waikato River. The Crown has committed 210 million dollars over thirty years to this fund, with a commitment to review the figure at the

conclusion of scoping study for clean-up priorities. The Regional Council estimates that the 210 million dollar represents the minimum cost associated with restoring water quality in a relatively small part of the lower Waikato River, and that figure increases to anything up a billion dollars, if the full transaction costs of addressing land use influences on the water quality were factored in.

At 8.28 I note that the Deed of Settlement and co-management arrangements are premised on an understanding that improving water quality in the Waikato River to the desired standard with take fifty to a hundred years, that it will come at a significant cost, that improving water quality in the lower Waikato involves actions in the upper Waikato, and that cultural values are relevant in setting the objectives and strategies. So boiling it right down Sir, at Page 30, we say the key matters which the Regional Council wishes to draw to the Board's attention, are that cultural issues are relevant in setting priorities, were it not for the Waikato Tainui River settlement, limited resources may have been directed elsewhere in the Waikato Region. If you talk to Bill Dante, he will have given evidence before you a number of times, he'd say, "I would have put my effort in the upper part of the river," but that's a scientist's view and also the long timeframes, and significant cost of assuring water quality, so it's really just saying once again, the set of priorities which have emerged for this part of this river, were the result of another conglomeration of different tensions and cultural, and social and economic factors, which really need to be considered on a case by case basis.

Chapter 9 really tries to draw together - or this part captures what the Regional Council has done as regards water quality, and I guess 9.5 is the point we need to focus on and it says, "In its review of the Regional Policy Statement, the Regional Council has been discussing with stakeholders an approach to water quality that sets measurable and

specific objectives and policies, and guidance at a political level to date is that the Regional Policy Statement should seek to protect water bodies where water quality is high, where water quality is not high it's intended that the Regional Policy Statement will set out the values for each water body to be managed, with steps along the way for achieving improvements over time, and it will set out a clear framework for identifying and managing water bodies, and the values of national importance to be managed, and would thus support the second generation RPS." So the essential features of our submission are captured here.

We submit that it would be helpful if the NPS would provide stronger policy support for the purposes of both protecting existing high quality water bodies, enhancing degraded water bodies, while enabling Regional Councils to establish priorities for their protection and enhancement to achieve those objectives. We submit that the NPS should set a long term national target for all water bodies to reach a swimmable and fishable standard. Clear identification of those values will provide a strong mandate to Regional Councils to address water quality, and avoid the transaction and process costs of debating that issue per region, on a periodic basis. The NPS contains an objective which relates the enhancement of the overall quality of freshwater, such that it may reach or exceed that standard. Our submission is that the objective only relates to the enhancement of degraded water by them, not to the preservation of pristine freshwater resources, which might already exceed that standard.

I think I can move past there Sir. And this is the primary area in which we I guess, are taking a lead from the Local Government New Zealand Submission, and I can just move through that to 9.15, if I may. If I just say at 9.11, the LGNZ seeks that a new objective be included which identifies key national values for freshwater resources, while at the same time

To be read in conjunction with
the tabled evidence/statement

acknowledging that those national values will provide a benchmark, or target and the Regional Council supports that concept. At the bottom the key national values are to provide for safe swimming and other recreation, and allow for protection, propagation and safety, in the harvesting of fish, shellfish and wildlife and mahinga kai - so that I guess is what their stake in the ground is in terms of a narrative description of what swimmable, or fishable might be, without necessarily going into the science of that.

Ensure that there's sufficient potable water to meet the foreseeable needs of future generations and to address the intrinsic values of ecosystems.

9.15 simply summaries the LGNZ's submission. Outstanding and degraded freshwater bodies to be identified, policies and methods to be adopted to protect outstanding freshwater resources, to enhance degraded freshwater resources, and to maintain the water quality of other freshwater resources. So I guess there's three limbs that are seen there. Protect outstanding, fix degraded, and maintain existing.

[10.43 am]

Regional Councils to set priorities and timeframes, identification of catchments which are at risk while failing to meet the objectives and dealing with them as an at-risk catchment, as, I guess, a category.

And over the page, four minutes to go. A summary of the relief sought by the Regional Council.

The final chapter deals with the relationship of the NPS with other instruments. And I referenced at the outset the Regional Council Submission and then the relief sought at 10.2. You'll note 11.51 submits that no further National Environmental Standards are developed until this

is operative. Sir, that relief is abandoned, and no longer pursued. What we've captured here, Sir, is the vision of strategy for the Waikato River, which we've already referenced as arising from the Waikato/Tainui Settlement documents. Drawn a link between that and for example the Renewable Electricity NPS, which identifies renewable electricity generation as a matter of national importance, and the Board is probably familiar with the progress which has been made in implementing that. There is also potential for a range of NPS's to address the issues relating to the same resource, and in doing so to establish policy frameworks which would appear to be a conflict, or otherwise inconsistent. As I've said to the extent that the WRC submission request that no further NPS's be promulgated, that relief is abandoned. We also recognise that NPS can't resolve the potential conflict between this document and other documents, which may bear on the same or similar subject matter, simply -

CHAIR: One of this Board's terms of reference.

MR BERRY: Oh is that right Sir. I wasn't aware of that. This may require an amendment to the RMA, to the extent that there is potential inconsistencies, but perhaps, and what you've just commented Sir may not assist with that, but we've submitted that it might be worthwhile to recognise on the face of the NPS that in setting priorities, it may be necessary to consider other potentially inconsistent NPS's which bear on the same subject matter so that at least Regional Councils in undertaking that have a weather eye to - for example, if you're doing something in the -

CHAIR: I wonder if we could cut that a little bit short, just save yourself on that. I mean unless you were going to make submissions, legal submissions then it won't be within the scope of the Board's authority. I think the assumption might be that if the government proposes more than one NPS

To be read in conjunction with
the tabled evidence/statement

at a time, that it is taking on itself the responsibility of ironing out any potential incompatibilities, and it certainly isn't for any one Board of the multiple Boards that might be considering these, to take upon a role that isn't in the terms of reference, or in the Act for it.

MR BERRY: Yes Sir, I accept that.

CHAIR: So, given that, you might just save your breath for -

MR BERRY: Yes Sir, which says that - it leaves me with the final thirty seconds to thank you for your attention, and so we'll be happy after to deal with any questions.

CHAIR: Well I think that we would like to have that time to exchange that you have offered and agreed to, and we'll take a break now and resume and continue with that.

MR BERRY: Thank you Sir.

CHAIR: Thank you.

ADJOURNED **[10.45 am]**

Audio File: dpm0121

RESUMED [11.07 am]

CHAIR: Okay. Thank you all for staying, so that we can just think of one or two further topics. I am first going to ask if Mr Prime has any questions.

MR PRIME: Yes, I have a couple, sir, it's probably more useful if I gave both the questions, because in their submission it talked about the large number of hapu, and how practical - and I wondered a couple of things. The first thing is how many hapu there are, and the next one I was going to ask is what would be a manageable number that you could live with, within a National Policy Statement?

MS MAYES: Within the vision and strategy, which has been put together by the Guardian Establishment Committee, there are five iwi represented within the Guardian Establishment Committee, and they are Tūwharetoa, Maniapoto (ph), Raukawa (ph), Te Aroha hapu, as well as (inaudible), and all of them are represented on the Guardian Establishment Committee, and all of them, the exception is Tūwharetoa at this stage, have committed to the vision's strategy within their co-management agreement, and also to the clean up fund applying to that (inaudible).

MR PRIME: How many hapu, iwi do you usually have?

MS MAYES: How many hapu? I don't know the exact number. It is hundreds.

MR PRIME: A number of other submitters have asked for this (inaudible) but we – I'd like some idea of what you would think would be a manageable number? Like how many iwi? You'd like if you wanted to be more specific in the National Policy Statement, would five be reasonable?

MS MAYES: Could I ask what the purpose of – it would be for engagement are you talking about perhaps in the preparation of a Regional Policy Statement and plans?

MR PRIME: Yes, that's right, for the consultation.

MS MAYES: Well that's right. I think at a practical level Environment Waikato has obviously taken an open approach that will engage with iwi and hapu obviously, but we are certainly finding - we talk about a practical example, the we review our Regional Policy Statement at the moment, that what we have done, is send invitation to the trust boards throughout our region. And invited representatives from the trust board to attend all our council workshops, in the development of the Regional Policy Statement. So there we are talking about six? We have some five of them in the (inaudible) catchment in the (inaudible).

DR HARDING: I've got a few questions about the water quality side of things, and timeframes and that sort of thing. And in your submissions where you have indicated that support for Local Government New Zealand's submission about safe swimming, protection, and safe harvesting of fish, fish, wildlife, mahinga kai and that sort of thing. And part of this might also be tied into the definition of what freshwater resources are. Some submitters have suggested that a lot of the thoughts about resources at the moment are really about the water, rather than about the ecosystem if you like. You have talked about loss of wetlands in the regional and that sort of thing, so do you have any views on (inaudible) trying to broaden the definition or change the definition of "resources" to think about it from an ecosystems point of view rather than from, say, a sort of water quality point of view?

DR PETCH: That is a very broad question so, I think starting at a more generic level, if we enter this new world of co-management, I think we are going to have to redefine what water is. And in terms of cultural and spiritual dimensions of water, I think it's quite a strongly Eurocentric view, if we think of Western signs and describe the water as being given parameters, and the quality being parameters, all the forward things that you are familiar with Commissioner. And I think that is going to be a challenge for us. So I think it is almost going to be inevitable, that water quality has more than just the chemical and physical parameters. I think it is reasonable to bring in the ecosystems, and the living biology of the fisheries. I think the more difficult definition is cultural and spiritual values, and I think there is a danger of us, myself, speaking on behalf of Māori, and the views that they have are different for each of the tribes that we deal with, the iwi we deal with, and certainly my experience particularly with Ngāi Tūwharetoa they are very clear that that dimension, cultural and spiritual dimension of definition of water is theirs to define for themselves, and they're very clear they don't speak on behalf of another iwi, up and down the river.

So that is one point. I think your question then traversed into, so what is water, and whether wetlands should be part of it, and that is a significant challenge because on the one hand you end up defining the whole of the hydrological cycle, if you take it to one extreme, (inaudible) rain and (inaudible) as groundwater. I think we need to think slightly, more wider than flowing water contained within the river systems. Somewhere in our submission I think we have adopted a definition. I think --

MR SPEIRS: We picked up on - we are working on our RPS at the moment, the freshwater component, and what we have picked up in our submission is some of the thinking going into that in terms of defining inasmuch as we can, you might call it the ecosystem services provided by water, so

To be read in conjunction with
the tabled evidence/statement

including the natural flourishing and the services provided by that flood planes, flood plain habitat, the value of that; wetland habitat the value of that, and not just from a biological point of view or a life supporting capacity point of view, but also its capacity to support the social, economic, cultural well being of people, and that is reasonably becoming more and more critical, in terms of those allocation decisions, but also in terms of preservation decisions, water management decisions.

DR PETCH: To broaden that just slightly, and we bring in ecosystems - start valuing the ecosystems services, which in effective we've done so in terms of Taupo, you know, we know the price of a unit of nitrogen now for the Taupo catchment. Now those are the things you think about in the broad policy frameworks, and arriving at an economic value, and a cultural value that is not normally recognised in a traditional cost benefit analysis - brings up an important point.

Increasingly not only do we have the price of carbon, for example, influencing our water management decisions, price of nitrogen, phosphorous and others, we are looking at policy structures that might bring in an economic incentive, rather than just a (inaudible) incentive, you know, the water quality should be (inaudible).

DR HARDING: One of the other big difficult questions is this whole issue of timeframe, which obviously you have given us examples in Taupo and Waikato scenarios, and we've heard from people in Canterbury obviously, about the groundwater issues there.

But some of our other submitters are saying, look you have got to have some timeframes, otherwise, because we are getting into the National Policy Statement, you have got some council's who might treat this as a "business as usual" scenario, we don't have to do anything, we can just

put it off for another five decades. So obviously you've got one perspective, you've said was it that 2035 is not realistic. But some people might make the argument well that the changes you are bringing about in the Taupo region sure they may take up to 40 years or so for those changes to occur, but even in five years time, or ten years time, there might start to be some (inaudible).

DR PETCH: That's true. Perhaps a way through this one is not looking necessarily of the end goal, fishable or swimmable which may take many decades, but a goal to take action, which I suspect is perhaps is behind some of the submissions is that we need to see progress made, we need to see a decision made, we need to see commitment. Knowing that maybe it is outside our lifetimes that we actually see the result. So I appreciate your point. It is a pragmatics sort of - ecosystems, and the geomorphic systems that (inaudible) taking action.

MS MAYES: I would like to support that and just to add an addition, if you look at using the Lake Taupo one as well, as well as the timeframes reflecting geomorphology, we've also used as the timeframe to recognise the social impact of the change. So, say distinguishing between the time you take action, that you actually may have time to actually be able to agenda to behaviour change that is required, and that's an important component.

MR PETCH: Just adding to that, as the project manager for protecting Lake Taupo project, it is easy to forget that it was actually a community change project, we were dealing with water quality, but it's about engendering social change. And that takes some time to do.

[11.20 am]

DR HARDING: I guess sort of tying in with this, is this issue of standards, and I think you have water quality standard issues, and I think you have said somewhere here that you would encourage us to think about each region coming up with their own standards, if you like, whether it's definitions of "swimmable" or what. Am I correct? Is that one of the comments that you have made in here?

MR BERRY: Insofar as the original submission sought guidance as to the definition of "fishable" and "swimmable", I guess the regional council's position, bearing in mind what's appropriate in a National Policy Statement versus a National Environmental Standard. Is that narrative standard - a narrative description of "fishable" or "swimmable" is okay but we don't want to be interpreted as saying, import into the NPS something that looks a bit like the microbiological water standards or something like that. But also, against that narrative standard, what might be seen as appropriate in terms of the specific standards that might apply. I think the philosophy of this submission is that it is appropriately arrived at by a regional community, by regional processes, but certainly if not that, then a specific standard setting process should be providing the (inaudible).

MRS VERNON: Thank you very much for the extra volume of information. I haven't read it all just yet, so my questions really relate to the bigger picture, rather than specifics of you extra information that you have provided. And I have worked off primarily your original submission, and a little bit of this one you have presented today.

But if I go to your page 4 of today's evidence or submission, and you talk about in 2.2 in your original submission that the current NPS as proposed is really process-orientated rather than issues-focussed. And then in your 8.6 you also talk about, really a lot of the individual regional communities should be left to do deal with their local situations, locally. But I'd like to

tease out a bit more, we're getting quite a lot of different submissions as you can imagine, and some people are saying we need to be as flexible as we possibly can, and then others are saying we need to be directive, and others would rather we just were prescriptive. And some people are saying that point sources are really important, the rural community water use, and non-point discharge is the issue. Other submitters are saying, "No, no, no, in the urban sector there is no problem with non-point source discharge. That is what happens in the urban sector".

So what I would like to ask you is, how - is it better that in fact, the NPS has some positive direction, and I guess it follows along a little bit about what Dr Harding is talking about, about timeframes and specificity. So at least we are raising the bar because if we don't then in actual fact it's status quo, we do nothing. This current NPS is much more about the future than existing use, and my experience, my colleagues' experience, and your experience will probably tell you that it's existing use that it is actually some of the more difficult issues to deal with, and future use is often dealt with in resource consent in case-by-case.

So I wonder if you'd like to comment on those. It's very broad, but, you know, what are you actually looking really, really want out of this NPS? I mean is it direction, because when I read your 2.2 you say "no" and we have got to get a feel, and we have had one regional council who is very strong who said they want, and if they had a choice of direction, prescription or flexibility they wanted direction. And maybe you would like to comment about the non-point sources discharge in urban/rural, is there a difference? Are urban streams not worth worrying about or? I mean you are a big region, you have got quite a big urban area, and you've also got a large rural area with its own set of issues.

MR SPEIRS: Oh God. If I give an example of the European water framework directive which is very prescriptive, has some standards, you shall meet this by “x” date or you will give us a list of the water bodies where you are not going to achieve them. Ireland have basically listed all their water bodies and said, “We are not going to achieve them”. And they are not really doing much about it because it was unrealistic, and the timing was unrealistic. On the face of it, it’s a really good system, it just lacked a middle stage that said, “Here’s a goal, what we want to see is that you have put in place realistic steps to meet that goal by “x” date.” And that allows for the flexibility that occurs at our region with, for instance, Lake Taupo where we know things are going to get worse for quite a long time, before they reach the goal that we have set. But we put in place a realistic, we think - we hope, process to get there. Similarly, the lower Waikato River which we know needs to come backwards a long way in terms of - improve a long way, but again it will take a long time, and is about the community change as much as anything. But again we would welcome direction that said “You must have in place systems that are realistic to get there by “x” date.” I think that’s good direction, but a “it shall be 1.6 metres visual clarity by 2035”, is simply setting us up to fail in that case. And easily achieved in another case which, you know -

MR BERRY: That sounds as if were we’re headed in direction rather than prescription. And I guess that is the thing. When we are talking about, if I pick up on your angle, Commissioner Vernon said flexible, directional, and prescriptive. What Dave is saying is that prescription is more likely to set up for a fail, at which point you say we can never do that, so we throw the towel in at minute 1, but direction with flexibility is essentially I think what we are capturing. And I guess prescription to the extent we say “never say never” in terms of “swimmable” and “fishable” including urban streams, because we wouldn’t want to throw the towel in as a matter of principle, and a direction that says get here by “x” date if you can, might

well be appropriate. And I think essentially that is the thrust of what the EW submission is.

MS MAYES: That's right. That gives a regional council like Waikato clear mandate to act, which would certainly, which is indicated in the submission, which would help us move forward a long way, that the starting point to your conversation with the community, has happened at a national level about what the desirable objectives are, and you are able to focus with your community, on how we are going to achieve, not so much what we are going to achieve. Start by detailing what in particular values, these particular (inaudible) and how we are going to achieve it, and that is a much more useful conversation we are able to have with the community.

CHAIR: But to some councils - a mandate maybe all they need to do what you described, but for some council's who could be described as being in denial, they need more than that. And they need more than guidance. They need more than flexibility. So would it be, allowing them their autonomy, would it be credible for an NPS to require them, perhaps to identify, publicly, timed stages, and stages with specific dates, by which measurable steps will have been taken, and will be published. Not really for say, naming and shaming, but say naming and shaming. Would that help in your experience?

[11.30 am]

DR PETCH: Yes, I think this is one of the conundrums that the Board may well face. Is that you are talking with an enabled regional council with a track record of taking action, and you are probably faced with our colleagues who may not have quite the same resources and determination.

CHAIR: So they say.

DR PETCH: So I suppose, our plea would be, is a risk for those able ones that there are often laws or guidance or advices directed to the lower 5 percent which then hinders how the top end of the spectrum work and hinders flexibility. I don't think I've got a solution to that at the moment, but it may be worthwhile thinking about timeframes that are expressed in a public way and then moving into a phase of "statutory management " is a too strong a word, but a way where greater national guidance is given, so you have your first stage where you have the autonomy and right – and choose your timelines; if you are failing to achieve those, then move into a phase of central government management obviously, which kind of puts a little sting in the tail of naming and shaming.

CHAIR: Well thank you for that. I appreciate that. I think I interrupted you before you had finished your questions.

MRS VERNON: That's all right. I just have two small ones. I am asking most submitters on this, especially regional councils and TAs. In the original document, under Objective 2, they talk about ensuring integrated management, and I wondered if there is any objection from Environment Waikato whether you actually had the word catchment management, "integrated catchment management"?

MR SPEIRS: No.

MRS VERNON: In the same objective there are the words "land use development" and there have been suggestions that in actual fact "land use and development" would be more helpful, because it actually talks about existing, if you put it "land use and development" then you have got existing and future. As it is currently written, it's actually only about the future.

MR BERRY: “And” would be a worth while addition I think I’m hearing.

MR SPEIRS: It does address that Taupo situation for instance.

DR PETCH: Commissioner Vernon, just some observations about non-point source which I don’t think we covered. Obviously, in a strongly rural region like the Waikato, we have some extremely difficult conversations with our rural community, and if I might term, “the backbone of the country”, and we would appreciate support in the direction, perhaps that focus the conversation onto how we might fix things, rather than, why should we fix things. If I look back to the Taupo project, we had four years of discussions primarily in the rural community about what their role was, and why they should change it. It was enormously expensive at the time. So we’d appreciate more direction for the rural region, that the agriculture sector is not immune from responsibility to maintain water quality.

MRS VERNON: Thank you.

CHAIR: Very tastefully said.

MR SPEIRS: Can I just add one more thing to the conversation please? In terms of the setting of targets or perhaps provisions that prevented bad decisions let’s say, one of the things that occurred to me is you could rather than set targets and dates set backstop section 70 type provisions that say you can’t make policies or policy decisions that allow for a backslide in terms of existing water quality. So that sort of puts a backstop in place, and then the only direction really is forward, or of course standing still, but it would enable a little bit more direction in terms

of we don't want bad decisions, we don't want degradation. Go forward or nowhere.

MRS VERNON: So just to follow, Dr Petch, on your comment about the non-point source discharges and how to fix things, then in actual fact you are supporting local government, and particularly some of the other regional councils, bigger regional councils, the precautionary approach at these catchments being identified or being in the NPS. Is that your correct?

DR PETCH: Yes, that's it. It's particularly important, it helps the debate about whether we try and do everything at once, and that's actually impossible; in terms of prioritising catchments, I think it's going to be really important, and it allows us to start with those areas of a region, that we can get early gains on them. That is part of the broader community change process. So we started with Taupo, set some precedents, and then we move into the next high risk areas.

MRS VERNON: Thank you. Thank you sir.

CHAIR: I would like to ask a relatively small topic. If you go to your 4.22 (c), you talk about the priorities or preferences, and you include there, previously consented lakes and I take it that that's at least a part thing in recognition of investment and infrastructure? Then I go to your 5.4.6 and we're talking about transfer ability there. And in the framework for transfers because plainly we're not suggesting it should be an open market. And you recognise infrastructure in D in terms of future takes but we don't seem to have a reference there to the effect of transfers on perhaps the redundancy of existing infrastructure. Is that a relevant topic or not?

MR SPEIRS: It certainly is. We've tackled that issue in two ways the first component of that is that there was concern expressed that allowing transfer without restriction would mean somebody could get a resource consent and the next day transfer that to someone else. The way we have tackled that is to say that before a transfer can occur the consent has to be given effect to on the property to which the original application related.

What that means is that people actually have to make that infrastructure investment before they can undertake a transfer. We've also said that transfer does not constitute use. So in the context that you've got five years to give effect to your take a transfer is not giving effect to your take. Your take has to be given effect to on your property before you can get into that. It's a way around the idea of water (inaudible) who simply get a take and (inaudible).

In terms of recognising existing infrastructure that recognition is given within the time period of a common expiry date. We've instituted this idea of common expiry dates on a catchment basis which is part of the reason why we're quite comfortable with the idea of a degrading catchment management. That's a 15 year period and all the consents expire together. At that point we believe that at least the irrigation of the structure would pay for itself. So the matters to be had regard to through a resource consent process include that extent to which existing infrastructure needs to be recognisable or not but we do acknowledge -

CHAIR: And you, in effect, write it off after 15 years.

MR SPIERS: We don't write it off but we -

CHAIR: Because it's still got potential value hasn't it?

MR SPIERS: Yes we try to contextualise it in terms of how long has it been. Because there might be people who have come in during that 15 year period. They might have only had their take three years.

CHAIR: Well I'm not even concerned, to be honest, with the individual owner of the infrastructure or the take, I'm looking at it on the broader environmental asset and physically resources. You could almost say at the communities. And, and I'm sure you know much better than I do but this transfer of water rights seen in parts of Australia has left the infrastructure redundant that really had value.

MR PETCH: Yes. You Honour, there were circumstances of stranded cattle.

CHAIR: Stranded that's the word. Thank you very much yes.

MR PETCH: And presumably the decisions to transfer and the price paid for the commodity being transferred takes account of what (inaudible) that they're a resident.

CHAIR: Well that raises the question in my mind you see because I'm saying it probably does, for the individual parties to the transaction. You could say by definition that's what markets do. But it leaves the community with a stranded asset even though the individual owners may be satisfied with the outcome, for social coincidence. And when we're looking at the RMA there's nothing in section 5 that says, "This is for the benefit of individuals." This is really for the public purposes that are quite fully set out, as you know.

MR PETCH: Right. So then in that sort of - thoughts that buzz around in my mind are, well was it community assets, was it a community

investment, etc? And if they're private investments then the impact on the community - there's not been a community dollar put in but if we get the circumstances where perhaps some territory authorities might be moving into development of infrastructure, but then -

CHAIR: Lot of irrigation infrastructure in New Zealand is subsidised from the central government taxation funds. But I'm even wondering whether the source of the original funds is important. It's still a physical resource in terms of section 5. Which is capable of being a benefit to the community. But you're saying, I think, "Don't worry about that in terms of the appropriate regime in which transfer takes place."

MR SPIERS: In a private context, yes. In the context of, for instance municipal supply, we've actually written in an exception that says, "Municipal supply can't engage in the transfer of permits except to another municipal supply." And partly that's a reflection of that priority. But partly it's also a reflection of the significant infrastructure investment that goes into a municipal supply relevant to an irrigation system. The two don't even come close to comparing. But it is a good point in terms of that (inaudible).

CHAIR: We might as well learn from somebody else's experience. That's why we're asking you because you've had a lot of experience.

Well I think that really completes the questions that the Board wanted to have exchanges with you on. We've had a very interesting morning. We've very much benefited from your submissions and from your answers. Thank you very much for coming.

MR PETCH: We're grateful to you sir and, and to the members of the Board. Thank you. And I'll leave copies of those other documents (inaudible).

To be read in conjunction with
the tabled evidence/statement

CHAIR: Thank you. That would be splendid thanks.

ADJOURNED [11.43 am]

Audio File: dpm0122

RESUMED [1.09 pm]

CHAIR: Good afternoon. Please would you be seated. It's a great pleasure for me to welcome to the proceedings Manukau City Council this afternoon and we're looking forward to hearing your presentation in support of the submission on the National Policy Statement proposal. We have your submission in front of us and we have read that and we have the evidence statement and we have read that. And so we're ready to hear you present, just as you would choose.

MS STEWART: Thank you Your Honour and Dr Harding and Mrs Vernon and Mr Prime and everyone else here. My name's Sharon Stewart I'm a Councillor from Manukau City Council. I've been on Council for ten years and I'm currently the Portfolio Leader of Environment. I've been a member of the Environmental Hearings Committee for three years and I'm a certified (inaudible) for making the decisions for RMA. And I'd just like to introduce Councillor Candy and if you'd like to.

MS CANDY: Te na koto. My name's Anne Candy and I'm a former deputy mayor of Manukau for nine years. And the current chair of the Environmental Hearings Committee. It's my pleasure to actually be here today. Because I have a huge interest in Iwi kaitiakitanga.

MS STEWART: Thank you and I'd just like to also introduce, we have Mohammed Hassan who's the Group Manager for Environmental Sustainability and Infrastructure. And we have Pat Holm who's the Senior Policy Analyst. I don't know if I have to go through about Manukau City Council being the largest city and it's growing day-by-day.

The presentation will focus on four key issues and is structured as follows. 2.1 the national context of it and implementation. It's suggested in Council's submission that an addition of overarching issues and objective (inaudible) establish the national concepts of implementation supported by a hierarchy of clearly written objectives and policies. An example of this could be to recognise and protect the national value of the freshwater resources through the integrated management approach. The identification of such values would be helpful to establish priorities, to develop the hierarchy of (inaudible) environments and to implement appropriate policy and regulatory mechanisms which affect their different functions would also improve the balance between the need to improve national consistencies and provide enough flexibility with specific considerations in particular areas of sites.

Then we go to 2.2, that's the lack of clarity of objectives in policies. The objectives of policies establish a mandatory obligation of timeframes a local authority is to implement the proposed NPS. Some objectives and policies introduce new terminology which will create uncertainty for inconsistencies, at least while practice and case law is being developed. This problem will affect the mandate of local authorities to develop consistent policies and impose appropriate conditions of consent to ensure compliance. And examples of lack of clarity are set out below.

Objective 1, closely follows wording of Section 5 to the Resource Management Act of 1991, the RMA and therefore, it may not be necessary. Objective 3, the objective requires the progressive enhancement and overall quality of freshwater including, to ensure appropriate freshwater resources to reach swimmable standards. And that's really a bit for best practice there.

And the use of words “appropriate” and “can” introduces uncertainty because no guidance is provided as to how these words are to be applied and what would be considered an acceptable level of involvement. This is an important issue because it would be unrealistic to expect any sensitive marine environment, especially in urban areas, to achieve a standard which would be suitable for swimming. And maybe I could hand over to Councillor Candy if you’d like to move onto Objective 5.

MS CANDY: Well I’d really like to focus on Objective 8.

CHAIR: Thank you.

MS CANDY: Where we see in our evidence the meaning the terms “involved, identified and reflected” in relation to Iwi and Hapu and responsibilities for the management of freshwater is unclear. We have a concern in that, there’s inconsistency in the wording between the National Policy Statement draft and the Resource Management Act, Section 6, 7 and 8. We agree that Objective 8, we agree with that in the submission but the declining water quality and increasing demand for freshwater resources are key issues which continually reiterated by Tangata Whenua in our City and Iwi management plans and Treaty of Waitangi findings where water quality issues are the main feature.

And given the significant Treaty of Waitangi settlements and arrangements where freshwater resources are involved, such as the Waikato River between Tainui and the Crown and also the Manukau Harbour with regards to the Auckland Regional Council and Watakia (ph) and the Council. The objectives and policies concerning Tāngata Whenua, Iwi management plans and Iwi Treaty of Waitangi findings need to be recognised. We don’t want them involved or identified or just reflected. We want them recognised and provided for. And so we would

like the wording of the Resource Management Act brought into the National Policy Statement.

For matters of national importance under Section 6, it says that, “The Act shall recognise and provide for the following matters of national importance.” In Section 7, it says that, “We should give particular regard to kaitiakitanga and the ethic of stewardship.” And under Section 8, under Treaty of Waitangi we say, “We shall take into account the principals of the Treaty of Waitangi and I think that they are far more directive than what the policy statement is putting forward in its wording. And we would not like to see that issues such as kaitiakitanga may place at risk a watering down of what we should be doing when working with Iwi.

CHAIR: Thank you.

MS CANDY: And it’s the main thing ‘cause I know that you would have read our submission, you would have read the evidence and really -

CHAIR: And we’ll be reading them again.

MS CANDY: Yes and we were really wondering whether there were some questions of clarification that you may have. And under Objective 8, we would like to put forward a possible amendment.

MS STEWART: Excuse me Your Honour, I actually have some additional comments here about what the Councillor Candy is saying.

CHAIR: Thank you. Mr Rice will punch them and we can put them in our folders.

MS CANDY: And our possible objective - I mean Objective 8 amendment is to ensure that the relationship of Māori and their culture and traditions associated with ancestral water are recognised and provided for with particular regard to the exercise of their functions and powers, the kaitiakitanga and the ethic of stewardship and taking into account the principals of the Treaty of Waitangi.

[1.19 pm]

CHAIR: Thank you. Thank you for working that through for us. We appreciate that. Now is another one of you going to present something more? We usually will come to questions that we might ask when you come to the end of what you wish to present.

MS CANDY: Policy 1, we wish to elaborate on that. The repeated use of the term “guide and direct” throughout Policy 1 instead of standard Resource Management Act wording such as “give effect to” is likely to create uncertainty for local authorities as to whether a different level of compliance will be required between the Act and the proposed National Policy Statement.

MS STEWART: And Policy 2 and 3 of Section 32 of the report. In its submission the Council noted that there’s insufficient economic and financial analysis of the impact of Councils and on communities for implementing the proposed National Policy Statement. Regional, City and District Councils will be required to undertake sufficient research before plan changes are to be introduced and there will ongoing regulatory compliance and monitoring costs. Arbitrary timeframes are imposed without other priorities that local authorities may have or the availability of specialist expertise and resources.

It is high concern of the Section 32 report with a footnote in Section 5.5 that the high level and national focus of the proposed NPS makes the qualification of costs and benefits in dollar terms extremely difficult. And this matter is addressed more fully in the Council's submission.

MS CANDY: And so, just to finalise really - do you want to say anything Mohammed?

MR HASSAN: Not really. I guess one of the concerns - my responsibility is to actually look after the storm water systems at Manukau City. And one of the concerns we do have is that there is no real differentiation between urban and rural environments. In an urban environment if you are achieving good stream quality or water quality in the streams, which eventually discharge to the receiving environment such as the marine environments in Auckland, you can only do a best practical options for treatment of storm water runoff. You can't just easily set a standard because the standard to achieve the standard, it is almost impractical. You have to look at what's the technology available and how you'd be able to cost effectively retrofit water quality treatment from car parks and industrial areas and so on. So, I guess that's of concern, how this policy may be applied in urban streams.

CHAIR: Thank you.

MS CANDY: So, Manukau City Council considers that the framework of the proposed National Policy Statement would be improved by the addition of at least one national principal or objective to establish priorities to improve consistency and provide guidance on the interpretation of objectives and policies. There's a need to ensure that the terminology of the proposed objectives and policies are clear and consistent with the provisions of the Resource Management Act.

The proposed National Policy Statement should clarify the appropriate allocation of responsibilities when giving effect to various objectives and policies in a manner which is consistent with the RMA. And further funding and resources including specialist advice should be provided to local authorities and mana whenua to help offset the cost of preparation and implementation of the new planning documents. And our example is that there's an addition to the overarching issue or objective which is to say, "To recognise and protect the national values of freshwater resources through an integrated management approach."

CHAIR: Well thank you very much and we're very grateful first for having prepared and put in this submission.

MS CANDY: Thank you.

CHAIR: And for the trouble you've taken to prepare this statement and the presentation that you're giving us this afternoon. Now I would like to see if the members of the Board have any questions to ask of any of you. You can choose how they are answered, because we're not expecting any formality about this. We would like to understand fully what it is that you're presenting to us. So first I'm going to ask Mrs Vernon if she has any questions.

MRS VERNON: Thank you. I want to take up your comment and it follows through also with a statement that you have on your initial submission on page 1, paragraph (d) and you did raise it just verbally now to about the difference between urban and rural and also the fact that it is unrealistic for sensitive marine receiving environments from the urban areas to have a water quality standard that would be swimmable at all times, especially following heavy rainfall events and I just wonder too whether you'd like to

further expand on that, but really what is the difference between urban and rural when it comes to non-point source discharges regarding water quality to any receiving environment, because at the end of the day you know events happen and I look at, say, for example, the Waikato River, when it's in flood, what is the difference when those events happen and really why - you're not the only urban City Council to raise the issue about these urban streams and receiving environments and it's too hard and it's impractical, but then the rural people would maybe argue the same point and I just am wondering if you open the gate, then - and the NPS is about, I would have thought raising the bar for all of us over time, so please explain the bits that I'm missing on that urban, rural and non-point source discharges.

MR HASSAN: In urban areas you have got existing developed areas and the option you really have, a realistic option to treat storm water run-off before it reaches the receiving environment as a retrofitting process, so with the retrofitting process you can - it is very difficult to actually treat all of the parts of the catchment. To be cost effective you would have to actually look at what are the worst areas of the catchment or most contaminant load if you like and you would provide funding in a cost effective manner to treat those areas, so what that does, actually that - by doing that, you are leaving parts of the catchment where you can't treat and being a non-point source of run-off, it's coming from everywhere in the catchment you're always going to get in storm events, you're going to get contaminants mobilised and discharge into the receiving environment. So it is very difficult to then guarantee that your retrofitting works for treatment will actually meet a swimmable standard in a receiving environment on that basis. You can try to achieve it, but I don't think anybody can guarantee it and that's the difference.

You can try the same thing in rural catchments. Rural catchments probably has a slight advantage because there is land availability and you can set land aside whereas in - for (inaudible) sounds and things like that to improve and stop sediment and contaminants getting into the stream in the first place, but in urban catchments it is already developed and if you're going to go into land (inaudible) it's not cost effective to actually do it.

[1.29 pm]

MRS VERNON: But you're not saying in your submission though that in actual fact urban streams, because we have had a submission suggesting that in fact local urban streams, the NPS really shouldn't be trying to give some direction on, it's really the bigger regional streams or waterways that are more important -

MR HASSAN: Well that's what we are not clear about, that we don't think the NPS is actually clear about that and that sort of creates a problem for us. Is it going to be applied as a blanket rule across all level of streams and any stream that has water flowing in it and for example we have got some large streams and we have got lots of little streams, so we got (inaudible) stream and we got Wairoa River and it's a question of actually turning it around and saying, well what can you achieve in a best practice management and that's the approach Auckland has taken for storm water treatment for years, since RMA came in. All the research and water quality treatment devices research and adoption of those has been based on the best practice - even for sediment, it's only achieved 75% since suspended solids removal, because it is (inaudible) at which point if you actually exceed that, then it is not a cost effective solution. Now there'll always be some sediment that will discharge into a receiving environment.

MRS VERNON: That was 75% or 35%?

MR HASSAN: 75% is the desired guideline for Auckland region for treatment of - or collection of sediment.

MRS VERNON: Thank you for that. One further question, I just wonder some other councils have commented about support or otherwise to the Local Government submission and it's quite a lengthy submission. They've given alternative wording for practically the whole NPS and I just wonder whether Manukau City Council has some comment to make about its general support for that submission or if there are parts that you don't agree with, or just to get a feel for it, because lots of other councils are saying, yes that's where they see it heading to or not as the case may be.

MS HOLM: We have (inaudible) Local Government New Zealand's submission and we are in general support of it, but we do have our own specific concerns which we have raised with you today. I think the issues raised by Councillor Candy are particularly of more focus than the Local Government submission on those issues, but our concerns in terms of the implementation costs, the need for national support with monitoring and establishing what the guidelines are for identifying significant and degraded resources, the costs, the timeframes, we all seem to share to a certain extent.

MRS VERNON: Thank you.

MS HOLM: There are also concerns about the cost for Iwi with that as well, with regards to the detailed knowledge and the monitoring that that - would be expected with some of the implementation costs.

MS CANDY: And I think the other thing is that our submission is from our experience in Manukau and our relationships with our Iwi groups in Manukau. We have relationship agreements with all of them. We have six relationship agreements and the recent philosophy that that enables - means that we're walking alongside and that's not apparent everywhere, so - and we've had a relationship at an environmental level with Iwi ever since we supported the Manukau claim, which Your Honour will be aware of. And so we don't want to compromise that relationship. We want to have it upheld like - it's taken a lot of work, working on the Resource Management Act to get to that level and we don't want to compromise it by having different terminology from the Act with regards to how committed local authorities may have to be.

CHAIR: Thank you. I think Mr Prime may wish to follow that up with a question and I know that he was interested in your relationship with Umu Puia (ph) and so Mr Prime, any questions?

MR PRIME: Yes, thank you sir. First one I wanted was, I refer to page 5, the third paragraph of your evidence, I'm wondering if you can give me some feel for - you have a distinction between Tangata Whenua, Iwi, Hapu, that terminology and the way it's used.

MS CANDY: I don't know where you're referring to, but I'll just - oh that one, I've got so many different papers in front of me. I've got three page fives. Okay, that - the Tangata Whenua values is a nationwide reference. When we relate with our relationship agreements they are Mana Whenua relationship agreements and the need to provide the Iwi and Hapu groups, we believe that with the word Hapu, would be with our Mana Whenua groups, but our Iwi groups would be Tainui Whaka and Tainui has an Iwi management plan and our whole city, well that's until we become a super city, our whole city is Tainui Whenua and our Mana Whenua groups are all

Tainui Whaka and so I think that the wording here, Tangata Whenua values are across the Board. That's the Treaty partner, which is all Māori across the Board and here, Iwi would be Tainui Whaka and Hapu would be our Mana Whenua groups in that, but that wouldn't be the same in other (inaudible). That's in Manukau.

MR PRIME: I see. Thank you for that. I am also interested in what Hapu there are to your Manukau area, like both east and west coast I guess.

MS CANDY: Yes. Well on the west coast we've got Ngati Te Ata and we have a relationship agreement with them, although they are placed in Waiuku, they still are Mana Whenua of Manukau because their origins are Manukau based with the manga matute rea which is commonly called McLaughlin's Mountain in Manukau city. So they are a Mana Whenua group even though they are in Waiuku. However, council has just given some land to them at Puhinui Reserve and they will be building a marae there and so it's like a welcome home so that they will be able to see their moanga from Puhinui Reserve.

And Ngati Paoa also had an interest on the east coast as well as (inaudible). In the harbour itself, on the west, we've got Mokoro marae by (inaudible), we've got Pukaki Te Akitai who used to be where the airport and they had to establish themselves in a different place, which is still in that environment and so they are the main groups that have the coastal fringes.

MR PRIME: Thank you.

CHAIR: Thank you. Dr Harding, any questions.

DR HARDING: Yes sir. Just referring to your original submission. You've made a number of comments there concerning that sort of thing, and on page 1, part (d), you talk about the National Policy Statement is to achieve a balance between improving national consistency and providing enough flexibility. We've had quite a few submitters have mentioned this word balance and it's a vexing problem. How does one achieve balance between providing national consistency but allowing you to do your own thing? Do you have any comments on that, how it is possible - how could this document possibly achieve the sort of balance that you are looking for?

[1.39 pm]

MS HOLM: I was just thinking that development of an overarching principle or objective and the development of national values relating to freshwater would be a useful mechanism for tying things together and we also need more assistance in terms of defining the degraded environments for freshwater and those of notable values and so we need a lot more effort from central Government and a lot more guidance in terms of individual - and once this framework is in place, and commonly understood, then we can work to achieve those in accordance with the best practicable option for our particular area and issues.

MS CANDY: And integrated management right through with the - regardless of who owns what, there's still an inherent kaitiakitanga role that will always be there and that interest needs to be upheld so an integrated management plan alongside Iwi is one way of developing what would hopefully be best practice and it would be different in different areas. Some areas are so polluted now that it will have a different approach from swimmable areas now.

MR HASSAN: I think there's a need to understand the classification. I mean if - I mean what is classified as very high value for example, like Rotorua and like Taupo might have very high standards to achieve and what are the degrees of classification across the country in terms of waters and their importance. So at the moment there's just a blanket, so if there is a context that says well you know, these waters are very high national importance and they have got to be preserved to a high standard, then you can work on policies and implementation of works within catchments to actually achieve that. Whereas you couldn't apply that sort of high standard across Auckland or parts, it is not as easy because you know you just implying - suddenly you're implying huge amount of costs to actually achieve that and that is not a practical measure. So the question is how do you actually classify those different environments.

DR HARDING: Well maybe that leads on to my sort of next question which is about Objective 3, improving water quality issue and again in your original submission you've made some comments there and at the bottom of your comment you've got an example of another possible wording which we progressively enhanced so this is on page 2 of your original submission. To progressively enhance the overall quality of all freshwater resources. Now I'm a little bit confused there, because you've been talking about you know storm water systems where you're saying that it's possible to deal with contaminants and improve water quality. You've just obviously that the cost of retrofitting systems and that sort of thing - so what are you saying here, are you saying that you support overall improvement of water quality, but you don't want to pay for it.

MR HASSAN: Yes. What we are saying is that we actually support improvement of all freshwater bodies, in terms of quality, to improve the quality and that's an action that is already happening. For example in Manukau we are retrofitting water quality devices, but the standard or the

quality we will achieve is only going to be as good as best practical options that you can implement and that doesn't guarantee a standard that will be similar to say, might be like Taupo for example. So yes we agree that it should be improved, there should be effort made, but just the recommendation that that effort is going to be measured and it will be different in different environments.

MS CANDY: And at different stages.

MR HASSAN: Yeah. Different stages.

MS CANDY: And at different stages. They should be aspirational. For example, when the Mangere treatment - sewerage plants were put in, the Aorangi stream was blocked off and so it wouldn't have complied with what would be the expectation here. Now that the new treatment station is in place, and there is a commitment all along that eventually the harbour would be restored back to its original state, and when that happened with the relationships with the ARC and the Ministry for the Environment and Manukau City Council and Water Care and everyone else, that stream was opened up again and then the fish returned to the harbour and then the children started swimming in the stream and all that - so it should be an aspiration. It will always be an aspiration but at different stages, different things, they may be perceived as not being aspirational, the little Puihui stream that Mohammed referred to, the siltation there was huge while a big housing subdivision was taking place. When that was finished and it was dredged and everything else, well then the water life came back and children started to do the plantings on the side because it became their stream again and so I think different stages, but the aspiration should always be that at the end of the day whatever you're doing will - there will be - the effects will be mitigated and that hopefully it will be at the best

quality, even better than what it was before. Because sometimes it's what you inherit that has to be healed.

DR HARDING: Before your submission, Environment Waikato were talking about sort of a milestone approach.

MS CANDY: Yes.

DR HARDING: Where you have a series of progressive enhancement and some sort of framework for that. Would that - that's the sort of idea -

MR HASSAN: And that's the way a lot of the - if you look at asset management, and environmental outcomes are one of the outcomes and cities generally do a risk assessment and then say well, where are the worst areas and we'll go and enhance those. So that's going to be a progressive chain of webs, will happen over 30, 40 years. So in Auckland for example a lot of the councils are doing work on stream management and improvement in the streams, not just for water quality, but for flood control and things like that. But it is a risk based approach, you know are you protecting life first and then you're going into the environment, quality, especially when it comes to storm water. Whereas point discharges like waste water and trade waste you can look at treatment or containment and you can set standards, so you can set a standard. I think Manukau water for example has got a resource consent or a network discharge consent to contain it to five (inaudible) strong flows, but not all councils may be able to achieve that. In fact I think Watercare is appealing that decision. Because they may not be able to achieve that. So they'll get a different state.

DR HARDING: Okay. I guess again that sort of follows on with my next question. You mentioned the whole you know the time frames issue, and in your statement obviously you've commented about the fact that there

are some very specific time frames stated in the draft document and you feel those might be unrealistic. I guess again some of our submitters are saying, well look, you know, you need to put time frames on these things, you need to encourage organisations to make a difference. So you know again do you have a comment on that?

[1.49 pm]

MS HOLM: Your Honour, one of the difficulties that's going to occur if the National Policy Statement isn't re-drafted in part, is the objectives and policies are in some cases not drafted in accordance with the Resource Management Act and I see that as quite a major (inaudible) for councils to actually develop and implement the National Policy Statement unless the Board addresses that issue first.

DR HARDING: And just one comment, at the moment the definition of freshwater doesn't include things like the ephemeral streams, the artificial channels, you've been talking about storm water, what's the council's view on that definition? Would you be comfortable with the ephemeral streams and artificial - to be included or do you want them to be excluded?

MR HASSAN: Yes artificial and water pipe - is that artificial water course or it's only a line channel, it's a - I think it was a line channel, I'd say that would probably be okay, but if it was a pipe system, then that's not - because you've got you know connected properties into that, that's probably not appropriate to include closed pipe systems I would say.

DR HARDING: But concrete channels -

MR HASSAN: If a channel is lined and it's got retaining walls for retaining purposes, or it's got some concrete for erosion control, then I don't see that as a reason, I'd say it could be treated as a - similar to a stream.

DR HARDING: Thank you.

CHAIR: Well thank you very much. I just wonder if you can consider just for a moment and perhaps Councillor Stewart this is one for you, the question that you've raised about the costs of compliance, which I clearly understand, and then Councillor Candy reminded us that there's costs for Iwi as well and that I understand too. In fact that's becoming more broadly understood generally. But I want you to think for a moment about the nature of this Board's task. We're looking at the content of the National Policy Statement to see if it can be improved and we've recognised, as Ms Holm has just been reminding us, that this is an RM Act instrument and it seems to me that there isn't really a place in that instrument for putting in something about funding from central Government as I think you were hoping we would. I'm wondering whether that's a topic for which the council has to make its own way with the central Government politicians, rather than look to the contents of the National Policy Statement. Now I wanted to give you the opportunity to respond to that if you would like to.

MS HOLM: Your Honour, imagine that costs will be a relevant consideration when doing your section 32 analysis of this, but I do accept your point. However, that it is not an RMA matter and it may well be that local authorities have to lobby central Government.

CHAIR: Yes. Well the understanding I have is that the Board's task is to improve the wording of the instrument and we'll do that as best we can and we're helped up and down the country by people like yourselves, and

To be read in conjunction with
the tabled evidence/statement

then the Minister takes it over. We report to the Minister and I think it's at that stage that the section 32 report has to be revised in the light of our report but not by the Board, is that your understanding as well? Yes. So thank you for that reminder and of course we're very grateful especially to the councillors who have come themselves and to the officials as well. We're grateful to you all for coming and presenting to us today and we'll clearly bear in mind all that you've said to us, thank you indeed.

CHAIR: And now we have the pleasure again to have another submitter. The North Shore City Council are you Mr Thomas?

MR THOMAS: That's correct Your Honour.

CHAIR: I believe you're the Resource Consent Coordinator.

MR THOMAS: That's correct, yes.

CHAIR: And a very warm welcome to you this afternoon we're so glad that you've come and we understand you have some illustrations to present along with what further you'd like to say in elaboration of the councils submission.

MR THOMAS: Yes thank you.

CHAIR: Now we're not expecting any particular formality, we want you to feel entirely relaxed and that you can choose to present as you would like.

MR THOMAS: Thank you very much Your Honour. Good afternoon firstly and thank you, Your Honour for putting me at my ease and good afternoon to members of the Board. The North Shore have prepared a very brief submission and what I'm hoping to do this afternoon is to give some of the background reasons as to why we've done that and hopefully with a few pictures it can make the story that much unfold that much more easily.

North Shore has got a city vision and that is a key driver for our North Shore City Council submission. Within this vision North Shore has stated that our city values and protects our environment, so that's a key driver for this submission. North Shore City has a large population of 220 thousand. Largely an urban area has significant lengths of coastline and in the urban freshwater environment we have some 50 urban streams with the length of more than 300 kilometres of course we have Lake Pupuke. In the slide I have shown one of our members of staff doing some sampling work in a stream we walked in fact 26 of our open streams

and have come up with some surprising results which I'll have to get to later.

I thought I'd just introduce myself very quickly my main role is looking after some RMA processes that interface with storm water issues. North Shore has raised five issues in its submission, four of these issues concern urban storm water. And the key part of the submission for North Shore is the issue of roles and responsibilities for urban storm water. As an outline of the roles and responsibilities section I'd like to mention that I'll cover the key determinant of effects of urban storm water on stream water quality and that is impervious areas. Impervious areas are very, very important.

[1.59 pm]

Land use is currently managed by both Regional and District Plans and I'd like to give a few examples showing the advantages of utilising land use consents rather than the ARC discharge consents. Starting off with the importance of impervious areas urban land use results in significant increase in impervious areas through the whole urbanisation land development process. There has been considerable research on impervious areas and they have a major impact on stream quality. The research has been carried out by, amongst others, Dr Tom Schuler and he has developed what is called the impervious cover model. This was extensively covered during the Environment Court hearings on the Long Bay structure plan and I thought it worthwhile to include his paper of evidence as part of the information that would be of use to the Board.

The key element of the impervious cover model is this graphic on the one axis we have impervious cover and stream water quality and as impervious area increases so stream water quality decreases. It's fairly simple graphic to follow but one of the key issues is that as soon as you get to 25% you're starting to talk about impacted stream quality. So controlling land use so that you do not have that huge amount of

impervious area or you mitigate the effects of that impervious area as an important management tool.

Already in the Auckland area the Regional Plan for air, land and water utilises impervious areas, utilises it in two areas as the basis of the urban stream management section which is section 3.5 and also uses it as thresholds to determine the activity status of developments such as if you've got less than 1000 square metres of impervious area your activity is permitted. That can give rise to some issues when you've got smaller lots and accumulative effects that result from smaller lots.

Within North Shore City there's been growing realisation as to the advantages of regulating land use to improve urban storm water. North Shore has got a few examples of this we've recently been through the Long Bay structure plan process which ended up with Environment Court hearings. We have, at the present moment, got appeals on actual consents project that we are working through with the Auckland Regional Council and at the present moment the District Plan changes 22 to 25, it's there to improve the management of storm water we are awaiting the decision of the hearing panel. So these are all issues that are current for us and have given us some indications of what can be done.

Very briefly, Long Bay's structure plan the in the instance of storm water we have sought to minimise the impervious area that is within the design of that structure plan. Our council has vigorously promoted low impact design for its storm water management and at the present moment the Environment Court has upheld what has been sought by North Shore but still needs finalisation. Some of the lessons learnt from the Long Bay structure plan within North Shore City is that the structure plan process is a very efficient way to prevent and minimise impervious areas. In other words if you can get in early and really alter the design of an area before

it's developed you've got a chance of firstly minimising those impervious areas and then putting into place such things as rain gardens and swails and there's an example of a rain garden doing its work in the bottom there.

The next issue that we've encountered is one of developers in the structure plan area. They are at the moment required to get land use consents from North Shore City Council and those land use consents have obviously a large element of storm water management in it because of the reference to the structure plan and the storm water requirements of that structure plan. They however also have to get discharge consents from the ARC. And North Shore sees that land use consents are the better option in that the consent actually remains with the land and that the land use consent does not actually expire where as a discharge consent does expire.

The next project I'd like to quickly refer to is our network consent project or the Kokapu connection that we had for the storm water and waste water networks. This project concentrated on the discharges from our storm water and waste water networks and we broke the storm water module of it basically into three areas. Into streams, contaminants and flooding and we did a fair amount of work on each of those. If we look at some of the lessons learnt on streams we were very pleasantly surprised at what good condition some of the streams were in despite the level of urbanisation that we had on the North Shore. Lucas Creek is shown in the top picture and Hillcrest very close to state highway one by the Akoranga Marae is the other picture. So those are right in the certainly the lower picture is right in the middle of the city and we've got some reasonably good quality streams. The other interesting issue that came out and was one that we looked at quite extensively and are now trying to through our concept of social marketing influence the owners of various pieces of private property to do work on their streams. However with 70% of those streams in private ownership in terms of regulation we think that development and

redevelopment is best controlled when people are doing land use. Those activities can influence clearly can influence the impervious areas and there are riparian margins alongside streams and by influencing the impervious areas and the riparian margins you're controlling to quite a large extent stream bank erosion. And these issues have been carried through to plan changes 22 and 23 which I'll deal with now.

The other stream of work that we carried out on the network consents was we looked at sediments in the receiving environments in and around North Shore and the environmental response criteria has been set by the ARC. With that we can see that - sorry I'm just losing my way here a little bit. The discharge consents emphasise an end of pipe treatment option and Mr Hassan earlier referred to it with the Manukau evidence saying that a lot of the remediation of the urban storm water has to be done through treatment and also stating that there is very limited space. That is an exact replica of the words that I would like to use, we have got very limited space for putting in water treatment devices. However if we were to put in those water treatment devices we estimated the cost could be in excess of 600 million dollars, a very significant cost for a relatively - well, maybe one of the larger councils in New Zealand but it's still for a relatively small number of rate payers to bear such a large burden. So when we started looking at it we came more and more to the conclusion that we need to go away from the end of pipe solution and move right up to the top and try and get to the at source situation and Mr Hassan was referring to the BPO and for ourselves we believe that the BPO are very significant part of that is in fact controlling impervious areas and controlling matters at the source rather than at the end of the storm water pipe.

[2.09 pm]

The other work stream that we had for the network consents concerned flooding. The picture at the bottom left shows an instance of over land

flow and I think I certainly wouldn't like to be the owner of that house having that amount of water outside of my front door once probably every two years or that sort of return interval. Certainly very uncomfortable and it's one of the things that we've found is that the traditional flood plains we have not got too much of a problem with them but the major source of concern is what we term overland flow paths. And the overland flow paths if we look at the graphic here we have done some modelling and we look at that and it clearly travels through many urban sections and will influence all of those sections. So we believe that rather than relying on network consents or discharge consents that are issued by the ARC the best way forward is in fact control land use at the district plan level and then that allows matters to be sorted out when there is development or redevelopment of sites. And the other advantage of that approach is that it can be integrated with building consent approach because whenever somebody's doing some building it's likely that you can then check whether they are influencing an overland flow path or not.

If we move on to the other issues that we've highlighted, we've suggested some plan changes and plan change 22 is about managing the effects of impervious surfaces and those effects are largely on stream bank erosion and water quality. What we are wanting to do here is try and manage the cumulative effects of impervious areas and that can be a time consuming process if left to a discharge consent. Whereas if its left with land use consents and integrated with building consent process there's an opportunity for this to be managed as each consent comes up as each bit of development occurs we can start making process towards managing these cumulative effects. One of the issues that has come out which is quite an interesting one from our point of view is and has led us to develop a term called existing abuse. Now when existing use rights are exercised on various properties it can mean that the best storm water practices are not carried out when a site is redeveloped. And if you have a - by way of example, if you have a site which has say 90% impervious area cover

certainly under our district plan that would require some mitigation but if they are going to redevelopment consents the interpretation of case law that we are making at the moment is that there is existing use right and the use of the storm water can continue with the excessive what we deem as excessive impervious areas.

The remainder of the plan changes concern riparian planting and clearly riparian planting is something that can only be managed by land use consents and the discharge consent process would not be appropriate there at all. Plan change 24 is about avoiding developments in areas of greater risk of flooding and this we feel is best managed on a lot by lot basis with land use consents. And finally the better control of site works which generate sediment the site that's shown in the lower photograph there is well below the thousand square meters that is managed by the Auckland Regional Council however if you've got many lots being developed in subdivision you very quickly go over that thousand square meters but as each lot is individually being developed it doesn't cross that threshold and we end up with huge amounts of sediment in the streams and North Shore has take a very proactive approach here and is in fact managing this to some extent through the building consent process. Clearly their overlapping functions under RMA under section 30 and 31 and Manukau City in their submission have also raised that issue.

North Shore was interested to read that the Metrowater submission has made a strong statement the territorial authorities manage all aspects of land use development. North Shore is not 100% sure on that one given the existing use rights arguments that is there and there is a feeling that that probably needs to be controlled via the Regional Policy Statement or via some regional planning provisions where maybe the existing use rights can be over written.

For roles and responsibilities North Shore Cities support in principle the release sought by Local Government New Zealand with their Policy 2(c). The prime issue that North Shore is seeking is clarity on the roles and responsibilities for storm water management and we have suggested possible words that are largely along the lines of Local Government New Zealand Policy 2(c).

Moving now onto demand management in water conservation, North Shore City purchases compatible water from Water Care. This is distributed to 73 thousand dwellings with more than 1000 kilometres of pipe line. We've got a very active demand management programme. However, there is an issue that has been confronted by council in terms of economic tools. There has been a strong push for utilising economic tools. However, those economic tools do have social effects.

The North Shore is basically in support of Objectives 6 and 7 of the proposed National Policy Statement. However, there is an issue in terms of the definition of efficiency, and how that relates to economic tools. A common method of controlling water use is to have what they call a rising block tariff. In other words, as water demand increases, your tariff increases, and clearly that is going to be an issue for any of the large families in the lower socio-economic groups. Another way of controlling water demand is to have a large first up fixed price, and that can have large impacts on solo pensioners who use very little water.

[2.19 pm]

So with those social impacts North Shore is a little bit concerned about those. North Shore also has a storm water strategy, and a key part of that strategy is item C, using rainwater and the resulting storm water as a resource, where practical. There are numerous opportunities for that water to be used as a resource. We are aware that there are potentially

some public health issues that need to be worked through. But generally if those are, it can be used maybe as non-potable water for flushing of toilets, and other such uses, washing machines, can be used for those non-potable uses, and I think that could be a great advantage.

By way of relief, North Shore supports Policy 14 of the Local Government New Zealand submission that seeks the appropriate water conservation and water demand management.

Objective 7 of the National Policy Statement requires water to be used efficiently. But no guidance is given in relation to social effects, or use of storm water as a resource. So North Shore is seeking that social issues are recognised in relation to efficiency. It may be appropriate to word Objective 7 by including a reference to sustainability. And it is noted that in Objective 6 the word “sustainability” is used in relation to demand management.

Moving now to timeframes and implementation, Policy 3 requires that a territorial authority to notify a proposed district plan change, or variation within 40 days of a Regional Policy Statement be made operative. I have included the statement here as it clarifies a bit of mis-wording in our original submission, which referred to 40 days after the National Policy Statement being made operative. Once the Regional Policy Statement changes are operative, changes to both the regional and district plans are required within 40 days. We have already discussed that land use is a function of both regional and district councils, and there is a need to get consistency between those, if they are both notified at the same time, the chances of achieving consistency are probably reduced somewhat.

So by way of relief, we are seeking appropriate timeframes to provide for consistency between regional and district plans, and there is a suggestion

that maybe Policy 2 of the Local Government New Zealand submission could be utilised.

If we move to receiving environments, urban storm water conveys contaminants into freshwater, and coastal receiving environments, council has undertaken numerous studies during our network consents on sediments, and the ARC have developed a traffic light system. What we are seeking here is to explore the interconnectedness of land use, and the receiving environments. The traffic light system shows impacted sediments and the impacted sediments in and around Wairau Creek are in a freshwater environment, and down at Hillcrest Creek they are in a freshwater environment. We have impacted sediments at the top end of Lucas Creek, and at other locations within the inner harbour.

Contaminants from land use impact both freshwater and coastal receiving environments. North Shore is of the opinion that integrated management of both freshwater and coastal receiving environments, with respect to land use is required. Integrated management that links management of coastal and freshwater receiving environments is carried out, and we have suggested that Policy 4 of the Local Government New Zealand submission could be slightly tinkered with, to include coastal receiving environments.

I come now to the final of our five points. And this is regards to priority setting. North Shore City Council is developing 46 catchment management plans for the management of storm water. Out of these catchment management plans, we are hoping to get some workable works programs, and we are wishing to implement the best practical option solutions that relate to flooding, stream management, and contaminant management.

The map on the right shows the 46 catchments that we have on the North Shore, and it shows the progress that we are making in getting our catchment management plans resolved. And we are in the final stages of developing catchment management plans for Eskdale, Lucas Creek up in Long Bay, and down in Takapuna.

The (inaudible) of the National Policy Statement requires outstanding and degraded freshwater resources to be identified. North Shore strongly supports this.

However, if we look at these photographs, should the avoidance of effects of outstanding resource, such as Lucas Creek in the upper photo take priority over remediation of degraded resources, such as the storm water channel in the lower photo? There is little guidance as to priorities. North Shore has established the priorities that we utilise under the LTCCP process with the Local Government Act. However, when we are going through the catchment management planning consenting processes with the ARC, we tend to have a few disagreements on what the priorities are. And some help on sorting those priorities out would be of use.

So the relief that we are looking to, is that we support the concept of at-risk catchments as put forward by the Local Government New Zealand submission under Policy 9, and we also support the development of plans by territorial authorities to address the impacts of water quality and quantity, which is under Policy 13(b) of the Local Government submission.

An in conclusion, the impervious cover model that has been developed by Dr Schuler and utilised for Long Bay, provides a very good effects basis that land use is the prime regulatory tool for urban storm water. Urban storm water is an important and growing part of freshwater management. Certainly urbanisation throughout the country is increasing. More and

more people are going to be living closer and closer to streams. And the support that we've had in North Shore for works in and around streams and some day lighting of streams that we have undertaken has been very well supported by our community, and I think other communities in the country would really benefit from that learning that North Shore has undertaken.

So what we are really seeking is that the roles and responsibilities need clarification so as to streamline the RMA processes.

CHAIR: Well Mr Thomas, thank you very much. You have plainly gone to a lot of trouble to think how to present this well to us, and you have been very successful. We may have some questions for you. That's not to deny the quality of what you have been taking us through.

MRS VERNON: I would like to compliment you on your very helpful information about this urban storm water issue through your submissions. It has been extremely helpful because well as you probably gather, we are getting interesting and different submissions from various organisations and this sets out very clearly, and also the Thomas Schuler's information as well. So thank you for that.

[2.29 pm]

I only have one question, and I think it probably goes without saying, but in Objective 2 they use the word "land use development" and I guess from what I am hearing you, North Shore, would not be opposed should the Board decide that in actual fact we break that down to "land use and development."

MR THOMAS: I don't think there would be a problem from North Shore.

MRS VERNON: No? Well, I just wanted to check. Given your information today, I didn't think there was. But however, one must never assume anything. So thank you. Thank you.

CHAIR: Mr Prime?

MR PRIME: No questions.

CHAIR: Dr Harding?

DR HARDING: Thank you. So you were present during Manukau City's submission?

MR THOMAS: Yes.

DR HARDING: Where we heard about their view that it is very difficult to deal with storm water contaminants?

MR THOMAS: Yes.

DR HARDING: And obviously from your submission you are saying that, from your council's purview, the answer is going back up to the source.

MR THOMAS: Yes.

DR HARDING: And dealing with the problem at the source, and therefore you don't, there is less of an issue with having to retrofit systems that are existing.

MR THOMAS: Yes I think that summarises it. There are - one of the key issues is that just trying to find room for storm water treatment devices, such as some of these larger ponds in the existing urban environment, it is difficult to find suitable sites. Recently the number of ponds and treatment devices on the North Shore has gone from five years ago I think we had in the order of 50. We have now got probably more than 200. It is becoming a maintenance burden. And when there are clearly other ways of doing it through low impact design with swales and innovative, but well-recognised low impact design methodologies.

DR HARDING: So, do you have a feel at the moment for how successful that has been, as compared to trying to treat systems?

MR THOMAS: I think it's a bit early to say really. We haven't - the uptake of low impact design has not been that huge. One - North Shore has been involved with permeable pavement trials, they're still in the pilot project stage. So at the North Shore Events Centre, we have created a permeable pavement on top of one of our wastewater storage tanks, and are checking that to find out how effective it is for the removal of contaminants in a car park area. And obviously there are a lot of contaminants that come off cars, and oil dripping, etc. So that is still out there getting results. In Birkenhead we have got a pervious pavement that is being trialled in a road situation. So, it's having to withstand the rigours of being a fully fledged road pavement, and there are different loading issues, and other engineering criteria that have got to be met for that.

DR HARDING: I guess your expectation was that this ICM model would then shift dramatically the percentage of the surface area which (inaudible) water quality or worked - you know, this model would change quite markedly. That's your hope?

MR THOMAS: Yes, certainly it's our hope. North Shore spent a significant amount of money on the Long Bay structure plan process, something like one and a half million dollars, collating and giving all its evidence on storm water for that process. And I suppose we're hoping that through the National Policy Statement, other people don't have to go through the process again and again and again. Maybe it's something that the National Policy Statement can push towards, and then each regional council in the Regional Policy Statements has to start promoting the idea of low impact design, particularly for new developments.

DR HARDING: Excellent. Thank you very much.

CHAIR: Like some of Auckland and some of Manukau, the southern part of North Shore City, the longer developed part, has its geology influenced by volcanic processes. Does that affect at all the freshwater issues?

MR THOMAS: I think for North Shore the soils on the North Shore are predominantly clay soils. We have in the Devonport area, Mount Cambria where we have got some volcanic soils that will be very permeable and will drain, so one of the key issues for us on the Shore is the fact that soils are very clay-susceptible to compaction, and then with that compaction, start operating almost as if they are an impermeable surface themselves.

So I think I might have digressed from your question a little bit.

CHAIR: That's all right. This isn't a sort of cross-examination in court or anything. You can respond as you will. But I am sure there are other parts of the southern part of the city, where there are tuf (ph) soils not only around Mount Cambria.

MR THOMAS: Yes.

CHAIR: But, I just thought, well you have got a position where you know if there are any particular issues arising from the volcanic formations in that part of the city. You are not aware of it at all?

MR THOMAS: No.

CHAIR: All right, thank you. Now the second thing was your very helpful term of “existing abuse.” Thank you for that, because it expresses so efficiently an important concept. And you were appealing to us to override it. And tempting though it is, I am not sure that we can, but I just thought I’d explore it a little bit further with you, that “protection” if that’s the word, of existing uses, at least in land use terms, is set by parliament in the RMA itself, isn’t it?

MR THOMAS: Yes.

CHAIR: And the NPS is an instrument under the RMA?

MR THOMAS: Yes.

CHAIR: And so, I’m starting with the feeling that an NPS wouldn’t be able to have in it something which is incompatible with provisions of the RMA.

MR THOMAS: Okay.

CHAIR: So that I am not sure that that temptation is one that we should follow up. Do you have anything you would like to say about that?

MR THOMAS: Your Honour, I feel a little uncomfortable digressing into some which are very legal issues.

CHAIR: Yes, it is a bit, isn't it?

MR THOMAS: But some of the discussions that we have had around it, suggest that existing uses, if somebody were to write something in a Regional Policy Statement, that they not bound by that, and that there would be some process that within a Regional Policy Statement, given sufficient lead times and possibility of maybe some milestones along the way, you could move things on for some of the existing uses.

CHAIR: Are you talking about land uses as distinct from activities to do with water, you're not - you're talking about section 13 to 15 things, or are you talking about land use, section 9?

MR THOMAS: I am talking about, I suppose, the function of regional councils to control land use that impacts on water quality.

CHAIR: Yes.

MR THOMAS: And, we sort of had the hope that maybe, the Regional Policy Statement could come to our aid in that area.

CHAIR: Yes. But then it too is an instrument under the RMA isn't it?

MR THOMAS: Yes.

CHAIR: So that unless they can find a way in which it doesn't conflict with or at least be incompatible or inconsistent with the RMA, wouldn't they have the same difficulty as this Board would have?

MR THOMAS: I would imagine that would be the case, yes. Something that we keep discussing and hopefully one day the light will come on for us.

CHAIR: It's not for us to encourage anybody to do anything in particular, other than in terms of the content of the NPS. But I have merely mentioned that at the moment there seems to be some interest in Wellington, in making amendments to the RMA.

MR THOMAS: Yes.

CHAIR: In any event, we are very grateful to the North Shore City Council for taking the trouble to make a submission and to you for coming along to present it. And that has been very helpful to us. Thank you very much indeed.

MR THOMAS: Thank you Your Honour.

ADJOURNED [2.38 pm]

Audio file: dpm 0123

RESUMED [3.07 pm]

CHAIR: Good afternoon. We are very glad to see you, and we are looking forward to have some further elaboration of the council's submission. We've heard some submissions today from the Waikato Regional Council, the Manukau City Council, and the North Shore City Council. So you nearly complete our cluster of councils in this area, and then later in the week we will be hearing some other people.

So thank you very much for coming and we are looking forward to your presentation. We are not expecting any particular formality, you can present it exactly how it suits you.

MS ANDREWS: Thank you. I'll introduce myself. I am Ruth Andrews. I am a strategic adviser for strategic planning, and this is Martin Glover who is manager for service delivery asset management.

MR GLOVER: I will explain my role. It is merely centred around demand management for the Waitakere City, so I have particular interest in this Policy Statement as we see this as one of the key documents we have seen for some time, that enables demand management to happen.

CHAIR: Splendid. Thank you.

MS ANDREWS: We don't have a formal presentation today. We obviously provided a submission earlier on.

CHAIR: Yes, and we have that in front of us and we have read it.

MS ANDREWS: And we just have some, a few key points that we would just like to reiterate, that are a key concern to Waitakere City Council. We generally are in support of the initiatives to improve quality, and appropriate use of freshwater supply in New Zealand, and also to reduce the effects on this resource from land use. There are some more particular comments within our submission that we would like today just to highlight in person. The first one is centred on Objective 2, which is ensuring integrated management of the effects on freshwater. We agree that all development should manage storm water discharge through construction. However we do feel that the issue of defining contaminants and quality of freshwater should be clarified in terms of what criteria these would be measured against. So that is something that we would like to see clarified. In terms of Objective 4, recognising and protecting life supporting capacity and ecological values, we feel that inappropriate taking should be clarified and defined in terms of what this covers. For example, the use of rainwater tanks, or re-use in reticulated urban areas, and in rural areas where rainwater is collected from roofs, and eventually it returns to streams through storm water discharge as well. And the taking of drinking water for animals, and also possibly excluding stock from riparian areas.

Objective 6, managing the demand for freshwater, this is something that Martin has a particular interest in. The objective includes reference to climate change, which is supported by Waitakere City Council. But in terms of point B, included under that objective, we feel that it should specifically include not only the provision of more infrastructure as a solution, but also to give weight to a conservation approach as well, and adverse effects arising from the demands of freshwater also needs to be clarified in terms of actually what those demands are that are actually envisaged.

Objective 9, ensuring effective monitoring and reporting, some clarification is sought in relation to this objective in terms of how costs will be passed on to territorial authorities and in turn, obviously the rate payers. The time frames for monitoring could also be clearer we feel so that efficiency can be maximised in conjunction with the national baseline standard.

Policy 1, progressive enhancement of water resources is certainly supported, but again, clarification is sought over what timeframe this is to be achieved, and also how it is to be measured. The term “swimmable standard” is felt to be somewhat subjective, and whether or not it should be measured from a qualitative or quantitative perspective, we feel requires some further explanation.

The use of rainwater tanks, we feel should not be excluded, for potable re-use. This would allow the supplementation of water supply as part of a demand management plan, where supplies are reticulated. And this would also have the effect, we feel of placing a greater emphasis on water conservation which Waitakere City Council supports. And overall, I think there is some further opportunity within Policy 1, to elaborate on further initiatives for efficient use of freshwater, for example, small scale community initiatives such as community reservoirs.

In terms of Policy 2, Waitakere City Council feels that it should be a requirement of regional and territorial authorities to have a demand management plan for water supply and distribution, and also a drought management plan.

Policy 9, all regional and territorial authorities are required to undertake monitoring as part of NPS, National Policy Statements, and it is considered it is important that monitoring processes are carefully aligned

with regard to timeframes to reporting to the Minister, so that unnecessary costs and delays, and duplication of work, could be avoided.

The issue of cost is very important to our council in particular. The financial responsibility for certain initiatives contained within the proposed NPS, we feel does need some clarification. The Waitakere area has almost 800 kilometres of stream network, which is quite a large stream network compared to other territorial authorities, so it is of importance to us. I don't know if Martin wants to come in.

MR GLOVER: Yes, please. Regarding "swimmability" we find that a lot of our streams are quite narrow, and some of these may be historical swimming areas. But in times of storm, pre-storm or after storm, there's some safety considerations. And "swimmability" needs a little bit more description we believe, because a stream may be "swimmable" in one set of circumstances but if it becomes a raging torrent, then safety considerations should take over. So we feel it has been written in the way in terms of quality of the water for "swimmability" but not necessarily quantity or the safety aspects concerned with that issue. That was one slight issue.

And the other issue, just to emphasise on the demand management, Waitakere City, considerably leads the way in the way it manages water supply. The document talks about freshwater but in an urban environment we consider the potable water ultimately to have come from the freshwater supply. So managing that supply is one of our key business drivers in the water sector. We are striving to achieve a 25 percent reduction per capita, that is per person, of water use per day. And we have been successfully reducing our water use, despite there being an impression that there is plenty of water.

So it is possible to reduce that and we are looking for this piece of - this Policy Statement to enhance the legislation which we struggle with.

Now the existing legislation of building consents, so the building legislation and the Resource Management Act, which is very difficult to put statutory powers, for example, like introducing compulsory use of rain tanks on new developments. So we are looking for this particular policy to enable us to do a lot more in terms of conservation and management of our supplies.

CHAIR: Well thank you very much. That's a helpful overview of your submission, and I'd like to see if some of my colleagues have some questions for you. Mrs Vernon?

MRS VERNON: Thank you, going to Objective 2, would Waitakere be, if we go to the third line where we talk about land use development, would the Waitakere City Council have any objection if it became "land use and development?" I just might perceive, for example, in your 1.6 of your original submission you make a comment that this objective should apply to existing uses, existing developments, not just new or proposed. Now other submitters have also made that comment that this document, it heavily emphasises the future, but in actual fact, existing is some of the reasons why where we are. And I just wonder, and you may have an alternative word that would be helpful, or alternative idea at the back of your mind as to how we can encapsulate that existing use or existing development. One of the suggestions has been "land use and development."

MS ANDREWS: Which would capture existing, yeah. I think that would be definitely supported, yes.

MRS VERNON: That's my only question. Can I just compliment you though, on the way you have set out your original submission? It is easy to read and helpful.

CHAIR: Mr Prime?

MR PRIME: I have no questions.

CHAIR: Dr Harding?

DR HARDING: So I have just got a few questions going back to your original submission on page 5. You talked about Objective 1, and you raised the point about ephemeral streams, and later on about artificial water sources. And so of course, at the present moment, the definition of freshwater resource doesn't include ephemeral streams, it doesn't include offshore water courses. And a number of submitters have suggested, as you have, that they should be included. I note, that you do mention there just by way of an example the importance of habitats and diversity.

Now the current definition really talks about water, rather than the things in the water and the habitats and that sort of thing. Some of the other submitters have suggested, rather than talk about freshwater resources what about talking freshwater ecosystems?

MS ANDREWS: Yes. My background is ecology and I would definitely support that. In fact that is something that has been omitted, and I think that would be very helpful in terms of, for example, man made storm water ponds, after some years there is quite a small ecosystem that develops, which perhaps should be recognised within the National Policy Statement and the same for ephemeral streams, which can become quite important in some periods of the year and that do support fish (inaudible) and certain

things like that. So yes, I would certainly think that Waitakere City would be in support of that.

[3.20 pm]

DR HARDING: Thank you. Objective 4, which is page 8. You have got again, point 1.1.14 appropriate to include specific provisions stating the importance of riparian management of water bodies, (inaudible), so how do you think we could incorporate something like that in this?

MR GLOVER: Probably being specific, we understand that stock damage to waterways is really helped by fencing, keeping the stock out of the riparian margin, and the stream all together, really forces land owners then to provide alternative water supplies in the proper manner, not just because there's a stream running through it that it's free to take for my stock.

I suppose the tension is that stock need to drink. But it should be provided in a better way than just allowing stock to go into the stream and really disturb the whole sediments, silts and the ecosystem, you know, some of the - there's been lots of evidence of severe damage to streams caused by stock.

We don't have a great problem in Waitakere, but we recognise this is a National Policy, that this is something we would support. So we would consider it be specifically mentioned, would be a good way of doing it, rather than infer, so make specific reference to protection of riparian margins of streams as a key way of managing freshwater quality in streams.

MS ANDREWS: I think perhaps even, you mentioned before, the inclusion of habitat and ecosystems as a more, sort of broader holistic way to describe

freshwater bodies would actually perhaps lend some help to that, as well, because stock in a stream obviously has wider implications than just taking water and trampling and things like that, which is damaging to the overall ecosystem.

DR HARDING: Thank you. On page 15 you've raised (inaudible) submitters have about timeframes, and we've had probably just about the whole gambit of timeframes possible so far. From some submitters who are saying the horse has bolted, we need to act now. To others, which said, well how about having some comment about appropriate timeframes on a never never land scale, can you offer us some sort of suggestions as to what you think might be realistic in this regard?

MS ANDREWS: Well yes, cost and timeframes go hand in hand, probably in a word "no" we can't be any more helpful. But it certainly needs some clarification in terms of some appropriate timeframe, and act now is all well and good, but in terms of the costing and the implementation, obviously there are some issues but, happy medium, if everybody is happy.

DR HARDING: Okay, I'm sure we can discover that.

MR GLOVER: I think everybody wants to do the right thing, but the cost driver is the other side of the coin. So Waitakere is an eco city and wants to protect its streams, and has demonstrated that with the Twin Streams project. In particular, it has been a world leader in that regard. But as we have found out just from that project, it's a thirty million dollar project. So if we had to be clear up every stream it would need to be a staged process. And there's been a lot of pre-damage already done, so I think everybody wants to do the right thing. It's the part about, stream - detailing how that (inaudible) the plan it's allowed to take things in a staged way.

DR HARDING: Okay, I'll just comment on page 15, at the end of the "swimmable" standard issue, and I guess some submitters have talked about recreational contact which may or may not be what was meant, and that maybe the implication here is that the people who have drafted this NPS were really looking to raise the bar, they were looking to set some sort of minimum water quality threshold across the whole country. And that might be recreational contact. What do you think about that comment?

MS ANDREWS: Well, yes I think that that would certainly be supported, in terms of recreation. But, for instance shellfish gathering, that standard may actually be higher. So I'm not sure whether or not recreational standard would be lower than that. It is sort of - my personal preference is that it would be the same, but that may not be appropriate in all instances for all of the time, but I think it's important that there is a standard that is set, that it is measurable. And that it is achievable.

MR GLOVER: And this "swimmability" is again, (inaudible) what does that mean? Because streams - I think we've got nearly 800 kilometres of streams; not all of them are "swimmable" but some could be "swimmable" and maybe it's the historical places that we were sort of thinking that is where people used to swim in the past, but now seem unable to, is this about returning those areas back into a swimmable state, is where I think we thought he was coming from, not necessary making everywhere where there's a stream a "swimmable" stream.

Because the flows, the passage of the stream and safety considerations coming into play as well. So the definition would need a lot more tidying up or been a bit more explicit about what it means if it just came out, we wouldn't want it interpreted that every stream or piece of fresh water

To be read in conjunction with
the tabled evidence/statement

should be swimmable. And again that standard is not clear, whether one standard is higher or lower or they are the same.

DR HARDING: Well if there was a standard, who would decide it?

MR GLOVER: The Government.

DR HARDING: I'm sorry?

MR GLOVER: The Government.

DR HARDING: Central Government?

MR GLOVER: Yes, as a National Standard.

DR HARDING: A National Standard, I think that is all. Thank you.

CHAIR: You have been making some progress in reducing the amount of potable water used per capita. How have you done that? Is that by progressive charge on water by meter, or is it by education? How have you done it?

MR GLOVER: All of the above, we've got wide ranging methods of education, and through media, communication; promoted the eco city principles. We now seem to have got the whole population, now thinking we can do smarter things as an eco city. Conserving water was one of the easiest things that people could do. So, it has been through education and programs. The pricing structures, obviously everywhere in Waitakere and in Auckland is metered. And we realise that not everywhere around the country is metered but that is certainly - paying as you go is a philosophy that this council really promotes, so you pay for what you use, and so it

makes sense that people want to save on their bills; saving water sensibly is one of those things that we can do.

As I have said, I have found personally, that in our efforts to work the regulatory areas has been quite difficult. Our advice from legal services has not supported, for example, the introduction of compulsory rain tanks on new developments. This has been carried out in Kapiti and Tauranga, for example, successfully. But I think we've got a conservative council in that respect. But we would be looking that this Policy Statement and the reading that our legal services have taken on. It would seem to give us the extra powers that could do this in a sensible way, and to make further progress.

[3.30 pm]

So in answer to your question, we've used probably most means including businesses and getting people on board who actually supply water efficient products to assist us with that progress. But we now are one of the lowest users of water in the country. Last year we achieved 157 litres per person per day, which is now, I think, well it is the best in the country, for a city.

CHAIR: And do you encourage people to use egg timers to limit the time of their showers and that sort of thing?

MR GLOVER: We don't really want to go back there, six litres per second and four minute shower, we didn't really support that idea. But the water efficient showerheads, we do. But obviously it is the way you present that that shows if you really go off the rails, (inaudible), but we got over that sort of hurdle. So we don't say it must be. we are really empowering

people to make smart decisions on water efficiency and water wise and campaigns.

CHAIR: So with the charging of household per water by meter, is the rate per 100 litres or whatever, 1000 litres, higher once they get it above your average 157 litres per person per day?

MR GLOVER: No, our price for water is mid range. It is slightly higher than the average for Auckland. There is only one price for water. We have no minimum charge either. So if you don't use any water, you don't pay any cost. So we found that, to this point successful.

CHAIR: Yes. That's an innovation, isn't it? I'm interested in that. Thank you.

Now there was also a question about compliance costs. And I just wanted to make the observation in case you have any contribution to make on that. My initial view is that the costs of compliance with the National Policy Statement isn't a matter that goes into the Policy Statement. In other words, if the council feels that Central Government should be contributing, or something like that, that would be a matter to take up independently of this process. Now if you have been given different advice well of course, we are interested to know that. But that's our sort of starting point.

MR GLOVER: As a conservative councillor that's mindful of costs, for rate payers, that would be the nervousness of any compliance. We already measure beach quality and stream quality now. But obviously it's not, isn't that clear in here, so that's why it has raised the question I think in saying well is this going to be much more compliance cost-wise or more measuring.

To be read in conjunction with
the tabled evidence/statement

CHAIR: Yes, I understand that that has got to be looked at very closely, in determining what can be done. But at least in the eco city there will be the right approach to it won't there, a willing approach.

Well, we are grateful to you both for coming and giving that explanation. And thank you indeed for answering our questions as well, and we thank you for the contribution.

MR GLOVER: Thank you.

MS ANDREWS: Thank you.

ADJOURNED **[3.37 pm]**