

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**

FRIDAY 14 AUGUST 2009

HELD AT THE HERITAGE HOTEL, 35 HOBSON STREET, AUCKLAND

HEARING OPENED [9.38 am]

APPEARANCES

Mr A Smaill and Mr M Bishop, Auckland Regional Council

Mr T Daya-Winterbottom, Wairakei Pastoral Ltd

Audio file: dpm 0132

CHAIR: Good morning gentlemen. Welcome. As you know we are here for people to present in support of their submissions in the proposed NPS. And we understand that the Regional Council has some elaboration to give on the submission that has already been lodged, which we have before us, and which we have read. We don't expect any formality. You can just present however you plan to do so.

MR SMAILL: Thank you Your Honour. I will just read my statement if I may.

CHAIR: Thank you.

MR SMAILL: Good morning. I am Alistair Smail, the group Manager of Environmental Policy and Planning, with the Auckland Regional Council, accompanied by Mark Bishop, Policy Planner with the Land and Water group. On behalf of the Auckland Regional Council I would like to thank the Board of Inquiry to speak on our submission. Firstly I would like to say a few words in relation to the setting of the Auckland region and then outline a number of factors that make this region unique, before I move on to the main points of our submission.

The Auckland region covers almost 500,000 hectares and contains a range of natural environments which include three major harbours, offshore islands, volcanic fields, bush-clad ranges and many lakes, estuaries and wetlands. Auckland is one of the fastest growing regions in New Zealand. As a result the pressures of our natural and physical resources will continue to increase. Based on anticipated growth rates, the population of the region is expected to increase from its current level almost 1.4 million to 2 million by the year 2036. The population of the

Auckland region will also continue to be the most ethnically diverse in the whole country with over one hundred ethnicities currently resident.

In relation to rivers and streams the region is slightly unusual in the fact that out of a total stream length of 28,000 kilometres, nearly 80% of these streams are first and second order. Many of these streams can easily be stepped over. The values of these water bodies are often overlooked and as a consequence, can become degraded or be lost completely after infilling and piping. Soil erosion and the discharge of storm water are major issues for us. The Auckland region has a number of unique Resource Management issues, as compared to other regions in New Zealand. These issues are primarily due to our high population growth rate, being accompanied with an area that contains many sensitive receiving environments both coastal and freshwater. This large population also results in an increasingly high demand being placed on the region's limited freshwater resources. The Auckland region is the only region that sources some of its water supply from outside the region. In terms of our regulatory functions, the Auckland Regional Council processes about 100 discharges to land and water consent per year, and the ARC also processes on average between 50 to 150 water take applications per year.

[9.40 am]

I would like to move now to discussing the proposed National Policy Statement itself. We would like to emphasise that we believe to be the main points of our original submission as well as make some related additional comments on the work that we have been doing recently in our review of the Regional Policy Statement. We would like to make it clear that the ARC does support the provision of greater national policy direction, in relation to the management of freshwater resources. We are

generally supportive of the proposed NPS, particularly the notion of identifying of values and the setting of water quality standards, and environmental flows and levels in regional plans. However, we would like to see greater guidance and clarity than currently exists.

We would also like to state that it is the ARC's intention as signalled in the ARC's recent draft, second generation RPS, to identify the values of our receiving environments, both freshwater and marine, and then set water quality standards and targets. This approach is new for this region where, under the current planning regime, the classification of water bodies has not been carried out, nor has the setting of any water quality standards. The ARC's main concerns with the proposed NPS are that it does not give clear national direction or guidance due to the lack of prioritisation as the policy issues it seeks to address. It does not give clear guidance regarding the decision making process that local authorities will have to engage in to resolve freshwater resource and land use-related issues. It should specify a series of measurable and time bound objectives so that progress towards the date of 2035 can be achieved. It uses a number of unfamiliar and poorly defined terms. It may result in high implementation costs being imposed on local authorities due to the proposed planning time frames, the degree of consultation that will be required and the amount of additional environmental monitoring that will be necessary. We would therefore like to discuss some of our concerns and associated relief sought in relation to six themes, decision making, water allocation, water quality, notable values, Tangata Whenua and finally implementation issues.

The management of freshwater resources involves complex interrelationships between natural systems, land use, community interests and values. Also poor quality of information and the lack of information are common issues that local authority decision makers are often faced

with when considering consent applications or when setting water quality standards. Therefore clear national guidance and direction is a positive step towards helping facilitate and improve the decision making process of local authorities. Poor quality information and the lack of information are common issues, that local authority decision makers often face - sorry about that Sir, I seem to have repeated a sentence. Therefore, increased direction is required to guide how decisions should be made in the face of uncertainty beyond that already provided by the RMA. The proposed NPS does not appear to offer any additional direction in relation to making decisions when presented with varying degrees of uncertainty.

Objective 4 relates to the recognition and protection of life supporting capacity and ecological values, but does not acknowledge other values such as those of riparian margins. Greater national guidance and direction is sought within the NPS to aid in the decision making processes of local authorities. This should include high level policy direction to adopt an integrated management approach to all levels of decision making, and to guide how local authorities could make decisions when faced with uncertainty.

Reference should be made to the contribution of other associated values, such as the value of protecting biodiversity as part of life supporting capacity and ecological values referred to in Objective 4. The proposed NPS should set national priorities for water allocation or require that Regional Councils should set priorities for competing demands in their region. With respect to over-allocation of fresh water, the NPS does not set an object to avoid the issue, nor does it provide policy direction as to how to address over allocation once it already exists.

The ARC does not support the privatisation of water, but it does support the mechanism of transferring consents and notes the need to avoid the use of freshwater resources as a speculative commodity.

The NPS should provide an overall objective to avoid the over allocation of freshwater resources and provide encouragement to Regional Councils to initiate cap and transfer schemes if they so chose. Direction is also required to help address current over-allocated catchments. Policies are required to guide Regional Councils in the prioritisation of water use. A specific policy should direct Regional Councils to firstly, prioritise water allocation for reasonable domestic and animal drinking need. Secondly for reasonably foreseeable municipal water supply requirements, subject to appropriate water conservation and water demand management initiatives. Thirdly for "non-consumptive" needs, i.e. that is water that is used and then returned to effectively the same place at effectively the same time. And fourthly, everything else over and above sufficient water flows to meet in-stream requirements.

While New Zealand still possesses many freshwater resources of excellent quality, increasing land use pressures are causing deterioration of water quality in various parts of the country. It should be acknowledged that the contribution from non-point sources is a significant issue and that the NPS should provide a strong direction to local authorities with regards to the control of land use. A statement within the NPS is required to illustrate that the contribution from non-point discharges is a significant national issue, and as such, the greater control of land-use by local authorities is encouraged. Policy direction is required to state that further degradation of freshwater resources as a result of land use and the discharge of contaminants is avoided wherever possible. The control of land use should be integrated with imposition of water quality standards.

Policy is required to give guidance to Regional Councils in the identification of "at risk" catchments, that is catchments that may be currently have acceptable water quality but will become degraded if actions do not occur. Therefore, the ARC supports a stronger mandate within the NPS to prevent further degradation of freshwater resources as a result of land use and discharges of contaminants within "at risk" catchments. We suggest we remove the term "swimmability" and replace it with "contact recreation standards" where appropriate. The determination and identification of "notable values" is essential to the approach taken by the proposed NPS, and in effect, underpins what will be defined as an "outstanding" or "degraded" freshwater resource. However the definition of "notable values" is rather narrow, and does not give clear national direction as to what particular values should be given additional weighting to support regional decision making. The proposed NPS does not give clear guidance as to how local authorities would manage any identified "outstanding" and "integrated" freshwater resources beyond that given by the definitions of these two terms.

Relief sought. Establish a series of criteria that can then be applied at a regional level and set out a process to help Regional Councils identify the notable values. This will help in the final determination of values during consultation with the regional community, and would result in any applied water quality standards and timeframes being reflective of national and regional community values. Central Government should allocate resources to regional and territorial authorities to aid in the provision of enhancement of protection actions. I say that with my tongue in cheek, Your Honour.

The proposed NPS seeks to ensure the involvement of both Iwi and the hapu, in the management of and decision making regarding all freshwater resources of the region as per Policy 1(d). Policy 1(e) notes that

Regional Policy Statements are to identify Tangata Whenua values and interests in respect of all freshwater resources in the region. While this is supported, there can be a number of issues with this approach, due to the numerous Iwi and hapu within any particular region, therefore the obligations on local authorities and potentially their own obligations on hapu, could be onerous in terms of resources. I might make a further comment about that in the end, Your Honour.

[9.50 am]

Relief sought. Make the NPS consistent with the provision of the RMA that relate to Tangata Whenua and define what is meant by the term "interests". Also the NPS should provide guidance to direct local authorities to work with Tangata Whenua, to identify characteristics of freshwater resources that are of special value.

The proposed NPS directs that regional and district plans are to be notified within 40 working days of an RPS that gives effect to the NPS being made operative. The ARC believes that this proposed timeframe is both unreasonable and unrealistic. Since this proposed timeframe would mean bringing forward many regional and district plan reviews in order to be consistent with, or give effect to the reviewed Regional Policy Statements', many local authority resources will be consumed as a consequence. This would have the effect of taking resources away from programmes aimed at water quality improvement and monitoring to spending on plan reviews and plan changes or variations.

The approach to applying water quality standards and environmental flows and water levels as rules is relatively uncommon in regional plans. As a consequence, this will offer a number of technical and legal challenges in

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relation to the writing of these rules themselves and the monitoring and consenting of any associated activities.

Relief sought. The timeframe for regional and district plans to be notified within 40 working days of an RPS that give effect to the NPS being made operative should be removed. This in turn, should be replaced with directing Regional and District Councils to give effect to the NPS for Freshwater Management no later than the next statutorily required plan review.

Regional Councils should be given the option of implementing any water quality standards and environmental flows and water levels either as policies, methods or as rules. If water quality standards and environmental flows and water levels are written as policies or methods, then these can be recognised and provided for when assessing resource consent applications.

Any terms that are to be used in the NPS that are not referred to in the RMA should be clearly defined in order to provide clarity, and reduce the likelihood of litigation.

In conclusion the ARC would like to reemphasise its support for the policy direction of the proposed NPS, and is itself intending to apply similar direction to its review of its Auckland Regional Policy Statement. The Auckland region currently faces and will continue to face a number of complex resource management issues, and it is therefore vitally important to have clear guidance and policy direction set at a national level to help both Regional and District councils Deal with complex regional related issues.

Sir if I can just make two additional comments.

Firstly, with relation to detail of relief sought, the Regional Council endorses the submission provided to you by Local Government New Zealand and I myself and some of my colleagues have had much input into that, and we would like to endorse the alternative wording supplied in that submission.

With regards to my comments on consultation with Iwi and hapu, my council is - while they are concerned with requiring consultation on a planned level with hapu, as I think several other councils are, hapu are numerous and that may place an undue burden both on councils and hapu themselves. I would like to reiterate that during planned development consultations, the realities here in this region are that we consult with both Iwi and hapu depending on our relationship the particular Iwi and our partnership with them. An example is with Tainui we, maybe consult at an Iwi level and with Ngāti Whatua for example, a lot of our consultation is at a hapu level. So a lot depends on what our relationship is with the particular Iwi. But my council feels an obligation to consult at a planned development level with all hapu may be onerous.

Thank you Your Honour that is the end of my statement. I'll be happy to answer any questions.

CHAIR: Yes, thank you. I would just like to make a last remark before I respond to that. Well of course we are grateful to you for that elaboration and explanation of the submission. Thank you both. We would, if you are agreeable, like to have some exchange of questions for further elaboration if we may. And I will ask Mrs Vernon if she has any questions she would like to raise?

MRS VERNON: Yes, thank you and good morning. Can I just go to your number 6 on today's presentation? I'm sorry but I don't know what "first and second order" mean.

MR SMAILL: Okay, certainly. Streams are divided up from first order to about sixth order, and I'm starting at the top of the hill if you like, the smaller streams are from their source are called first order, and when they meet another first order stream and combine, they form a second order stream. And when two second order streams meet and combine they form a third order stream. So the larger streams in our region might be third and fourth order. But most of the streams in the region are first and second order in other words they are actually very small, and appear to a lot of people to be insignificant because of their size.

MRS VERNON: That raises a really good point because we've had some interesting submissions about - we had for example, some submitters talk about Meola and Oakley Creek.

MR SMAILL: Yes.

MRS VERNON: So in your scheme of things are they a first order, second order, sixth order?

MR SMAILL: They would be a third order stream, although the first and second order parts of those catchments have been lost. They are all now under pavement and in pipes. So the only bit that is left of the Meola and Oakley catchments is the third order channel.

MRS VERNON: And that's quite nice to my question about what is the ARC's view on, and even in your current policy I see you're currently writing a second generation RPS, but even in your first generation what was the

policy about storm water and these urban streams? Because there seems to be - there's diverging opinions. Some people think they should just be used as a conveyance for storm water. And that is very convenient. And then there are other members of the community who value the fact that we live as an urban environment and, sure, there are events where you have flooding or whatever, overflows, but in actual fact they like those first order, second order, to sixth order environments within their urban community. And I just wondered, do you have any policy in your RPS now or are you looking at enhancing or - I don't know.

MR SMAILL: Yes, our policy at present is basically "one size fits all". In the Auckland region we have pushed decision making down largely to the consent level, so the values of a particular stream are generally considered at the consent level on a case by case basis, and quite frankly that is not working particularly well. And what we aim to do through our existing reviews is to classify streams on the basis of values, so that higher value streams can be protected and those that are degraded can either be - the quality can either be maintained or perhaps enhanced.

MRS VERNON: So that leads quite nicely to my next question, your number 12 that you talk about, you are setting water quality standards and targets. And you say it is new for this region, and I guess your "one size fits all" means that basically again it was whatever came up at a resource consent, and if a resource consent was for 35 years it was not likely to be addressed, is that what was? And can I just ask you, what are some of the values that your second generation RPS is now picking up?

MR SMAILL: Yeah. I think one of the issues we have actually had in this region is with the "one size fits all" if you like, is that nobody knows what they are aiming for. Our intention is to change that through standards and targets, so that everybody knows what they are trying to hit. The values are many.

In our small streams there are biological, life supporting capacity values. There are values around food collecting in those streams. There are amenity values, landscape values, and there are also out of stream values for water use, particularly for miniscule supply, and industry etc. And it's quite important in terms of some of our urban streams where you made comment about the conveyance of storm water. While the biological values of those streams may be degraded and probably can never be enhanced greatly above what they are now, but it is possible to actually improve the amenity of those streams. So in many cases while they will never ever get back to what they were, we can make them nice places to be.

[10.00 am]

MRS VERNON: In this new look for the ARC, what about day lighting?

MR SMAILL: Day lighting is an interesting issue and it is extremely expensive.

MRS VERNON: We know.

MR SMAILL: I don't think we will be putting forward a specific policy around day lighting. But I think there will indeed be opportunities for that, and we certainly wouldn't be doing that through any type of regulation. We will be doing that through some sort of program.

MRS VERNON: But your new RPS certainly wouldn't be encouraging more covering up, hiding, drains?

MR SMAILL: Certainly not of streams that have a high value. If we divided the region's streams into five classes or whatever, there will inevitably be at the lower end streams we have to give away. We are an expanding urban

environment, and to actually put more houses and people on the landscape, there will be some that we will have to give away. So there will be tradeoffs in terms of the value of the land versus the value of the stream. We hope to minimise those.

MRS VERNON: I guess that also leads to your fifteen where in actual fact this will all help your decision makers in coming to the resource consent on water quality as well. Are you setting out some specific criteria for water quality in your new RPS?

MR SMAILL: We are developing that at the moment. We are setting out criteria for how we identify the values of different classes. And the next step will be to set water quality standards associated with those classes at a Regional Plan level. So we have policies and rules which implement those water quality standards in a Regional Plan.

MRS VERNON: That makes a nice lead to the definition in the policy statement currently, about degraded freshwater resources and I just wonder how that fits with where you are heading, if you've got to trade off or give away, because it's degraded, how would that fit for the Regional Council now?

MR SMAILL: The degraded end of the value of streams is actually a very broad one. The pristine or the top end is the 20%. We are talking about the other 80%. So it is actually necessary to divide that 80% up, because it's all not equal. So you will go from partly degraded to absolutely stuffed, and is obviously quite a different policy response required across that spectrum. So we are looking to divide that up into say, four classes within that degraded band, if you like. And at the top end of that band, we would be initially looking at retaining the quality and putting effort into enhancing it because probably for a small amount of effort you can enhance that. At the bottom end we're obviously not wanting it to get any worse. We want

to maintain where we are. They're very degraded but we wouldn't want it to get any worse. But the effort required to enhance it much is significant. So the effort put in that bottom end would not be as great. And the policy framework will need to reflect that.

MRS VERNON: So I guess you haven't seen ecological and EDS's change of this degraded freshwater resources to call it protracted, polluted state.

MR BISHOP: Protracted polluted status.

MR SMAILL: I understand the concept.

MRS VERNON: You understand the concept? Right, okay, so is that sort of where you are heading rather than - because there have been a lot of submitters who don't like the word "degraded freshwater resources" as a definition in the NPS and they are trying to look at some other way of talking about the same thing but also talking about the reality of what you are dealing with.

MR SMAILL: Our view is that we are quite comfortable with that term, and that degraded is quite clear. It's moved from what it was. But we need to recognise that there's actually a gradation of degradedness.

MRS VERNON: You talk about integrated management. I guess you have got no problem if it was "integrated catchment management"?

MR SMAILL: That is a term that is widely bandied around, but that is useful.

MRS VERNON: But it is not bandied in the current NPS?

MR SMAILL: No sure. And I think, just to elaborate slightly on that, Regional Councils have been very reluctant previously to engage in the control of land use for the purpose of controlling water quality. But that quite frankly is a place they need to go. And of course we are being aided by some governance changes in Auckland which will help us perhaps achieve that. But without going there you really can't achieve integrated management of freshwater, quite frankly.

MRS VERNON: So that means more "at source". I mean, one of the submitters -

MR SMAILL: As opposed to managed.

MRS VERNON: And in actual fact it is about all TA's working together on that issue?

MR SMAILL: Absolutely, there's pretty much a partnership required there.

MRS VERNON: Right, so therefore - really we're talking about land use and development not just land use development, there is a subtle change do you?

MR SMAILL: Yes, there is a subtle change there.

MRS VERNON: Okay, that's fine. Going to notable values I guess on your page 31 paragraph - it follows this similar to what they're talking about before I guess biological, food collecting, amenity, landscape, outer stream values, that would follow on wouldn't it. Because it says here you want the NPS to develop a series of criteria and I just wondered what is in the back of your mind rather than what's in the back of mine.

MR SMAILL: Yeah I think the Local Government New Zealand -

MRS VERNON: They do put them -

MR SMAILL: Yes. Their draft Objective 2 I think is quite useful in terms of providing a list of objectives there in terms of national priority and in terms of values which we believe should be a national priority.

MRS VERNON: Thank you.

MR PRIME: Right. I'll deal first with the - you said there's a large number of hapu in the region. Do you know how many they are?

MR SMAILL: In this region? I think I made the comment there's a large number of hapu nationally. The number in Auckland is not particularly significant. I think it's in the order of 30 to 40. Although I don't think you should quote me on that.

CHAIR: I've written it down. (inaudible)

MR PRIME: Thank you. Just going back to paragraph number -

MR SMAILL: Perhaps I'll just add one further comment to that. The number of Iwi and hapu groups we consult with on a regular basis and have a partnership is 18.

MR PRIME: How many of those would be Iwi?

MR SMAILL: About five.

MR PRIME: Can you name them?

MR SMAILL: Tainui, Ngāti Whatua, Kawerau, Maitai - I'm sure I'm missing one.

CHAIR: Ngāti Wai?

MR SMAILL: Ngāti Wai.

[10.10 am]

MR PRIME: I just wanted to follow up on the (inaudible). When you're talking about (inaudible) the water quality and I suppose what I was running through my mind is that you're checking out the receiving environment first. (Inaudible) well it must be somewhat polluted even compared with a hundred years ago. Is the general objective really to improve the overall standards? Have you got a standard in mind that you want to improve it to?

MR SMAILL: Yes and no. What we intend to do is to divide the region into eight super catchments if you like. Those are being the Kaipara, the Manukau, the West Coast, the Waitemata, the Gulf Islands, and the East Coast. And those are geographically separate regions and they have a hydrological boundary. But they also have a community of interests. The Manukau community is somewhat different to the Kaipara community. And I think the setting of standards, it's important to do that with the community of interests. We're not going to be plucking standards off the shelf necessarily.

And so we'll inevitably have different standards for the streams in the Manukau and the Kaipara possibly. They might actually diverge and you might have a similar standard. But it's very important to have that

conversation with the community at a level that you can actually get some agreement on and we think the super catchment level is a scale where we can do that.

So yes, we won't be just plucking standards off the shelf. And the standards we're talking about are receiving environment standards. So they will reflect the actual receiving environment as opposed to a discharge standard that is used in some places. So that has to reflect what is there and the community values.

MR PRIME: Thank you.

DR HARDING: So, I guess I'm just feeling a bit confused here in that you just explained you have the eight super catchments, you're going to formulate some standards which may vary from each of these super catchment to super catchment. You talked in your submission about wanting some assistance to establish non-closing environmental bottom lines in your original submission on page 3. And you also made a comment earlier about giving away some standards. How do you relate all this to each other? Because it seems to me that some of these ideas are potentially mutually exclusive.

MR SMAILL: Yes. Within a particular catchment we would classify freshwaters in the way I described. So we might have five classes within the Kaipara for example, all the streams in the Kaipara. And with that community we would assign standards to each of those classes. So, there is a different state in terms of the existing state of those streams at the moment. And the community might have assign different values to different streams or different bits of streams. So we have the ability to assign different standards to different classes within that overall catchment.

Now in the Kaipara catchment I would suggest that we wouldn't be giving anything away at all probably within a rural setting. But perhaps in some of the growth areas around the edge of the Manukau etc, and there are others. We might be forced to just to get the population up. Inevitably some of those streams in those areas will have lesser value anyway.

So it's very much a process of classifying the streams and freshwaters within the catchment and then assigning standards to those. Now in many of the degraded environments we'll want to hold the existing situation in terms of water quality. So the initial standard is likely to be the status quo, whatever's the state of the receiving environment now, for those ones that have degraded. And then the hard conversation with the community is around whether or not to improve that, how fast to improve it, how much is that going to cost, and what improvement can we achieve over what period of time.

So in many cases in our region the initial standard will be around what's in the existing environment. There are obviously exceptions to that at the more pristine end, in the Waitakere's, the Hunua's etc. Again we'll be setting a very, very high standard because those are very outstanding and pristine areas.

But in many areas where the streams have been degraded either by storm water discharges or by general rural run-off, if you want to use that term, we'll be putting a peg in the ground as it is now. And be working with the community about where and how fast we can improve that. And that's the hard conversation with the community, is how you're going to enhance it and how you're going to pay for that.

DR HARDING: So, I mean some submitters have suggested that part of the intent in the proposed document is to enhance. And correct me if I'm

wrong, I understand what you're saying is that some of your catchments you might say, "This is the way they are at the present moment. We're not going to let them get worse but we're going to have to accept that they're going to be this degraded state."

MR SMAILL: I think I have a catch phrase on my white board at work which says, "Protect the best, enhance the rest." And that's our line. To enhance the rest the first thing you have to do is put the peg in the ground and maintain what you've got. And then beyond that you can enhance it to varying degrees. And usually the amount that you can enhance generally relates to the willingness of the community to pay for it. And that comes down to the value that the community has in that water body. If they value it highly and want to enhance it dramatically over a short period of time they might be prepared to pay for it. If they don't value that water body then perhaps any enhancement might take longer.

DR HARDING: I guess, we've had a couple of submitters for Oakley and Meola Creek who right now are saying they want their system enhanced.

MR SMAILL: Sure.

DR HARDING: And they certainly perhaps gave us the impression that they weren't getting much moral support from the local authority.

MR SMAILL: That may be a fair comment. Both of those streams are largely degraded. The water quality is not very good and they're degraded by sewerage overflows dominantly. Auckland City is engaged in a programme of separating sewers at the moment, work in the isthmus. Both of those catchments are within an area of very old sewerage systems. The cost of separating that is tens of millions of dollars. And that process is ongoing.

Now quite frankly, because of the existing urban situation in those catchments there will always be some sewage overflows. And our intention is to get that down to about one or two a year, down to a very small number. At the moment it's about 50 or 60 a year, give or take. So we are looking, looking for a significant improvement but that's going to take some time. It's a lot of money involved.

But I think the community values those particular streams particularly for their amenity and at the moment they are (inaudible) areas because a lot of weeds etc. A lot can be done around that. I think that's an area where enhancement can be made immediately or very quickly. And so it's a question sometimes of which value you want to put your investment in initially and what value you're prepared to let slide for a little bit further.

[10.20 am]

DR HARDING: Moving away from that somewhat, in your submission, and it's actually in your original submission as well, but on page 3, point 17 you talk about acknowledging value of riparian margins and one of the ideas that's come up during the course of these hearings is actually trying to think about the current definition of freshwaters. So, on the draft statement freshwater, the definition there talks really about water rather than the ecosystem itself which might include the physical habitat, the biota and that sort of thing. What would your councils view be on extending the definition of freshwater to include freshwater ecosystem?

MR SMAILL: We would be very supportive. I mean the direction we're moving in is a more integrated management approach for the whole ecosystem. So when you're improving water quality or the habitat you need to consider all those things. The margin outside the stream is actually very

important as you've indicated. And that's part of our submission around integrated management and you need to be looking wider than just the wet bit. So we would support that.

DR HARDING: Right. Thank you. Also the question or comment again on today's submission on page 3, your second bullet point where you talk about supporting the idea of series measurable time bound objectives progressing towards the 2035 date which has been suggested in the draft document. So again a series of submitters have talked about you know a milestone approach. And I guess, am I correct in saying that's sort of what is suggested here?

MR SMAILL: Oh, certainly.

DR HARDING: So if we say then, "Okay then maybe it's not achievable in two years but in five years you need to be able to do this, in ten years you need to be able to do this and so on."

MR SMAILL: Absolutely, and I think for councils that the milestone approach is very important in terms of their LTCCP's. When you have milestones sitting there it's much easier to plan for. If we're just worrying about a target out in 2035, well, nobody worries about it. So having milestones is actually potentially quite useful.

MRS VERNON: Can I just ask, excuse me Sir, the public milestones, not in-house milestones?

MR SMAILL: Yeah, absolutely. So those could be stated for example in an LTCCP.

CHAIR: With reporting at the milestone times.

MR SMAILL: Absolutely.

CHAIR: Public reporting.

MR SMAILL: Yes. That would be a huge step forward.

DR HARDING: So I've just got another, somewhat more minor question on page 4, point 24. You've suggested a priority list, and you referred to thirdly, non-consumptive means. So I'm just not quite sure, would you consider that hydro would not fall into this, would fall into this?

MR SMAILL: Yes, I would consider hydro to fall into that, in terms of the taking of water use.

DR HARDING: Yes. So some of the hydro schemes don't take water and put it back in at the same place, which is what you've got in brackets there. They take water and shift it -

MR SMAILL: They effectively use it on the spot, generally. There are other schemes that shift it, and those schemes that move water from a river to another place by a canal or whatever, that's taking water - it's not non-consumptive. It's consuming.

CHAIR: Not much hydro in Auckland region.

MR SMAILL: No, very little Your Honour. There are several small hydro schemes in our water supply dams. They make a little bit of electricity just for their own purposes, but that's about it.

DR HARDING: So, actually another thing that was, I just wanted to pop back to the definition again, freshwater. So how do you feel at the present moment, ephemeral streams, and artificial water courses are excluded. You have made a mention of ephemeral streams, but -

MR SMAILL: We most certainly do. In our region many of the first order streams are ephemeral or very intermittent. They actually have sometimes quite high value, so we would not support the giving away of all ephemeral streams. Our view is that ephemeral streams need to be treated like every other stream, and the values of those streams identified and managed accordingly. To wholesaley give them all away would be, in our view, wrong.

DR HARDING: Thank you very much.

CHAIR: What about the artificial waterways? Should they be excluded, or should they be included?

MR SMAILL: I think they probably should be excluded, in that artificial waterways have been created where there was no stream previously. There are streams that are modified, and I think where streams have been modified, and the obvious one in streams is straightening, for example. I think those should be included because they are the stream now, if you like.

CHAIR: Well on that same question, your paragraph 24, what you call prioritisation but some people would calling "preference", in order of preference, because we're not only talking about time, we're talking about a preference in the allocation. You're saying everything in the residual category is going to be subject to sufficient water flows to meet in-stream

requirements, but the other three classes of allocation use are not subject to that. Is that what you're saying?

MR SMAILL: I don't think I've put that particularly well Your Honour.

CHAIR: Okay, so that's not what you're saying.

MR SMAILL: No, it's not.

CHAIR: Well that's all right, we don't need to take your time further on that.

Thank you. Paragraph 35, a lot of people keep coming in with this kind of submission on one question or another - one term or another, but hasn't the nature of Tangata Whenua interests to be decided ad hoc? Can it really be defined in advance? And if you're just going to say, "Well what the NPS says is consistent with the RMA." Isn't that what the NPS ought to be?

MR SMAILL: Certainly. Interests will mean different things to different people obviously and that needs to be determined on a partnership basis.

CHAIR: If the Tangata Whenua in the area of interest say, "This is an interest of ours." Then it's an interest of theirs, isn't it?

MR SMAILL: It is indeed. I think you may have a point Sir.

CHAIR: All right. Thank you. One further thing, and that's 36, "Implementation and Time Limits" and I can understand some of what you are saying, where the process requires the Regional Council to actually apply an objective or a policy to the particular circumstances of the region, like identifying the notable land use and so forth. But there are some things in an NPS, which the statute contemplates might be identified for automatic

adoption without further formality. Are you familiar with Section 55.2 of Capital A?

MR SMAILL: Yes.

CHAIR: A forty working day time limit might be adequate for that class of provision, might it?

MR SMAILL: It might be. I think even forty days might be a bit tight, just in terms of process, of achieving that. But I understand your point that a very short period of time could apply to that class, certainly.

[10.30 am]

CHAIR: Though, the ARC is not necessarily typical of all Regional Councils in the country. And we certainly won't identify any but some might be thought to be a bit in denial or certainly not very enthusiastic and if you don't put a time limit in you can be sure nothing at all would happen.

MR SMAILL: I totally agree. I sit on a number of regional forum where - I understand your point. So I think a time limit is perhaps necessary.

CHAIR: And have you stated what time limit you think it should be, if forty days is unreasonable and unrealistic?

MR SMAILL: I've stated in my submission in terms of general purposes that the next time a plan review comes up. But I understand your point around that particular class where it goes automatically. I think several months would be applicable.

To be read in conjunction with
the tabled evidence/statement

CHAIR: I see. Well gentlemen, we're really very grateful to you for your submission and for your presentation. That's helped us a good deal, and thank you again.

MR SMAILL: And thank you.

CHAIR: Good morning and welcome Mr Daya Winterbottom. We had you down for quarter to, but we're ready to hear you when it's comfortable for you. But we want to be sure that if we call on you now, that that suits you, or would you prefer to have another five or ten minutes to complete your thoughts?

MR DAYA-WINTERBOTTOM: No, I'm ready to go now Sir.

CHAIR: Splendid, all right, well thank you. We'd like you to feel welcome, and to understand that we proceed without formalities, you can address us without needing to be on your feet. And all formality is excused, so it's a matter of welcoming you, and asking you to present the submissions of Wairakei Pastoral as you choose. And you have, if you need it, until 10 to 12, but we'd like to take a break at 11 o'clock or round about there, where it's convenient to you.

MR DAYA-WINTERBOTTOM: Thank you Sir. I've worked on the presumption that we'd have about 30 minutes. In terms of what I'd like to present today, I think that will be comfortably within the thirty minutes.

CHAIR: Splendid

MR DAYA-WINTERBOTTOM: We have no additional written material to present to you. We thought that on reflection we put in a reasonably full written submission, and it captured the essence of the points that we're wanting to present to the Board. The only additional piece of material that we've got is just a map, because I thought that it was useful just in terms of geography if the Board has an idea of where Wairakei Pastoral land holdings are.

CHAIR: When you've completed your presentation, we'll probably have a relatively short exchange with you of questions and your responses, just to complete the process, if that's agreeable to you.

MR DAYA-WINTERBOTTOM: Okay

CHAIR: All right, well you may make your start when you're ready.

MR DAYA-WINTERBOTTOM: I may as well start with the land Sir. You can see on the map that there's a land holding edged in red here, which is the Wairakei Pastoral Estate. It's approximately 25,000 hectares. It's currently in the process of conversion by the former (inaudible) land, to pastoral agriculture. About 12,000 hectares are going into dairy, they together with some sheep, and beef. It lies approximately two thirds of the way between Karapiro in the North, to the top of the diagram, and Taupo to the South. It's on the stretch of the Waikato River that's between the Karapiro Dam and the Taupo control gates, so that it lies in that catchment. The Estate has two riparian frontages to the Waikato River and the Estate itself is traversed by Foxsmith and Thide Streams that all are attributors to the river. The other thing in terms of the interrelationship between freshwater and electricity generation needs that's relevant to have in mind, is that the Estate is also rich in geothermal resource, and that's currently being explored for potential use in terms of electricity generation.

In terms of the proposal for the National Policy Statement, whilst the company has concerns about the current proposal that's before you for consideration, the company supports the moves to have national direction ie. considers it as a good thing, and in terms about the document in front of you, I think that they really come down to one issue, or one principal issue, and that's that the document in our view, doesn't fulfil its objective

of providing national guidance ie. essentially it's a series of menus of things for other people to do, and primarily at the local government level. And when you look at - for example, just take the section 32 report, and there's a statement of 5 key problems, which the National Policy Statement was aiming to deal with. The second one of those is the problem of lack of integrated management, and in our submission of the current draft of the National Policy Statement will not effectively deal with that, because it still leaves primarily the majority of work at the door of local authorities to complete. So we think that there is a need for some overall approach and perhaps some better integration between the National Policy Statement, and any associated National Environmental Standards.

One of the issues there though is the approach to dealing with minimum flows of freshwater. There are various mechanisms used throughout the country. In Waikato they use one in five year low flow, the Q5, in Canterbury they use the minimum annual low flow, MALF. In our view it would be sensible if we were having a national approach to water, to have a common approach, and to have the freshwater scientists, ecologists having provided some advice through them on those standards, and have a link between the policy statement, and having national standards.

In terms of the first issue there, in terms of the indicators of water quality, there is a lot work being done throughout the country in terms of collecting data and this actually could be a turning point itself, it actually confirms that there is quite a wide range of data available, particularly for Regional Councils. But again, there's no consistency there and having some guidance flowing from the National Policy Statement, and if necessary linking that into an appropriate NES to progress that on a national level, would be a good thing in our submission.

In terms of demand for water, Problem 4. Again the thorny issue of priority is not addressed, and again that's left for Regional Councils to work out in their own way as best they can through their Regional Policy Statements. And in terms of the interface between the current proposal, and the currently existing Regional Policy Statements and Plans, particularly the plans dealing with water, or attempting to deal with water, and water allocation, the policy statement as we've read it, works on the presumption that it will have a complete fresh start. There has been some considerable work done on that, both through the separate Board that you chaired yourself Sir, down in the Waitaki. There's been some other work done by the Canterbury region, and there's been a considerable amount of work done in Waikato, which Mrs Vernon will be directly familiar with. So whilst we do stress that there is a need to have a national approach, I think there's a need for appeal to learn something from those processes. And in terms of things, if we are going to have a clean slate at some point in time, we need to allow those processes to get bedded in so we can learn something from them and have a common date by which the regions need to have something new to replace, if they're going to be part of a national authority.

[10.40 am]

But in terms of certainty of applicants, which is the landowners, national approach is a good thing. It's just that we're happy to see more of it, and more detail, and more direction coming through. I'm happy to answer any questions that you've got. I know that apart from those high-level remarks, there's not many terms of details, in the written submission that we've put in, but I wish to -

CHAIR: Well thank you very much. That gives us an opportunity to ask some questions for further understanding the position of the Wairakei Pastoral. And I will ask Mrs Vernon first if she has some questions for you.

MRS VERNON: Thank you. It's new for us to hear that people are looking for this NPS to give some more certainty than direction in all of the issues that you've raised, and more that others have raised. I just wondered if you've had a chance to look at the Local Government submission, and whether there is anything - they've actually rewritten the whole NPS, as have some other submitters. And whether there's anything in there that you think is particularly useful, that it is actually setting the right direction out. You may not have and that's fine, I don't know but it's just, I wondered if you had.

MR DAYA-WINTERBOTTOM: We have had a look at that but it's some time since I did so, so it's not directly fresh in my mind, so in terms of that I couldn't give you a detailed response one way or the other as to whether there's anything specific there that we would say, "Well, we're quite clearly of the same view and we would support those things."

MRS VERNON: Thank you.

DR HARDING: I don't think I have any questions.

CHAIR: Well it seems that your submission, and your presentation of it has been so carefully and well thought through that we're quite clear of what it is that you're asking, and thank you very much. And thank you for coming in to present it, and we're grateful for the submission.

MR DAYA-WINTERBOTTOM: Well thank you on behalf of the company for hearing us.

ADJOURNED [10.44 am]