

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 25 AUGUST 2009

**HELD AT ENDOWED COLLEGE, 451 OLD TAUPIRI RD, HOPUHOPU,
NGARUAWAHIA & KINGSGATE HOTEL HAMILTON, 100 GARNETT
AVE, TE RAPA, HAMILTON**

HEARING OPENED [10.52 am]

APPEARANCES

Lady R Mahuta, Mr T Pompey and Mr T Manukau, Tainui-Waikato Raupatu Trust
Company

Mr T Harty, Mr B Mitchelmore and Mr A Turner, Waikato River Municipal Users
Group (Hamilton City Council, Taupo District Council, Waipa District Council)

Mr P Shanks and Mr G McIntosh, Surfbreak Protection Society

Audio file: dpm0133

CHAIR: Many thanks to you for your warm welcome to us this morning. As you know, the Board is hearing submissions on a proposal by the government for a National Policy Statement for Management of Freshwater. Now Waikato Tainui have lodged a submission and our purpose here now having been welcomed and having had some refreshment is for us to hear you present what you would like to say in support of the submission that you've made. And we have no particular formality, you may present the submission exactly as you would like to do. Thank you very much.

LADY MAHUTA: Kia ora Judge and I'm sorry I wasn't here to welcome you formally with the other party. (Inaudible). We are going to do this in two parts.

CHAIR: Thank you.

LADY MAHUTA: I will do the background if you like and Tim will reinforce our recommendations. I think you might have my statement in front of you?

CHAIR: Thank you.

LADY MAHUTA: My name is Raiha Mahuta I hold a position of (inaudible) there's a bit of a mistake there already. (Inaudible) representative on Waikato Tainui Te Kauhanganui. Kauhanganui is the Iwi authority of the tribe and it succeeds the Waikato Raupatu Trustee Company which in turn succeeded the Tainui Maori (inaudible) it's very complicated isn't it, but however. It was all set up from the first settlement that we had in 1995 there was a need to go about for people and see what sort of representation they would like for the Iwi. So they came up with what we're calling here the Kauhanganui which is I think we have about 201 people there, 3 representatives from 67 of our marae. So we have a meeting on Saturday actually for our annual report and so we have about

five meetings a year with our bigger parliament, if you like, it's a parliament.

Act 2, (inaudible) and I are also co-negotiators for the outstanding claims and we're sort of somehow jammed up in terms of where we are with the river settlement which was a deed we signed last year, about this time last year. And which now the new administration is looking at a better way of how we might work the co-management model through.

Nga Marae Toopu is an unincorporated body and it is a tribal body where two reps from each of the 95 marae discuss the business which is mostly (inaudible) business of the day. We also need to report to Nga Marae Toopu (inaudible) of the river. I really want to talk about the relationship that Waikato Tainui has with the Waikato River it is strange for me to be doing that. As Kevin knows we come from the same place but however it was a job to do and following that Tim will talk about the recommendations on the NPS for the Freshwater Management.

In quite a lot of the documentation even in the 70's documentation about both the Raupatu of the lands and the river which is the confiscation. The river's always been very important to the tribe. Now there are five Iwi, five tribes that get their if you like sustenance from the river from Tuwharetoa, (inaudible). There's a branch of (inaudible) then we come down to (inaudible) and the Waipa joins the Waikato River at (inaudible) here at Ngarawahia. So there was I suppose I should say quite a exercise for trying to settle a river claim at the bottom end of the river without looking at the top end of the river because as Tuko would always say we are at the toilet end of the river, at the toilet end of everything. So it was a matter of trying to get the other Iwi working in with us and seeing what they could do. During our discussions on the river the idea of the water was sort of silently put over there but for our old people they thought, "Well how could you have a river without the water?" And so that issue is still sitting there

with us about what might happen with the water and so our submission to the Board.

In any event for the purposes of your policy for freshwater, I think we really believe that something needs to be done. We probably understand the over-allocation of water in the Waikato River anyway and what should be done for future sustainability of that resource. So we say it's safe, the river is a cultural and historically important to the tribe and has extended over many generations since the first inland explorations for the ones that came on Taingu Waka (ph) to Aotearoa in the 14th century. It was a real main highway for people to get from A to B and C and what we're really saying in our settlement is that we've been bystanders since that period since the period of growth within the Iwi since the confiscations of 1863 we've just been standing on the side of a river wondering why things are not happening as they used to happen before. Where we could get food, we could swim, we could sail our waka, we could do almost everything because wakatu was basically a river child.

At 7, there are not too many Iwi that regard the river as a (inaudible) which means as an ancestor of itself so therefore it's got physical properties as well as medicinal properties for the people. There are evidence of these types of values if you like in the Whakatauki in the Waiata in our histories the events that took place over the years. And some of the other, if you like, (inaudible) which are baptismal or getting yourself healthy types of activities that used to happen with the old people and the young people.

[11.00 am]

At 9, we believe we are named after the river and in the '85 Waitangi Tribunal claims to the Manukau it is difficult to overestimate the importance of the Waikato River to the Tainui tribes. It is a symbol of

the tribes existence and I know we're getting down away slightly from the topic but I think the people don't separate the water from the river, it's just so happened how it working out over time. So we're talking about when we talk about the river we're talking about this everything to do with the river. Its waterways, its flora and fauna, the lakes, the aquifers which we call puna (ph) and so it's hard to know probably of any Iwi with a river running through their rohe that they would not feel the same as we do.

So it became a source of food at 10, irrigation, cleansing, refreshment and recreation. I guess one of the things we were trying to say within our settlement was in 10 years time if our moko, if our grandchildren could swim back in the river that will be something because it's quite degraded from Hamilton out to the port. So whenever our men get on the waka then they get rashes and if our children want to go on the waka they get sick and so we try and encourage them not to do this just yet sort of give us time to do something about that. So if we're going down at 10 then we have an expression by Doctor Michael King and his biography of Te Puia and the days of the (inaudible) parts of the texts more than any other in New Zealand the tribes of the Waikato Valley are a river people. Wanganui would say the same, a lot of tribes will say the same. (Inaudible) of continuous occupation on its banks having bedded the river deep into the group and individual consciousness. Whenever the people were sick and about to take a journey and even today when our people fly around the world they always want to go down and just whakariki themselves to make sure they're going to be safe for their journey. And you always might hear around there or if you're being bad or feeling sick or (inaudible) going to do your - just go to the river and just ask them to give you a hand, ask the river to give you a hand.

More than any other gesture leaving us alongside the river was an affirmation for Waikato people of whom they were and what they were and

I think that's - I've been living here now for about 44 years. And I know that for a fact they do things down there we didn't do up home where Kevin. And so I learnt a lot in the time we had a Deputy Chairman on the Tainui Maori Trust Board, (inaudible) he's not with us anymore. And he says the Waikato River is the mother of Tainui, the river has and continues to sustain the people physically and spiritually it is an important feature in the cohesion of all the hapu and is a source of mana and tribal identity of the people as it weans its way through some of the most fertile lands in the country. There are probably about 16 marae alongside the river of the 60 odd marae that we have. And so they desperately want to know what it is that we can do to make sure that food source, and that recreation source - mightn't get back to its pristine sort of condition, but what is this settlement going to do for that. And I think that's the question that's always in my mind. If we bring the whitebait back, and the kina back, and kai hau, and all the foods that used to be there - would that make a difference. And I know it will make a difference, but at the moment all we can say is, "We want our children to be able to swim in it." And there was one chap that said to me, "You can clean the river up, but if you don't get to the source of what's polluting it, then you're wasting your time really." Because over about fourteen, or fifteen years what we're doing on the land now will end up in the river. But I think we can't go around with that pessimistic attitude, we just have to try and do what we can do.

At 11, I was going to talk about Kamera's italicised words there. He did this in an affidavit that we had for the land claim, which was going to be the land, and the river claim, in the end the river was pulled off that claim. So the Waikato River is the mother of Tainui. The river has, and continues to sustain the people physically, and spiritually. I think we quite generally can't say that now. Spiritually, yes, but because you go down there, you do yourself, you smell things you don't want to smell. There's rubbish everywhere. So for a long period of time we've been thinking that,

even ourselves we have to help the river to survive. The river joins most of the hapu together that live along the source of it. And there's also a source of mana and tribal pride. We just came away from a coronation celebration last week. The river goes past Turangawaewae. I think if we were honest, we would say to ourselves, "This can't be happening. We must do something about this river." We look at it and it's polluted, it's got high concentrations of - everything that you think would be in there, is in there. So, we can't really go around anymore patting ourselves on the back, and being proud of our au hau when it's looking like that. And especially so, if the people regarded it as an ancestor, that means we haven't looked after it at all really. It's a living entity as Kamera was saying, having its own mauri, and spiritual integrity, and therefore regarded as a toku mau.

And at 12, it is important to recognise that for the tribe the river means the whole river, not just our confiscated boundary of it, which is Karapiro out to the port, which I think is roughly about 400k. So the whole river is regarded as the (inaudible). And it includes the banks, the beds, the waters, and its streams, lakes, and tributaries, and wetlands, its flora and fauna, its flood plain, and its metaphysical being. So when you're down in the Waikato that's what they mean about a river. It's all those things. The river is not divisible, and so when we consider any matter concerning the river it is the whole of the river, from the Huka Falls, to its mouth.

[11.10 am]

If we go to 13, about the claim, which I don't know whether I should have asked Tim to give you some documentation about where we are with the claim itself, that might have been helpful, but if you haven't got it and you need it we're happy to give those to you. In 1976, the claim was put into the Maori Land Court. It still sat there (inaudible) all these years. And in

'87 we filed a claim to the Waitangi Tribunal, so it was a Waiwiri Claim. So in respect of the Waikato River, the lands, which is really all about the Raupatu, the 1863 confiscations. The harvest, the West Coast harvest along the side there. And there are claims still outstanding, and I would probably suggest to you that the river claim is still outstanding at this point. We've had one first reading, now we're being reviewed without having a Select Committee Hearing. We are in breach of our Deed of Settlement so there's a whole lot of things going wrong with it right now. And there are a couple of blocks, you might know them Jenni, the Wairoa Block, which is where the Hunua Falls are, and our people have a claim there, and Waiuku Block at Mawhero.

So what we've gone and done - Tuku and I took over in 2004. We signed some terms of what we were going to be talking about, and so out of all the things that are left over the river seemed to be the most important next thing to do. We signed an agreement in principle in 2007, and then we signed a Deed of Settlement at 17, this time last year. So I think it's probably the only Deed of Settlement around that's been bandied around - normally you get to a Deed of Settlement, and it is just the legislation but now that's sort of in a bands at the moment. So we are mindful that there are two different ideologies with the administrations we've been dealing with. We started off the land settlement with the Labour Government then, there was First Past the Post. We ended it with the National Government in 1995. We started this one with the Labour Government in 2004. Now we're trying to end it all with a National Government, or a National led Government, MMP Government, in 2009. So therein are the many spragues that we need to face. So we did that last year.

At 18, what we were thinking about was that if everyone, and I think the climate is right for the general populous to agree that the environment, and the sustainability of it is so important, but I think we couldn't have got

this far 20 years ago. And so we're are very mindful of the support we've been getting for this type of settlement on a river.

At 19 we had our first reading as I sang to you in September, from the Labour Government, and so theoretically we would have gone to the Select Committee, and about sort of finished that in May, and then gone to the second and third readings. So I'll be very pleased to tell you when that all happens. I think our team of which Tim's on is saying that we're looking at January next year for things to be finalised. So there were two key principles that we talked about for the settlement, and we had to answer the question, (inaudible), "Who has the power and authority on a river." We're thinking of ourselves of course. And we say that all the Iwi along the river have a place and a matter to put - that they have mana along their sections of the river. And the next question on Mana Whakahaere was, "Kei au whi te Mana Whakahaere."

Mana Whakahaere means those immediately responsible within their areas of concern. Like you I would say would have mana as well as Mana Whakahaere because you are actually running through a process of what we're trying to say about freshwater. So, in a sense you are Mana Whakahaere of this kaupapa, of the policy of freshwater. And so, we say within our own areas we have Mana Whakahaere. So how are those two things expressed? So (inaudible), we thought would be like a long, big korowai, from Lake Taupo out to (inaudible). So it'd be like a korowai, an overarching symbol of unity, for the betterment of the river. And Mana Whakahaere would be each of those five Iwi I explained previously, they would do their thing and where they would say to the next one up, "This is what we're doing, what are you doing?" And also we would work with everyone who uses the river, which are mostly councils and Environment Waikato especially within our region. And so the idea of a model that sat us at the table with people who are making decisions, and we were part of that, was a good model for us. It's a good model,

because we are not going to be spectators anymore. And the trick I think for us would be to make sure that we do our own homework, that we bring our expertise to the table and that we make the decisions together on what should be best for the river.

So in those two principles, mana o te awa includes all the Iwi, and all - I think we had about, how many Tim? Nine councils, plus the regional council that do something about the waterways, and for Mana Whakahaere we say we have five key ones. That's Environment Waikato to Franklin, Waikato District, Hamilton City, and who's the other one?

MR HARTY: Waipa

LADY MAHUTA: Waipa, and the Waipa. So we want to work closely with them just in our own little space. Now on mana o te awa, what we did there, we had a little test to see whether in fact we could get these Iwi, and Crown representatives, and Jenni you were on the first Guardians Board that we had, to see whether in fact they could come up with a vision, and strategy for the whole of the river. And which they did. And if you haven't got a copy of that, we should get them one too Tim. Because it sets out quite clearly that our vision and strategy for the Waikato River at least should be part of a National Policy Statement. And so that's what we're pushing - it's pushing uphill at the moment, but that's what we're pushing. So we did the vision, and strategy, they did public submissions, and consultation - I'm sorry that's me. Now the Guardians Establishment Committee made up of the five Iwi and five Crown Representatives, worked I guess for about, oh I don't know, 14 months to get that written in strategy together, they went out and consulted on it and at sitting high in our settlement, because we really want that to be something that any policy or plan that councils or the different groups want to do, they are able to do that, able to

look at the vision strategy and see where it was that these Māori's were coming from, with the help of course of people like Jenni, so we are very proud of that, that Statement.

[11.20 am]

Now what happening exactly now is that the guardian's of the Waipaka River is recorded to be manotauwa (ph) people. That's also been tweaked a bit to form - I think what they are calling is the Waikato River Protection Authority and this administration would just like that body on its own - to be a one stop entity with the whole of Waikato River, so we haven't got that full proposal back yet, but we'll have to look at it again, and so at 24 we're talking about the vision and strategy, and that it become a National Policy Statement for the purposes of the RMA and any other Act that refers to an National Policy Statement under the RMS. Now the Regional Councils which we only really have one, and I don't know where Auckland is coming down to now, so that could be a valid - so we're expecting when everything is signed and dusted, that our mission and strategy will require that all our councils give effect to it and once they are preparing their plans and their Policy Statements the vision and strategy will be empowered to be a Statement of General Policy under the Conservation Act. Now that is set there now, but whether they're going to still be there is another thing. We managed to achieve that, but with the twinkling that's going on, we'll just have to be very diligent I think about making sure we still retain those things.

And at 27, as required by deed which was signed this time last year, persons performing functions or exercising powers under other legislation relevant to the Waikato River - will have to have particular regard to the vision and strategy. This is an additional legislative provision unique to the vision and strategy. Now we do fine the vision and strategy of great

importance to the region. It's ability to integrate a number of other relevant legislation and the robust nature of the consultation processes undertaken to develop that. The vision and strategy should be given due priority over the proposed National Policy Statement, where there may be conflicts in freshwater management in the Waikato River catchment.

So at 29 I think that would be my statement, but if I can ask Tim to give our recommendations on the proposal - for freshwater management, that would be -

CHAIR: Thank you Lady Mahuta. We would be very comfortable with now listening to Tim has to say us. Then we may come to some questions on which we might have an exchange with the two of you, as we come to an end of that.

MR MANUKAU: Thank you Your Honour. Further, on our submission, just would like to once again to welcome you here today. My name's Tim Manukau. I work for the Tainui-Waikato Raupatu Incorporated, and I also work with my colleagues behind me as well, working on settlement and matters, environmental matters and supporting our co-negotiating statement. I'm from Waihi Pa, Huntly, I was born and raised there, and I have a number of years experience in resource management and environmental issues. I will give our position in regards to our recommendations on the pros of the NPS.

CHAIR: Thank you.

MR MANUKAU: Where the proposed National Policy Statement for freshwater influences matters within the Waikato River catchment , we consider there should be a clear provision within the NPS that states the NPS for freshwater management shall be interpreted in a manner that is consistent

with the vision strategy and best furthers overarching purpose of the Waikato River, which is to detect and restore the health and well being of the Waikato River for future generations, and I guess the rationale behind that was raised by (inaudible) but also raised at a recent NPS renewable Energy Board of Inquiry hearing which was in Hamilton, which we attended and we had a discussion in and around where the vision and strategy of the NPS sat in regards to where the NPS for renewable energy sat when it came to renewable energy matters on the river and the Board, or a member of the Board of Inquiry for that specific proposed NPS, stated that there was an understanding there that, there was a regionalised NPS which was developed for a region such as the, I guess for example the Hauraki Gulf marine, and that when interpreted and integral from the Regional Council's perspective will be given due priority over and above a NPS developed at a national - so from our prospective, tribes perspective, that division of strategy, it's very important to freshwater management within the Waikato River catchment, and that law should now afforded now due priority.

Also we consider that there should be inclusion of a (inaudible) into the proposed NPS, so to ensure the wellbeing of waterways is being met, so to meet the wellbeing of people in communities which is I guess quite a principal statement in the proposed NPS, and that is that the health and wellbeing of freshwater waterways be protected and enhanced for future generations. We say that on the basis that in order to provide for people and water, to provide for our communities, we must be able to have safe, clean supply of freshwater for them, and therefore we consider the importance should be placed on the waterway itself, to ensure that our communities now and into the future can have access to clean water.

And 3.3 connected - which is connected to 3.1, we consider the following (inaudible) to be reflected in any future implementation of the proposed

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NPS, within our region. These objectives are also included in the provision and strategy objectives as well. Those objectives are the restoration and protection of the health and wellbeing of the Waikato River, the restoration and protection of our relationship with the river, including our economic, social and cultural and spiritual relationship.

The integrated, holistic and co-ordinated approach to the management of the natural physical - cultural - historical resources of the river. The adoption of the precautionary approach - towards decision that may result in significant adverse effects on the Waikato River - in particular those effects that threaten or seriously threaten damage to the river.

The recognition - or avoidance of adverse or cumulative effects, and the potential cumulative effects of activities undertaken both on the Waikato River and within its catchment, on the (inaudible) river. I think we all know some land uses is the biggest impact on quality of the Waikato River - I understand some 90 plus nutrients that are in the river that come from farming run-off so we see that as very important and an aspect we're trying to contain as well.

[11.30 am]

The objective, the recognition that the Waikato River's degraded and should not be required to absorb further degradation as the result of human activities, and that's important because over the last 20 years in the lower Waikato River has faced a number of algae blooms not just in the river, but significantly in the chuku chus and the lakes of the lower Waikato River. I understand that the council has recorded a number of stock deaths - resulting from stock drinking toxic algae blooms, water out of the - closed by the Public Health Board and now that's a real concern

for Wakatu - it is a concern because a number of those lakes and tributaries have been closed by the Waikato Public Health for a few years now. I understand that the Ministry for the Environment also released a report recently stating that the lower Waikato River in some parts is swimmable. I would question that on the basis that of both algae blooms still occurring in the lower Waikato River, and on the basis that like the public health, the concern to close parts of the lower catchment from recreational use.

The protection and enhancement of significant sites - fisheries - flora and fauna be of those objectives, and the application of the above of - of both Mautauranga Māori and what is available, scientific methods.

3.4, the proposing objectives and policies should include processes to enable practical early engagement with Tangata Whenua, and their participation in the management and decision making in and around freshwater management, which may include, but not limited to co-management and/or the sharing of the authority.

The best available information or decision making processes should include a robust analysis of Māori values and value methods by tangata Whenua and must include what the Tainui cultural methods, when concerning waterways within the Waikato River, tribal - the Mautauranga Māori be utilised in identifying, assessing and supporting all freshwater management matters within the proposed NPS, through the modification objective 8, to read, "to ensure that Iwi and Hapu are involved including their mautauranga Māori and tangata Whenua values, and interests are identified and reflected in the management of freshwater resources including the matters specified in the objectives 1 to 7 in the proposed NPS".

Waikato Tainui is also participating in the Iwi leader's forum for freshwater, with other Iwi, which includes Te Awara, Whanganui, Tuwharetoa, Ngāi Tahu. We have a group of Māori advisors that support the members forum, and these Māori advisers work with Crown officials on freshwater matters. Now we've had input through discussions between the Māori advisers and the Crown officials, and set the provisions that are now contained in the NPS and in this regard a number of specific changes have been made to an earlier draft of the proposed NPS. Of the Tainui recommends that those changes are maintained in any final form of an NPS, and those specific additions and insertions and one deletion's - one deletion, are as follows:

- Maintain inclusion of the words, including the involvement of Iwi and Hapu to paragraph 5 of the preamble of the proposed NPS.
- Maintain the inclusion of the words, or exceed, in objective 3.
- Maintain the inclusion of the word biophysical, in objective 6(b).
- Maintain the inclusion of the words, including the matters specified in objectives 1 - 7 and objective 8.
- Maintain the deletion of the words including electricity generation in policy 4(d) and continue to read as proposed in there.
- And to maintain the inclusion of the words, unless an inappropriate in policy 6.

These are our recommendations on this proposed -

CHAIR: Drew, many thanks for that clear wrapping up of the submission. What we'd like now is to go through some questions, to see if there's any further enlightenment we can have from an exchange with you of that kind. So Mr Prime do you have any questions?

MR PRIME: Yes I do, thank you Sir. To Lady Mahuta, you were referring to the Awa including the banks, the bend, the water and I wondered if you - and

you named that you were involved with this Tuwharetoa Te Arawa (inaudible) Maniapoto and Tainui, I wondered if you would consider Wanganui having some relevance, given the headwaters of the Wanganui are reversed back to (inaudible) the power station, Tokaanu Power Station and into the Taupo, eventually into Lake Taupo, then through into the Waikato River. Do you thoughts on that?

LADY MAHUTA: My only thought on that is that our Chief has been taking that claim for the last 35 years I think, and up until this point he might be considering a similar type of a settlement, a sort of more of a resource settlement than a Treaty settlement. No, we didn't think we'd go that far. Wanganui is definitely - Wanganui - and I think they were originally going for pure ownership of the river, and I didn't think he liked us very much in doing what we're doing, but I think we weren't really prepared to face all the liabilities on our own, and that we had to share the whole problem of the pollution of the river, but he might be coming around, but no we didn't think to go that far because (inaudible) comes from - we went right there, to the - and I guess all the awa join within the lake, at some point, but the old people took us there and showed it where it was coming from, and, well then we had the gates at Lake Taupo so Tuwharetoa have ownership of their lake bed and their river bed to the Huka Falls. So they are quite supportive of this type of an arrangement where we can work together with the local Councils and try and get things done that way, but no I can definitely state that within that - we didn't include the Wanganui and we didn't want to buy any more - I know what you mean though, because we're all coming down from the same river.

MR PRIME: Yes, that's right and I was thinking along the lines of where - your reference was to the water, the banks et cetera, so then one - and you are being consistent then where you said it's where the river passes through different Iwi and Hapu along their marae --

LADY MAHUTA: Yes.

MR PRIME: -- along the river, they are the ones that could have that mana over that particular section.

LADY MAHUTA: Yes. Even within Maniapoto they've got a lot of rivers coming from those same headwaters, and that it ends up at the Waipa, so they all gather into the Waipa, and then ends up with us at Ngaruawahia, so I think they just meander along, rivers, find their own way here and there, but it is up to human kind to sort of treat them all the same, but they are very important to the whole country, the waterways.

MR PRIME: Okay, thank you. I have another question more to Tim - alluding to 3.6(a) of your presentation this morning and wondered if you could elaborate on the thinking behind including the Mātauranga Māori.

MR MANUKAU: Well - it's to ensure that involvement of Iwi and Hapu involved their own Mātauranga Māori in how do you define their values.

[11.40 am]

MR PRIME: Thank you, no that's clearer now, so that - yeah, I understand that. I have one other question and either one could answer. It's more - do you see a distinction between the terminology of the Tangata Whenua and Hapu and Iwi?

LADY MAHUTA: There are 33 Hapu within the Waikato confederation of an Iwi. In the sense, I think we would say that Tangata Whenua were the Iwi, not the Hapu so much.

MR PRIME: You say were, or are?

LADY MAHUTA: Are.

MR PRIME: Are the Iwi.

LADY MAHUTA: So when you talk about Tangata Whenua it's the whole region, made up of Hapu who have their own mana whenua within that region. Anyway, whose here - Toko? (inaudible)

MR POMPEY: (inaudible). My grandfather was a prolific (inaudible) person but at the end of the day our Hapu is Ngati (inaudible 6.48.03), it becomes to mercer and a creator that comes along, a little bit until the more illustrious Hapu is them, and we go to (inaudible) as Ngati (inaudible) and it heads down to Port Waikato, their Hapu, so consequently along the Waikato river (inaudible) talk about a strange looking fish, it talks about whole ground, it talks about - who else was there, but perhaps Toko Pompey, but there it is, it is (inaudible) that our young mokopunas would need to know, who am I, you are Ngati (inaudible) because your grandfathers were here and that's just a little bit that I would add on to that answer, that question in (inaudible) - I'll leave that for the next.

MR PRIME: Thank you, thank you sir.

CHAIR: Mrs Vernon, any questions?

MRS VERNON: No, but thank you for the presentation. As you know I do know the vision (inaudible) and the principles that Waikato (inaudible), are pursuing so I don't have any questions, but thank you.

CHAIR: Dr Harding?

DR HARDING: Thank you. Thank you very much for your welcome today, and your comments. I guess I probably already the answer to these questions, but I might as well ask them anyway. One of the things you've talked about is the value of the bed of the river, the banks and that sort of thing, and currently under the present proposed NPS it talks about freshwater resources, really talking about the river and a number of submitters have said, well you know, should we really be talking about the freshwater eco system, rather than the river itself. In other words, the banks, the fauna, flora and fauna and that sort of thing, so I assume that - would you like to respond to that, the idea of rather than calling it freshwater resources, we perhaps call it freshwater eco systems.

MR MANUKAU: Yeah, I think - that I - where she talked about the what the definition of the river is for us, was the waters and not just in the main sense of the tributaries and the lakes and aquifers, and if referring to freshwater eco systems enables one to be able to capture all those facets of water, then I think that would be a good thing.

DR HARDING: Thank you. Again, sort of at the moment it excludes femoral streams and artificial waterways, what would be your view on that?

MR MANUKAU: I think in order to be able to fully manage the hydrological system of the whole catchment, I think we should err on the side of opportunity to be able to manage those waterways which may not be there on a continuous basis, but may run every now and then and that way we look at it from more of a holistic approach.

DR HARDING: Thank you very much for that.

MR POMPEY: Can I ask you a question then please, what are you insinuating, is there a difference between the water and the land, the land under the water? I'm just sort of trying to work out what you're asking.

DR HARDING: Well I guess some people read this, and they thought about, well they may have considered the water to be just the water itself as a resource.

MR POMPEY: Okay.

DR HARDING: You know, something you buy and sell and use.

MR POMPEY: Right.

DR HARDING: Rather than the water and everything it contains, and the land which the water was on and the bed and that sort of thing. So I guess what I'm trying to get at is where - I mean, your view is that water is more than just this thing right here.

MR POMPEY: Right.

DR HARDING: It's everything associated with it, and the flora and fauna.

MR POMPEY: Kia ora.

CHAIR: Right, well (inaudible) Tainui, if honoured the submission at this Hui by having it presented by Lady Mahuta. The reference that Tim Manukau made to his home marae reminds us of that very important event, in the development of this country's understanding of water and particularly the Waikato River. It must have been 25 or 30 years ago that your late husband stood and made a new understanding for everybody, about how

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the river should be treated and he was opposing using the river as a heat sink from the new, then it was, new to be proposed power station at Huntly, and we all know that he was successful and it was an important step in understanding freshwater management in New Zealand, and so it really adds honour to your submission to have Lady Mahuta presenting today, and it adds honour to our Hui with you, so thank you very much for your presentation. As you know, we have others to hear today and tomorrow and over the next few weeks, and then we'll be making a report, which might take a few more weeks to prepare, a report to the Minister in which we will make recommendations of what improvements can be made to the contents of the proposed NPS, and we hope that in a few months you'll have that and you can discuss that amongst yourselves as well.

So thank you for your welcome. Thank you for your hospitality, and we can now adjourn and we're going to continue our hearing this afternoon, and that will be in Hamilton.

LADY MAHUTA: Thank you very much Judge. Just give an ending, I'll just ask Tim, could you end our meeting.

MR MANUKAU: (Inaudible)

ADJOURNED [11.48 am]

RESUMED [1.17 pm]

Audio file: dpm0134

CHAIR: Afternoon. Please be seated. Well, welcome to you.

MR HARTY: Thank you.

CHAIR: We know that the business that we're here for. This morning we heard the submissions of Waikato primary. And this afternoon we're hoping to start with the submissions of Waikato Municipal Users Group. I've got the words in the right order. And we'd like you to understand that, as far as we're concerned, there's no particular formality required. You can present your submission in whatever way it would suit you. Welcome again.

MR HARTY: Thank you. You've got a copy of the submission that we're here to speak to and I've just handed out something and I'll just read through that. I'm Tim Harty from Hamilton City Council and Bill from Waikato-Waipā District and Allen Bennett will just pop in as we go through the evidence or the paper that we've got in front of us here. Some of it is just reflective of the submission that is already made so there's some areas that I'll just skip straight over, conscious of time and brevity. And just focus on some of the areas that we wanted to raise outside the submission that will compliment the submission that we've made as a group.

So I'll start reading from the top and go from there. So, four members of the Waikato River Municipal Users Group being, Hamilton City Council, Waipā District, Waikato District and Taupo District launched a joint submission for the Board of Inquiry in relation to the National Policy Statement. The group constitutes the territorial authorities municipal water supplies that extract water from the Waikato River and Lake Taupo for the

purposes of domestic and municipal supply, being Hamilton City, Waipa District, Waikato District, Taupo and Water Care Services Limited.

As noted in our submission, RUG was formed in 2005 for the purposes of responding to resource consent applications by irrigators to take large amounts of water from the Waikato River. And for the purposes of making a submission on the Waikato Regional Council's proposed Variation 6, water allocation or RPV-6. Water Care Services Limited is a member of the RUG group and for those purposes they've elected to make its own individual submission to the NPS. I also note that Taupo District has advised that it doesn't wish to attend this afternoon but still supports the group.

[1.20 pm]

So RUG's position, generally supportive of the National Policy Statement for freshwater management but has some concerns with respect to the NPS which it will set out in this submission. The group also supports submissions made by the Waikato Regional Council including the submission presented to the Board of Inquiry on Tuesday the 11th of August, 2009. Insofar as it was relevant to those issues raised by the RUG submission and also the Local Government submission including a proposed alternative outlined in that submission.

But the scope of our submission addressed a range of issues and set out those specific relief sort by the RUG group. It does not propose to address all of those issues in this presentation but we wish to focus on expanding on its submission with the respect to the matters raised related to water allocation and water quality. The relief set out in the RUG submission is still sought except where it is refined below.

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In particular this presentation will address establishing a priority of allocation for water taken for the purposes domestic and municipal supply. In that regard, Section 2 will provide a brief overview of RPV-6 and address key lessons learned from HCC's application to take water for domestic and municipal supply purposes. And in that context and some specific observations relevant to Waipa District Council.

We'll also address some issues on degradation of freshwater resources including the need to recognise the assimilated capacity of freshwater resources and manage non-point discharges. We also have some supporting documents which is the Local Government New Zealand submission, RPV-6, the decision version, Hamilton City Council's water permit resource consent 113941, Hamilton City Council's appeal on the Regional Plan Variation 6, Hamilton City Council's water conservation and demand management plan and Waipa District Council's growth strategy.

Now I understand the Board has copies of the four items A to D and we have attached Hamilton City Council's permit and the appeal information to the back of this submission. Copies of the other documents can be handed to the Board if you wish, those copies of the water conservation demand management plan and Council's Waipa District growth strategy as well.

As I noted, representing the RUG group here today is myself, I'm the Manager of the City Waters for Hamilton City Council, Bill Mitchelmore, who's the Development Manager for Waipa District Council and Alan Turner, Environmental Planner for Waikato District Council.

So water allocation, prioritisation of municipal supply. In this section we'll address the aspects of the RUG submission which relates to water allocation and in particular the need to prioritise water takes for the

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purposes of domestic and municipal supply over water takes for other purposes. It's understood that these matters were canvassed in the Waikato Regional Council's presentation to the Board and in particular the background of RPV-6 was traversed and in some detail.

The group supports the comments made in the Waikato Regional Council's submission and does not propose to address RPV-6 in the same detail. We will focus on providing comments with respect to HCC and Waipa District Council's own experiences in terms of RPV-6. And will need to prioritise allocation to municipal supplies to (inaudible).

If it pleases the Board I'll just skip over 2.3, 4, 5 and start again at 2.7 which is background of Regional Plan Variation 6 Water Allocation which is on page 6.

As addressed in the Waikato Regional Council presentation, RPV-6 was introduced to manage the allocation and use of freshwater throughout the Waikato region and to determine priority users during time of shortage. RPV-6 would publicly notify them on 20th of October, 2006 and Waikato Regional Council's decision on the submission is going to apply in November of 2008. These are subject to 37 appeals.

Notwithstanding that, RUG group supports the submission made by Waikato Regional Council that despite only having reached stage in the first schedule process RUG submits that it deserves to be given close attention due to the depth of the analysis which resulted in that instrument, the sophistication of RPV-6 itself, and the care which was taken making that decision. Details of the background too and overview of RPV-6 is provided in the Waikato Regional Council presentation. For ease of reference, that's attached to this as appendix C.

The aspects of RPV-6 relevant to the RUG submission are those objectives, policies and rules which ensure that domestic and municipal supply is given priority in terms of, A) a more favourable activity status than other water takes, B) processing applications for takes for domestic and municipal supply ahead of those for other purposes during the common expiry period. And, C) a lesser restrictions than others during periods of water shortages. The provisions relating to the requirement that applications for water permits for domestic and municipal takes are required to be supported by detail water conservation drought management plan, called the water management plan in RPV-6, are also relevant.

The Waikato River Municipal Users Group strongly supports the revisions of RPV-6 related to the prioritisation of domestic and municipal supply, particularly insofar as RPV-6 adopts a portfolio approach to domestic and municipal supply. In that regard, a number of submitters sought to restrict the definition of domestic and municipal supply so that, A) priority would not be given to non-essential municipal uses of water and examples there of watering municipal gardens or providing water for swimming pools etc. And B) that priority would only be given to essential individual needs for cooking and sanitation needs at home on a per capita basis.

RUG group strongly oppose those arguments and argue that the most efficient and effective way for each council to meet its obligations under the Local Government Act, the RMA and under Health Legislation is for each council to adopt a portfolio approach to management of the water table. That enables municipal supply authorities to take an overall view of all the water needs and to limit takes and or uses of water taking into account of the prevailing circumstances, for example, times of drought. Such an approach also avoids semantic distinctions between the use to which water taken for domestic and municipal supply purposes will be put.

Waikato Regional Council 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. Some submitters made the point that if the portfolio approach were adopted industries in agriculture located within the municipal limits would be advantaged over those located outside the municipal limits, which would not receive the priority afforded to municipal supply. On that point, Waikato Regional Council Hearing Committee determined that municipal supply being used for wet industries such as agricultural water exporters should be grand-parented, but the future wet industries should not be afforded the same priorities as the domestic and municipal supply.

As a result, the definition of domestic and municipal supply in the decisions version of RPV-6 is as follows. Domestic and municipal supply is defined as a reticulated supply publicly or privately owned where the net take is for the primary purposes of human drinking and sanitation needs, individual household use or the purpose of meeting the responsibilities of municipal water supply authorities with respect to the supply of water with the exception of the component which is for the purpose of industrial or agricultural use. Other than that, for human drinking and sanitary needs.

RUG group also strongly supported the requirement water management plans to be submitted with an application to take water for domestic and municipal supply. And the submission and evidence to the RPV-6 Hearing Committee, suggested the scope of the management plan, which was accepted by the committee as well. In that regard, water management plan is required to be set out in detail basis upon which the proposed take is based. The measures were to be introduced and managed and reduced demand and improve efficiency measures and

measures which a municipal supply authority will only introduce during a time of drought.

[1.30 pm]

A water management planners is a living document which is frequently updated and amended to take into account the latest information and including decisions by municipal water supply authorities to implement particular measures e.g. the introduction of grey water tanks, water metering, (inaudible) etc. Thus, the water management plan is designed to provide comfort to the Regional Council and other water users that the water taken by the municipal supply for the purposes of supplying the portfolio of uses, will be used efficiently.

I submit that the approach taken to priorities for domestic and municipal supply is appropriate and that it would promote sustainable management for the NPS to recognise that the overall portfolio approach should be adopted in terms of defining domestic and municipal supply. Doing so, would support the approach taken by Waikato Regional Council and RPV-6 and assist municipal supply authorities in other parts of the country to avoid having to debate the issues once the NPS is operative.

In terms of Hamilton City Council's application itself, the City Council's resource consent application to take water for the purposes of domestic and municipal supply was the first water take application to be considered after the RPV-6 hearing. The manner in which the Council put its resource consent application together was strongly influenced by the approach reflected in RPV-6. And essentially, we've walked the talk both in terms of calculating and providing HCC's water means over time and in the initiatives in relation to water conservation and demand management which I've already described.

Further details relating to the application are addressed below but in summary the application involved a water management plan developed and submitted in support of the application. Although that was not strictly required in terms to obtain the favourable activity status provided for in RPV-6. A stepped approach to allocation by which HCC take increases in six year steps over the life of the consent. So that the balance water not needed can be allocated and managed by the Regional Council and comprehensive and sophisticated reporting not only in relation to water conservation and demand management but also in relation to the effects of the take.

RUG submits that there are two aspects of the HCC application in relation to which further comment may provide assistance to the Board. Issues faced by HCC with respect to the definition of domestic and municipal supply and RPV-6 which demonstrated the need to precisely define the scope of water take via each application. And HCC's water management plan and overview of which may assist to illustrate how water conservation and demand management works in the context of a portfolio approach.

For the scope and definition of domestic and municipal supply, Council was originally satisfied that the definition in RPV-6 properly encompassed the portfolio approach. However, during consultation with Genesis and the development of a proposed set of conditions for the Council's municipal take, it became apparent that the definition of domestic and municipal supply in RPV-6 could only provided in portfolio approach in a general way and that the elements of such takes needed to be specifically defined in the application and the resource consent conditions.

In particular, the definition does not assist in identifying which industrial commercial users fall within the scope of the domestic and municipal

supply. And which industrial users, e.g. the higher users, or wet industries, do not. In that regard, Genesis sought a level of certainty that HCC would not take water for the purposes of municipal supply but use it for purposes inconsistent with RPV-6, supplying wet industry into the future.

To address that we developed a secondary set of conditions in conjunction with Genesis based on the portfolio approach endorsed by RPV-6 and which also addressed Genesis Energy's concerns. The conditions of our consent to take water from municipal supply purposes are attached in appendix I. Briefly, Council applied to Waikato Regional Council to take a 146 cubic metres a day from the Waikato River for domestic and municipal purposes comprising of a renewal of our existing take and a new water take for 51,000 cubic metres a day to cater for future demand for municipal water supply to 2044.

The figures were derived from a sophisticated forward planning that we undertake. The initial (inaudible) of 95,000 cubic metres related to all of the existing customers that the Council current supplies including, all municipal supply, including existing industry. Additional 51,000 cubic metres applied for, relates to the municipal supply requirements in terms of the forecast population demand in Hamilton City and the needs for the city over (inaudible) of return consent terms sought.

The volume sought is consistent with the definition of domestic and municipal supply in RPV-6 insofar that it not only includes domestic use but also meeting the responsibilities of municipal water supply authorities with the respect to the supply of water. This is reflected in the scope of proposed condition 8 which authorises the use of water for meeting the general responsibilities of a municipal water supply authorities with respect to the supply of water.

That will enable Council to undertake plan and manage its water assets on a portfolio basis, having regard to its overall responsibilities as a municipality.

In that regard, the water allocated to municipal supplies is used not only to meet domestic and health needs but also to supply existing and new businesses, industrial and commercial, seeking set up in the city, hospitals, schools, fire-fighting and watering of parks and council gardens. And that's just a few of the things that we need to do.

Existing industry was included within the allocation that replaces an existing take. Because failing to supply existing industry would penalise the urban based industries and the communities which rely on them. Additional volume applied for makes provision for industry that does not require large quantities of water for process purposes on the basis that it is important for such industries to be able to come and go as part of the ebb and flow of the life of a city without facing resource consent processes before they set up. We assume for that purposes that industries using less than 15 cubic metres per day for processing purposes, so that's not the stuff they use for sanitation needs, should be within HCC's overall take for municipal purposes. This is reflected in the post consent condition 9.

As contemplated by RPV-6, half volume of water in Hamilton City Council's case that's 12,500 cubic metres a day, has been calculated to be grand-parented. And that's the volume of water being used by the existing wet or high use industries within the City. This volume has been calculated by reference to all high users currently in existence that use more 15 cubic metres per day for industrial purposes and this is reflected in condition 10.

Consequently, HCC did not include in its calculation the volume applied for, for the provision of future high use or wet industries, industrial users which require large quantities of water for industrial purposes. That is consistent with RPV-6 on the basis that there may be equity issues between rural and urban industry at this form part of the priority allocation and would cause the use of water. Such purposes should be considered alongside competing potential uses for water e.g. conservation, power station cooling, irrigation, etc.

In recognition of that principal, the quantity that is being calculated for the HCC take only makes provision for existing industrial uses and those industry users which will use less than 15 cubic metres of water per day for process purposes. Any industries that use more than 15 cubes per day for process purposes are not catered for by the grand-parented entitlement for higher uses, will need to apply to Environment Waikato for water themselves. This is reflected in condition 8 through 11 of the consent provisions.

If a new wet industry that proposes to use more than 15 cubic metres per day wants to establish in Hamilton, a separate application will be made even though the water may come through the Hamilton City Council reticulation supply network. Council intends to control this through the building and trade waste consenting processes. We've already had been approached by several large industries and are currently working through that process now.

Council has lodged an appeal to RPV-6 seeking an amendment to the definition of domestic and municipal supply which is consistent with this approach. Including a formula for determining which components of a municipal take are within or outside the portfolio. The relief sort in that appeal seeks to ensure that domestic needs are provided for wherever

they arise so as to ensure the entitlement is seen as applying to an individual's domestic needs and when they're at work. And specifically recognises that limited provisions should be made for non-domestic uses as part of the municipal authorities take.

[1.40 pm]

The HCC appeal also sought as relief, that the provisions relating to water management plans be amended to include the definition of these formula.

There's a little bit here on the Hamilton City Council's water management plan. A key element of RPV-6 itself is that applications for domestic and municipal supply be supported by a comprehensive water management plan that quantifies and then justifies the take for the purposes. And specify the means by which the efficient use of all water will be achieved over the life of the consent including the identification, implementation of demand management measures to reduce demand.

Water conservation relates to the efficient operation of the water supply system and addresses issues such as metering, water accounting, leakage, reduction etc. Demand management relates the management of demand for water by users and addresses issue such as implementing sufficient compliances, education of water use behaviour, efficient garden irrigation and industrial process improvements etc.

Together water conservation and demand management generally refer to the efficient and effective use of water, the range of methods used to conserve water and manage demand for various categories. Some thoughts are direct such as engineering solutions and some are indirect such as in education and incentives.

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Water management plans are also required to address drought conditions which can also involve a range of methods including water restrictions. In HCC's case we implement drought management techniques well before we are required to do so in RPV-6.

Council will embrace this concept in the context of its application both by developing a comprehensive water management plan and by requesting the imposition of conditions to ensure that the water management plan is kept constantly under review by the Regional Council and appropriate measures adopted. A copy of the plan is available if required and a brief overview is also provided in appendix D.

HCC anticipates that the LTCCP will identify water conservation and demand management mechanisms that the Council intends to implement over the following ten year period. But it's reviewed every three years with the annual plan allocating funding to implement these mechanisms. It is HCC's intention that once particular mechanisms have been approved by the community those mechanisms can then be included as conditions of resource consent to ensure that the water HCC takes from municipal supply purposes is being used efficiently.

CHAIR: Okay. Bill Mitchelmore, good afternoon.

MR MITCHELMORE: Good afternoon Judge. I'd like to just convey to you some of Waipa District Council's experiences. RUG submits that further insights can be gained from Waipa District Council's experiences as a rural district. The definition of domestic and municipal supply is a matter of critical importance to rural districts such as Waipa District that provide municipal water supply services to rural towns. In that regard, the long term viability and economic health of the rural towns such as Cambridge and

The Awamutu are heavily reliant on a few major wet industries, such as the dairy factories.

These industries are as much a part of the town as the resident population. And just to give you a feel, we're talking of between 25% and 43% of the volume of water is used by Fonterra in those towns, that's their impact. From a municipal water supply perspective these industries provide both the scale necessary to efficiently, safely and affordably treat and distribute water for the benefit of the entire town.

To remain sustainable these towns need commerce and industry and these enterprises must be confident that they can have reasonable access to water from the distribution network. Otherwise, they'll ultimately be forced to relocate to the detriment of both the rural towns and the broader economy.

As a municipal water supplier, Waipa District does not and cannot value water on the same basis as commercial and industrial users such as the irrigators and electricity generators. This situation can provide an unequal contest when arguing for greater allocations or higher prioritisation at resource consent hearings and other forums.

Cambridge again represents an appropriate example. The main extraction point from the Waikato River is immediately upstream of the hot par Mighty River Powers hydro dams at Karapiro. The water is extracted there it's mixed with raw water from another local source in the vicinity, it's treated and stored close to Karapiro town before it is transported to Cambridge via a trunk main. Might River Power wants access to all water extracted upstream of the Karapiro dam for electricity generation and argues the council should be sourcing its water closer to Cambridge. They respectively contest the water between fully commercial electricity

generator and a service oriented not for profit council. It sounds as though you've heard it all before Judge?

CHAIR: I have indeed, yes. Thank you for reminding me.

MR MITCHELMORE: Mighty River Power made its position very clear at the 20th April 2009 submission to Waipa Districts future growth strategy and I've got copies here for the Board if they so require.

CHAIR: Yes please.

MR MITCHELMORE: And it reads as follows, "Mighty River Power is particularly interested in the approach to future water supply planning for the anticipated growth in the sub-region. Mighty River Power's resource consents entitle it to use the full available flow of the Waikato River above the Karapiro dam for electricity generation purposes within the level's specified in its consents. Therefore it has an interest in any plans for development which could increase the amount of water taken for activities within the Waikato catchment and potentially impact on its existing hydro operations. Any increase in the demand and supply of water needs to be dealt with within the framework of Variation 6 to the Waikato regional plan and should not denigrate from what Mighty River Power's ongoing and flexible operation of the Waikato hydro system. Mighty River Power would not support the taking of water from areas of the Waikato River where it could adversely affect its existing hydro operation." And finally it says, "Mighty River Power would like to see an additional key approach added to maximise the renewable energy capacity of the Waikato River hydro scheme to ensure that water supplies to communities downstream of the Karapiro dam are sourced from water sources downstream of Lake Karapiro."

Waipawa District Council is concerned that Mighty River Power will object to any future renewal of its current resource consent to extract water for

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Cambridge and as a consequence the council will incur additional future costs that would ultimately have to be borne by Cambridge water users which would not promote sustainable management particularly given the investment council has already made in the water treatment storage and trunk main infrastructure. Unrewarding contests of this type between commercial water users and non-commercial municipal water suppliers are foreseeable and avoidable provided there is adequate clarity in the NPS that gives priority to domestic and municipal supply. I pass it back to you Tim.

MR HARTY: So just going through a summary of that portion of the submission in the context of the proposed National Policy Statement RUG submits that, A) it's important that the proposed NPS directs regional councils to establish a priority for domestic and municipal supply in order to provide for the social economical and cultural well being of people and communities. B) that such priorities should not be limited to domestic supply but apply with respect to the wider range of use that falls within domestic and municipal supply. In that regard, RUG supports giving priority to takes for domestic and municipal supply based on a portfolio approach. RUG submits that the proposed NPS should make clear that this is the appropriate approach to adopt in making priority provision for domestic and municipal supply in order to avoid the need to debate the fundamental issue again.

[1.50 pm]

The upside of Hamilton City Council experiences is that it is necessary to define the element of municipal aspects of those takes on the basis of information supplied with the application. For that reason RUG group no longer supports including a definition of domestic and municipal supply in the proposed NPS as suggested in its submission and that made in the Local Government New Zealand submission but submits that the

proposed water National Policy Statement should signal that a portfolio approach to a domestic and municipal supply should be adopted in prioritising those water takes.

Alternative relief sought. RUG continues to seek relief which reflects the relief sought in its submission and set out in paragraphs 2.5(a) and (b) above but abandons the relief sought in paragraph 2.5(c) above and RUG considers relief sought by Local Government New Zealand and Waikato Regional Council and makes the following comments. I'll just leave that as read.

CHAIR: That's all right.

MR HARTY: Moving on to section 3 and water quality in this section we'll address the aspects of the municipal users group submission which relates to water quality and I'll just move straight through to 3.5 which is degradation of freshwater resources.

So the RUG group submits that it's not necessary or appropriate in terms of sustainable management to prevent any discharge to freshwater resources even where the adverse effect on the quality of that freshwater resource is minimal. In that regard water bodies are able to a certain extent to assimilate point and non-point discharges without an adverse effect on water quality. In particular while a discharge may alter the composition of that receiving water body it will not necessarily affect the values identified for that water body.

Objective 5 as currently written places primary emphasis on the chemical composition of water without reference to the wider environment. Water chemistry is managed as an end in itself rather than a means to an end. RUG submits that it is the values of the freshwater resources should be protected not the chemical composition of the resource. Water chemistry should be considered alongside other vital components including the

assimilative capacity of receiving waters and social economic and cultural well being. Thus water chemistry becomes a means to an end with the end being sustainable management. That approach is consistent with Policy 7 of the Resource Management Regulations 2007 which manages discharges not by preventing the discharge of contaminants determinants but by ensuring that concentrations remain below certain levels. That its contaminants can be discharged provided that the result is concentrations are sufficiently low to ensure that the water can be used in a particular way. And in the case of the National Environmental Standards for sources of human drinking water, that's drinking water.

RUG submits that it would be appropriate that Objective 5 seek to protect the notable values of freshwater resources which are required to be identified under Policy 1(b). This would allow this specific values identified by the community to be protected and would recognise the assimilative capacity of freshwater resources. Freshwater as a resource, which provides for a number of different uses for communities throughout the country.

It is recognised that these uses need to occur in both an environmentally and economically sustainable manner. However the assimilated capacity of these resources should also be recognised within the proposed Freshwater Management NPS. RUG therefore submits that a new objective is required to provide for this. RUG also submits that Policy 2(c) should focus on the protection of notable values which are required to be identified under Policy 1 that would ensure that the values identified by the community are protected but also recognises each assimilative capacity of water bodies in relation to point and non-point discharges.

Management of non-point discharges in land use changes. RUG also submits that the proposed NPS should provide a management framework

for dealing with non-point source discharge and land use changes that effect catchment water yields and flood management. At present there are many non-point discharges that are not being comprehensively managed and large scale land use changes may have significant effect on catchment hydraulics. The proposed NPS has an opportunity to provide a framework to deal with these matters. RUG submits that the proposed NPS should set a framework to settle these matters by doing the following, A) the proposed NPS should give support for the identification of outstanding freshwater resources. B) Development of a comprehensive set of Freshwater National Environmental Standards which are based around recreational and cultural and social uses. C) Give a stronger policy direction for managing land uses which could potentially compromise these recreational, cultural and social uses. D) Give strong policy direction for managing cumulative effects of discharges, and E) Give strong policy direction for managing cumulative effects of land use changes.

In terms of relief sought, RUG continues to seek the release sought in its submission and has set out paragraphs 3.4 above subject to the amendment below. I'll just take that as read.

RUG is grateful for this opportunity to address the Board in relation to these issues.

CHAIR: Thank you very much and I hope that you will agree that we might have some exchange questions and answers response just to pursue some of these very interesting questions a little further. But can I say immediately that you should all be complimented for the clarity of your submission, it's so easy to understand and so well prepared and presented, thank you. Now I'm going to start by asking Mrs Vernon if she has any questions of these gentlemen.

MRS VERNON: Thank you. I'll start at the back first because it will be easier because that's where I finished and where my pages are open. I hear what you're saying about degradation of fresh water and the assimilative capacity of our water ways in New Zealand. But I ask you the question, when is enough enough and how do we define - you've got in your page 17 water bodies are able, and you repeat this several times, water bodies are able to a certain extent to assimilate point and non-point source discharges. But that is the issue of why people are looking to this NPS, I'm not- we are getting from submitters that they want the bar to be raised so when do we actually decided that in fact we start defining what that certain extent is and have some of our waterways really reached the point of their assimilative capacity overloaded?

MR TURNER: Okay, firstly we have a vital interest in water quality. On the one hand it can be read that we are trying to seek recognition where discharge is and indeed that's behind some of our statements. But equally we're water takers and what Waipa discharges Hamilton drinks, and what Hamilton discharges, we drink. And so we've got a vital interest in achieving the right balance.

I think we come back to the phrase, "The purpose of the Act is sustainable management," and I'll try to expand on that for you. But our concern is that if you get very absolute in taking things and saying, "From now on no more discharging contaminants." Well it's just not an achievable target for a council or in fact industry potentially as well. That it is inevitable there's some degree of contaminant loading within a discharge and the practicality of land discharge is not there in case of the Waikato it's just too weak. We just don't have vast dry areas where we can irrigate so we're essentially compelled to discharge to water. We are - science practically means there will be contaminants within it and rather than saying - an objective that says, "Right nothing more can go in there." We're saying, "Well figure out what is important for the receiving water body and make

sure that those uses and values are fully protected.” So that contaminants could be included within a discharge, provided that they don’t compromise that use and value.

Now I’m hoping I’ve painted something of a picture there, an answer. It’s a matter of recognising the practical reality of the need for discharges, figuring out what’s important for the water body and managing accordingly rather than saying, “From now on no discharges.”

[2.00 pm]

MRS VERNON: And is this how you see the current NPS, that it’s saying no discharges?

MR TURNER: I think there’s an element of ambiguity there, is probably a better way of describing it. So we’re not in a sense strongly opposed. I think you could trace through the NPS as drafted at the moment, so starting at the policy end you can see there are important qualifiers the word discharges are referred to in a number of policies, I can take you thought that if you like, but that will be it. And you can see reference to notable values and so on but I’m just wondering if there’s a bit of disconnect between that intent within the policies and the objective which everything sort of points back to and that says no further degradation. And that can be interpreted as, “Sorry guys, you can’t have your waste water discharge.” Or whoever happens to be it happens to be at the time. So, really just trying to get absolute clarity on that point.

MRS VERNON: Which leads nicely to my next question, because you’ve asked that in fact we don’t define domestic and municipal supply and many have asked us that we do because it’s a nice clarity. You’re asking us not to but you’re asking us to use a new term called “portfolio approach” and I would have thought, again, to provide clarity and certainty that we would be certainly looked to define what that meant, and I notice that you haven’t.

And so I just wonder how helpful it is to have something like that without a definition?

MR HARTY: I think that what we're trying to just quantify or to bring forward in that area is to say that using the Hamilton City Council's process where we went through and said, "Here's a definition and let's put ourselves into that definition." And found out through a real approach and a real practical application of that that it didn't actually fit. So trying to make that fit the Hamilton didn't work and we're reflecting that across the group and saying it's different for us as it is for Waikato and Waipa and Taupo and Water Care, etc. So what we are submitting is to say that, look, each council is different municipal and domestic and municipal water supply is the portfolio approach. Which is saying let's look at all the things that it needs to be used for in terms of that particular area or region, which is different. And it needs to be supported by comprehensive water conservation and demand management plan that outlines all those different things that need to be done. It's such a complicated and widely influential business that it's hard to put a nail in the ground. I mean we do everything from - we've got a zoo at one end of the city to a museum at the other end of the city and everything in-between. So as you try and define that it became very, very difficult in this practical application that we had and so we stepped back and said well let's look at saying hey look here's our application this is how much we want we're supporting that with a comprehensive water conservation and demand management plan. And what we're saying is that domestic and municipal supply should have a priority one use of water as long as it's proving that we are using that efficiently and effectively.

MRS VERNON: Thank you. I'm just interested on page 11 where (inaudible) in your new submission. You talk about that it's 12500 cubic metres per day, it's been grand-parented for existing (inaudible). You know that because it's metered?

MR HARTY: Yes.

MRS VERNON: So you do have some metering?

MR HARTY: 60% of Hamilton City Council water use is metered through varying methods.

MRS VERNON: And that's just - on page 12 you're talking about water conservation and meterage and you talk about in your LTCCP that you've got three year plans. I just wondered in your first three years of what you're doing, say, in the area of leakages. Because we've had quoted to us the Tauranga experience by submitters and I just wonder is that in your first three years?

MR HARTY: Leakage programmes have been for a number of years and continue to be in the programme of works that Hamilton City Council's got in place. And every year we've got from in the LTCCP about 310 thousand dollars worth of different water conservation and valuing water mechanisms and processes and things that have come through our consent application and demand management.

MRS VERNON: Just finally in your original submission you talk about the overlap you have some concerns about overlap between Regional Councils responsibilities and District Council responsibilities. And one of them that you were concerned about is the monitoring and some of the implementation that is talked about in the drafted NPS. But when I read this, I mean clearly - and you said that you only really wanted to do monitoring for the water that you use and take and that really it should be the Regional Council responsibility. But in actual fact given that water is really and the use and take of is really a shared service, isn't it, I mean between the TA's wouldn't it make sense that perhaps working collaboratively is actually a good idea. Because you're doing obviously extensive monitoring and that in fact it is not unrealistic to have some

overlap in functions in something like water quality, water allocation and - that all the costs won't necessarily fall on the Regional Council and shouldn't.

MR HARTY: And I suspect and Allan or Bill may refresh my memory on this context was it just about whether responsibility lies in terms of the overall management of the water resources. So, whilst it's okay to get Hamilton City and in the case of our resource consent we're doing an ecological study around the inlet to the water treatment station and that's quite appropriate because that's where we have an effect. So the responsibility of the ecological and hydraulic modelling from one end to the other sits with Environment Waikato and they need to make sure that they take that responsibility, put those plans in place. And I suspect what we were trying to say is we don't want to see that, if you want water from this particular area you need to go and do all the science in that area to support the application, whereas, it is actually Environment Waikato's responsibility to have the better understanding of that river or that stretch of river, in that context. In that case was the - especially from Karapiro to Huntly we were saying how much is allocable, is that based on a scientific approach or is that actually based on a need of an industry downstream? And if you want some more then the assumption is we could go and do the science in that stretch to prove that the current assumption was wrong and we were just trying to make the point that that's not our role and responsibilities that that science needs to be done by them.

MRS VERNON: And who monitors the water quality of your urban streams?

MR HARTY: Of our urban streams I'd have to go and find out.

MRS VERNON: Thank you, that's all.

CHAIR: Mr Prime?

MR PRIME: I've no questions.

CHAIR: Doctor Harding?

DR HARDING: Now just referring to your original submission page 5.3.21 you make reference to the suggested time frames in the proposed NPS of timeframes being unreasonable and unrealistic. Are you able to offer us some sort of suggestions then about what might be reasonable timeframes, bearing in mind that a number of submitters have said what they want to see out of this NPS is an improvement that the horse is bolted in some cases and they do not want to see a business as usual.

MR HARTY: Yeah, I've got a paragraph here, it's a difficult one. I'll just try and refresh my memory on some of that and we discussed that round here. We're referring to the requirement of the NPS in terms of 40 working days and our feeling, I think it was something like 90 would be more - we'd be happy with that.

MR MITCHELMORE: What we felt was that if it was too narrow it would be encouraging parties to object and it would slow down the whole process because there is procedural timeframes for different things to happen. And if you can't if any organisation is caught in terms of not being able to put things into effect in a timely fashion, well their natural instinct is self preservation. It could encourage them to just slow the process down which, well, would defeat the whole purpose of it. That's where I think the 90 day we saw as more realistic timeframe.

[2.10 pm]

DR HARDING: Thank you I'd actually like to go back to the point Mrs Vernon made there which, in both your submission today and also the original submission in relation to Objective 3, you've talked about this idea of assimilative capacity. You explained that one of the issues your council has is that they discharge and that there's liable to be some contaminants of (inaudible). I guess some submitters again have suggested that the

intent of this NPS is to raise the bar, to improve water quality and Objective 3 states that quite categorically. Now I guess I'm not entirely sure what you're suggesting to us, are you suggesting that you are in opposition to the idea of improvement in water quality or?

MR TURNER: I think it would be out of step with our communities if we were trying to convey that. Again, to put it into context, ultimately we are dischargers and we're taken through the hoops. In our case by Environment Waikato and (inaudible) to have very high treatment standards. And I think it's a matter of ensuring that in pursuing high treatment standards practical realities and financial constraints you also consider. And I guess putting point discharges into the context then of the non-point and that is where we have concerns, hopefully it's not just a matter of us blaming somebody else because that's the easy thing to do. But I hope it's recognised that increasingly, urban discharge standards are high, things are getting done better and better all the time, we don't have a problem with that. But there are general land use issues which are realistically very difficult to achieve I won't - I'm not a scientist I won't try and expand on that, that's my impression. The idea of swimmable water, wouldn't that be fantastic but I'm not sure how achievable that is in view of the nature of contamination that's going on the economic base of New Zealand and all practical realities of trying to achieve that what is a lofty goal.

CHAIR: So are you really saying that we should recommend to the Minister nothing that isn't going to be easy and that we should say this is a nation that can't have as a national goal phasing out of using freshwater bodies as a way of disposing of waste?

MR TURNER: I'll get some feedback from my academic colleagues but I think to me the prospect of land discharge, I mean there's no real prospect of storm water firstly and secondly really for a wastewater (inaudible).

MR HARTY: I mean in the context of Hamilton City we've just recently been through a process of resource consent for our wastewater treatment facility there, that the facility itself receives around 40 million litres of raw waste water per day and treats it to a high standard and places it into the river. As Allan said the Waikato District Fonterra (inaudible) pick that up just downstream and there are high standards, we're investing 27 million dollars as we speak into upgrading the system to ensure that the discharge meet very stringent standards. And one of those standards is that the water we discharge is of bathing water quality so meets the bathing water bacteriological standards. So theoretically you can swim in our (inaudible) if you wish so from that context we're quite happy to do that because it's our role and our responsibility and that's what our community was after and that's the process we went through. I think that one of the things that Allen is saying, part of that process was investigation of land disposal options. And in our region they're just not, so the river is unfortunately the place to do to dispose of this waste in terms of its treatability and standards we're putting out there. Some of the other issues is the land use issues, so whilst our facilities are getting and have had a significant amount of pressure put on us over the years and quite rightly so to get us to a standard. There is varying land use applications and non-point discharges throughout the catchment that really detrimentally impact the quality that are a lot more difficult to achieve.

CHAIR: Well no doubt they do but your municipal users group will be having a conversation have had conversations and will have more with people who are involved with the non-point discharges. You've explained to us how over a period and under another hat I've been aware of it and have seen how you've continued to improve the quality of your municipal discharge from the sewage works and from the (inaudible) and so forth. Are you going to say that over the next 50 years you're not going to make equivalent improvements to the quality of your discharge, are you going to

say, "We've done enough now," merely because there's problems with the diffuse discharges from farming land?

MR HARTY: Obviously we continue to improve and keep up with technology and that is certainly a commitment that we have in terms of doing that and saying that.

CHAIR: So why does that leave you with a problem with there being a national goal of phasing out using waterways for the disposal of waste?

MR HARTY: Again, I mean the comprehensive work and investigations that we've done to date is fairly well comprehensively set in the foreseeable future, so in the next 20 year period the likelihood to have the ability to land dispose the amount of effluent that we do reduced on a daily basis is reasonably unlikely. But we'll continue to investigate that as we go forward and should an option come up we'll look at that and if it's pushing us in a direction or a policy's put in place that says that thou shalt not do this, then that becomes the issue I suspect. Because there are some situations where that just needs to happen and Waikato is certainly a significant area of finding land disposal extremely difficult.

CHAIR: Thank you, I interrupted you earlier I'm sorry but continue.

DR HARDING: That's fine. Just having a look at your today's evidence the submission on page 20 you suggest a number of matters that would suggest the proposed NPS should set up a framework to manage these matters and they include implication of outstanding values B, C, D, E. But I just notice that in B and C in particular National Environmental Standards based on a recreational culture of social uses in, C land use management compromising the same sorts of things. There's no mention of environmental values in there, is that for any reason why the environment's not mentioned?

MR HARTY: I don't think so. No, I just needed to confirm there, okay.

DR HARDING: That's all thank you.

CHAIR: All right, thank you. So just coming back to the question of priority for allocation first, because the references to hydro generators and others. These resound throughout the country really so I just thought well you might be able to give us an idea about where your municipal portfolio fits amongst the other competing claims to priority for allocation. What about ecological flows did they have priority over the municipal portfolio?

[2.20 pm]

MR HARTY: Certainly in the current context of the consent application that council Hamilton City Council has recently secured. Ecological flows are a point where we implement a (inaudible) management plan which significantly reduces the amount of water that we take in and we progressively shut down industrial applications of water that have consents after the grand-parented amount, obviously. But certainly ecological flows are significantly important and are reflected in that way by saying we will reduce down our use, through the consent there is an application there and we as we noted in our evidence today, or our submission today, actually implement that well before the river in our case gets to a level where it would impact on the ecological flows.

CHAIR: Would you like to add Mr Mitchelmore?

MR MITCHELMORE: Yeah, we're of the same frame. There is a baseline ecological flow that the other experts can determine and if we're looking at - we believe that the municipal supply needs to be at that next level and then you've got the irrigators and the -

CHAIR: Well I'll come to the others one at a time but let's just say that generally the group is comfortable with saying it is deferred to the ecological flows, the rivers got to continue as a healthy - yes.

MR MITCHELMORE: It's kind of an easy question for us to answer compared to elsewhere in the country because we extract from a very large river with no prospect of it going dry. It's a more interesting question to pose to some of the South Island Central Otago catchments.

CHAIR: Well we've had similar discussions with them and you'll be surprised to hear we've had conflicting opinions. And of course you'll expect to know that hydro generators expect that they should have priority not only over municipal needs but over ecological needs. So you'll leave that with us of course but my next one that I was going to put to you was cultural flows to the extent that they're different from ecological flows and they may or not be and that may depend on who you're talking to. But for instance as an example one hears of a cultural need that a river flows from its source to the sea and continues to flow and that's seen as what I'm calling a cultural need and perhaps that's not a very suitable description but you know what I mean and do you acknowledge that as being prior to municipal needs or equal to or not valid at all?

MR HARTY: We haven't actually, I think, faced or discussed that directly.

CHAIR: I don't suppose there's ever a chance, as you say only a moment ago, of the Waikato drying up.

MR HARTY: Yeah. In principle we like the idea of recognising the cultural needs and so on. It would be an interesting question if the cultural needs meant that you couldn't extract water from the river anymore, but that's only hypothetical, sort of.

CHAIR: It's probably easier as you imply in your region and the same would apply for the drinking needs of livestock animals, you're not really going to be short of that are you, in the Waikato. Hydro generation, well there's obviously a conflict. Hydro generation as you've told us in your submission from Mighty River Power seems to think that they have a claim

which is prior to municipal needs, don't they. And that's what you were saying by the reference to taking above the Karapiro dam. And you're resisting that claim?

MR HARTY: That's correct.

CHAIR: And I think I've got a clear understanding of that, what about irrigation for agriculture and pasture or horticultural?

MR HARTY: Well an interesting component of that particularly pertains to the water takes that we have which, as I said to you, there's a proportion of it is going to dairy factory processing. It would appear to me to be little point in irrigators producing increasing their production without having the processing capability within the towns to process it. If we took that to its logical conclusion they could be producing more grass, producing more milk but then having to dump it. Or truck it all round the country side to any processing plant that does happen to have the capacity to process it. So we see ourselves, and particularly as a rural district of - we've invested as a community very highly in being able to process milk as a case in point there's a natural limit to what can be can actually process which then flows upstream to how much water is needed for irrigation purposes to produce the milk. There is a -

CHAIR: And another part of that limit is at least stopping the growth of disposable waste, point and non-point nutrients and chemicals into the water ways.

MR HARTY: Exactly.

CHAIR: Then there's another aspect that's been brought to our attention, it's really very surprising how many issues crop up in this. But in the Waipa District in particular we or a couple of us have been reminded not so long ago about the landscape value of lakes that are backed by artificial dams but for all of that they're still highly valued landscapes. And

does that come into the hierarchy of claims for water, in other words, even if Mighty River was no longer taking the attitude that they are and abandoned generating in Karapiro, would there not be an interest by the community in maintaining that lake as a lake for its landscape value?

MR MITCHEMORE: I'm certain that there would be a community interest in doing so and likewise there's probably an argument that you raised a little bit earlier in terms of even the cultural value of the body of water and its damming. I'm not quite sure where those different views, how they could converge -

CHAIR: Should they take priority over irrigation for horticulture and agriculture?

MR HARTY: Well I think the landscape thing, I'm not sure there is a conflict there. The issue is how much water is still left in the lake to be able to generate.

MR TURNER: But a full lake we have to admit looks nicer than an empty lake.

CHAIR: Or even a half full lake.

MR TURNER: Yes, that too.

CHAIR: And while we don't see that at Karapiro there are other lakes around the country where you do see half full.

MR TURNER: Exactly.

CHAIR: And it does. All right thank you for that.

MR MITCHELMORE: Sir, can I just make a comment in regards to hydro electric generation. Now my understanding is, in Central Otago and quite possible the Clyde dam in Taranaki or some comparable legislation. The issue of water allocation was addressed back at that time to the extent that the communities upstream of the Clyde dam were given the right to extract

thousands of litres a second. And so that was all thought out legislation and there are irrigation schemes - I was on a MAF irrigation panel earlier this year and this was brought to my attention, where these public schemes are going through a process of evaluating the viability and in those cases upstream of the Clyde dam, there's no question about the water being available, I understand it's already in the legislation. And vast quantities, cubic metres a second the amount that Waipa would be looking at taking up stream of Karapiro is a matter of a few litres a second. And I find it incredible that it becoming like that would even worry about. I guess they're defending a position but it seems to me they're taking the argument to ridiculous extreme.

[2.30 pm]

CHAIR: Well you can focus on the issue rather than the person because we know what electricity generators are like.

MR TURNER: Yeah, I guess this - I drawn your attention to the precedent established at the highest level in the country some 25 years ago.

CHAIR: But it may not be a good precedent, Mr Turner.

MR TURNER: It serves of some merit to me.

CHAIR: Yes, well thank you for reminding us of that one. There was the thought that - now it's your 2.27, page 11, "Existing industry was included in the allocation," this is your portfolio approach, "Because failing to supply existing industry would penalise existing urban based industries and the communities in which they are based." And I can see that it might (inaudible) but I don't understand how you say it would be penalising them. Because grants of consent to take up for fixed terms, and nobody can be assured of a replacement grant for a further term. And at least at

the time of a replacement being considered there can be consideration of adjusting the term to encourage more efficiency. So can any of you feel inclined to explain to me why it would be penalising? Penalising means a punishment because something's been done that shouldn't have been done.

MR HARTY: I expect that the position or what we were trying to outline there is saying that within - the approach we've taken is to ensure that we've looked at the existing amount of water that was available for those industries and no more, so those industries are not allowed to take any more water than they are currently taking to service what they are doing. And that if we cut back on that and said that Mr Concrete-man over wherever he was, "Sorry you must drop your production by 20%, because we've dropped our take."

CHAIR: No, but that's not what you're saying. You're saying, "You must make do with less. You don't need to reduce your production, provided you can find ways to manage with less."

MR HARTY: In many cases I suspect, and I can only speak for the Hamilton City in this particular case, in many cases and we've spent a considerable amount of effort and energy over the last few years under the new trade waste bylaw, and doing water audits with industry and working with industry to ensure that they are efficient, so a number of the larger industries that this is focussed on are running as efficiently as possible. And bearing in mind that every dollar they spend on a cubic metre of water is a dollar that doesn't go into their CEO's, or Shareholders, pockets they are quite virulent at doing that. So in saying that, we've already, we believe, pushed that down and is part of the water conservation and demand management and portfolio management approach is pushing it down as well. So in the future we are saying,

you've got that much water, if you want more you need to come and ask for it. So if you're taking 20 and you want 25 next year to increase the size of your business, you need to come to us and prove that you need it before you can get that.

So, we're managing what we have in terms of - of water conservation through the plan, through by-laws, and things that we have in place and saying that if we had to cut back on that we believe it would be unduly penalising people that put infrastructure in place to deal with these things. And a majority of our large industry have put a lot of effort, energy and money into water conservation.

CHAIR: Well do you want to keep them up to (inaudible)

MR MITCHELMORE: And we do also need to bear in mind quite a number of those industries have actually been in the towns prior to the RMA coming on board so they've made long term investment decisions within the towns, and the availability of water was just accepted. And I know that we've moved on, that people now realise that water is not an infinite supply, but in their minds, they've (inaudible) on the basis of what was known at the time, and the only real tools we have got is through water audits. We're very limited in terms of what we can do in terms of price to manage demand. Our councils are somewhat constrained in that domain, so it just makes life difficult.

CHAIR: Yes, we won't go into the pricing issue because that's really for another body I think, to think of, but I can see that. Well, thank you for that thought. There was just one other thing and that was, in our conversation earlier we parked, as it were, temporarily the question of the diffuse discharges and the land use contribution to that. And if you have, and I was looking at your paragraph 3.11 from this afternoon's presentation, if

you have large scale changes of land use, which perhaps are not very likely in your districts I suppose, any of them, but they can result in effects on hydrology and I'm not quite sure how, in the areas where another land use might be possible, such as a forestation, how do you relate to one use that perhaps is moderate in the amount of water that it needs, compared with another use, which may require more water but which may have other community benefits? And because I was recently reading something about these climate change issues and the value of a forestation for carbon sinks, can we tolerate giving a greater portion of a limited amount of water that may be available in a different part of the country to allow for a forestation, as a carbon sink, at the cost of existing uses like dairy. And does that go into the allocation process. Any thoughts?

MR TURNER: I'm not sure I can give an answer in fact. I'll just note initial reply anyway, the reason why our group established in the first place I think was related to pine forest conversion to dairying upstream of here. Thousands, tens of thousands of hectares.

CHAIR: Yes, Upper Waikato.

MR TURNER: Yes, and the potential for that is, amongst other things, the increased nutrient load in the nitrogen in the river and that we inherit that, we've got to treat more, and so on. So that was a major issue. And that was behind our statement here saying that if things of that scale happening then somebody, presumably a regional council, has a legitimate role to try and tackle it. I'm not saying it's necessarily an easy role because many of these things might be incremental, and how many pine trees do you let cut down before it starts becoming a problem. You get into those problems.

CHAIR: And then, can you control - one possibility is to control the cutting down of the pine trees, another possibility which may be even more problematic is to say to the land owners, "No, you can't use the land that's been cleared for dairying, though we don't mind if you use it for horticulture," or I don't know what, pastoral farming.

MR TURNER: Put some limit on irrigation.

CHAIR: Is that within the scope of the RMA?

MR TURNER: Well for something like irrigation, one of the effects of that is enriched nutrient levels in groundwater, it gets into flowing waterways. That seems to me an environmental effect.

CHAIR: Well, it's been very helpful for us that you people, and with tagging along one or two others, Water Care, and Taupo, have joined together to present your submission. It adds to the value for us, and thank you very much also for participating in this conversation we've been having because that helps us as well. Thank you kindly.

[2.40 pm]

CHAIR: Now we've had some slight alteration in our programme for today, so it's going to be satisfactory for us, if it's satisfactory for you, that we come to the Surfbreak Protection Society. And we hope that that change of order won't discommode you in any way.

MR SHANKS: Well probably a little, when I listen to the articulate ability of the three gentlemen in front of us who are used to doing this sort of thing.

CHAIR: Well as you heard, we are not expecting any particular formality. We are wanting you to be able to present your submission in the way that you choose, and we'll follow it perhaps with some exchange, if any questions occur to us after we've heard your submission.

MR SHANKS: Thank you very much Your Honour. First I'd like to just hand a sample over. I'd like you to actually to run your fingers through it.

MR MCINTOSH: (Gives Māori introduction to presentation.)

MR SHANKS: Ten years ago I don't think any of our group would think that we'd be sitting in front of a committee discussing the waters of New Zealand. Just before I start, this is the quality of the sand on the beach where my parents taught me to swim. This is the same quality of sand on the beach where I taught my children to swim. This is the current state of the beach that I learnt to swim on. And as surfers, we travel the world, we travel the country chasing waves, and so we visit many beaches, many rivers, and many countries. And so we've seen what's happening in New Zealand now, 20 years ago in other countries. And we believed, and we had faith that that would never happen here. But we're here today to present our view, and the potential of surfing as part of the cultural, and economic growth of New Zealand. I don't know if you've read the first part of our submission.

CHAIR: We've read this part here.

MR SHANKS: Can we take that as read?

CHAIR: Yes, by all means. And thank you for the submission.

MR SHANKS: That's all right, it's a pleasure Sir. Then we've just got a photo of The Press of the last week, then introduction is just - I'll take that as read, it's just a little bit about myself, and that goes on to express a little bit about what Surfbreak is about. So can we take that as read as well?

CHAIR: Yes, thank you, you could have already have included it in the submission.

MR SHANKS: What originally happened, the presentation was going to done by a different group of people and the continuation didn't happen because we we're spread throughout the country, so I've stepped in to fill the bridge, as it were, and adequately do a - assembly something over the last couple of weeks, but generally like most things, the last couple of days of those last couple of weeks.

CHAIR: I recognised your experience in these things.

MR SHANKS: Oh I don't know. So I'll start mine on the page after the dreaded signs, that we see on our beaches and I need to put my glasses on - I had race out to get them, because I keep forgetting them.

Surfers like the pipi are inhabitants of the inter-tidal zone where the fresh and salt waters mix. This zone is dynamic, environmentally, economically and politically. What happens in our oceans outside this habitat affects

us, eg sediment transportation, sand lining, agriculture and algal blooms, which in turn are related to what sets the inter-tidal zone from what has happened inland, sometimes from miles away, including consented and non-consented reusable waste water plants, urban storm water, large and small industrial discharge both rural and city, dairy farm discharge, dairy factory discharge, intensive farm runoff both overland and subterranean. Creeks, streams, rivers, diverted dam or excessively drawn on for farm irrigation and urban water supply.

There is no doubt our waterways are being used to transport waste to the sea. Unfortunately corporate and councillors think that the ocean has vast purifying capabilities, and that was a quote from Dave Stewart from Montgomery Watson. This shows the ignorance and arrogance of society to our habitat, as everything passes through the inter-tidal zone and to the open sea. This puts us surfers in a precarious position and groups and sub-cultures like ours, have to be vigilant and active in many ways in order to support the social, environmental and economic needs of 250,000 surfers, keeping this zone, our habitat, in its true natural, dynamic equilibrium.

According to an accord signed between Waikato Regional Council, water scientist Bill Vamp (ph) and water scientist Jason Randall representing Whangamata Board Riders, all contaminates are contributing to the inter-tidal zone by way of fresh water. The fresh water wedge. With its contaminates such as viruses, bacteria's, nitrates and phosphorous, these last two nutrients can create phenomenon of algal blooms, red vines and mats phytoplankton and can be harmful to life, and such phytoplankton in an area can cause death in animals and skin and respiratory ailments in humans.

The freshwater wedge travels across the salt water as it is less - of a lower density. In the study of Whangamata estuary, of the 100% of the water that leaves the estuary, 80% returns, so - if there's any contamination it returns and compounds, if the blooms are still entering on the freshwater conveyor belt.

So our health and incomes are subsidising the profits of farmers, coastal developers, utility - corporation and the arms of Government they are contracted to. This has to stop. I thought the Government policy was for user pays, not subsidies. The practice that have and sometimes been deviously employed, must stop. This area interfaces between land and sea, and is one of the greatest assets to our tourist industry, and this Board must recognise the contribution these waters make to the national economy now and in the future. Not just hydro power, irrigation and urban discharge. One only has to look at the rivers of Queenstown area, and see the alternatives provided to make income from freshwater and the way it flows to the sea.

Surfing is a rapidly growing sport, past time, along with kayaking. Noted in the Waikato Regional Council Navigational Bylaws, it's the greatest sector of increase in boating. This is because of improved technologies such as wet suits, cheaper and greater variety of boats, Waka Ama and surfboards. This means longer time in the water per day, and days per year. Now there is no such thing as a surfing season.

[2.50 pm]

Another fine example of new technologies unheard of in recent past is snow boarding, on frozen water which has made a huge impact on the Queenstown economy this year. This will be the effect of surfing, wind surfing, kite surfacing, wake boarding, kayaking and snorkelling, will have

on the economics of the inter-tidal zone, in the near future. Instead of spending millions on a cycle way, we should be investing in upgrading inter-tidal zone with more stringent standards and monitoring regimes.

There has been dissent over the last decade, because of the way district and regional councils have dealt with our habitat due to their loyalty of the traditional money stream. Rivers like the Hurunui, Wairoa and Motu produce good surf, and floods blow open the shingle banks and push solid shingle sediment into the ocean for the waves to peel along. If these rivers are dammed or slowed, we will lose valuable surf breaks. In the case of first class surf breaks such as Raglan, Whangamata, Piha, Wainui, Waikanae beaches in Gisborne for example, freshwater that passes over or by must be hygienic otherwise its small surf breaks down the drain. What we need is standards, not guidelines. Higher standards - review of intensive farming practices. Moderate, if we can't mitigate to the highest standard - more - and better riparian planting, along our open waterways. In towns we need porous paving, swales, instead of curbing, enviro pods in our draining systems. More monitoring. Recognise the inter-tidal zone and test waters and review and grade all waste water plants, upgrading them to a higher standard, or to a higher standard.

Water - testing. The acceptance of the Australian water standards we feel are a cop out by our authorities. Safe tank contact should be a minimum standard. That which is safe for edible shellfish, raw, not more than 14 feet of (inaudible) or 35 enterococci, with no higher nitrate readings than what we would normally see in a natural environment.

There must be a national measure for hydro carbons as well - for example in Whangamata where the (inaudible) River enters the (inaudible) estuary. Bio Researchers Limited gave a hypothetical grading measure of one, but by the time you travel a kilometre to the greater harbour area, and pass by

eight urban storm water pipes, their grading went up to 27, or their numbers went up to 27. Whatever the stringent numbers are in relation to what pollutant, there must be national standards, not guidelines, because they have been open to abuse or have been ignored.

In my experience, councils should have been prosecuting themselves, for the shit they have let happen, especially over the last decade.

What to test - The national guidelines say one must test a certain depth, approximately eight to 10 inches below the water surface. This might be okay in Lake Taupo or off the shores of Kapiti Island. That act - or in an estuary harbour situation it should be the testing of both the waters, the tidal salt below the surface and the freshwater wedge that is on the surface and holding all the contaminants, that make for a miserable life. This is imperative if we are to advance to the 100% New Zealand message. Council and contractors have exploited this anomaly, and called clean readings when it was far from the truth. The putting up of signs such as "shellfish are unsafe for eating" or "this area unsafe to swim because of pollution" is not mitigation - it's an insult to human intelligence.

We have devised laws, processes and systems for the growth and development of our country's land and waters - fresh and salt. Supposedly for the benefit of all, and we are about to streamline this machine, but I have my doubts what the end result is likely to be. This is highlighted from Bruce Jessen's (ph) book "Only the purpose is mad", when he quotes, "Imagine a wondrous new machine strong and supple, a machine that reaps as it destroys. It's huge and mobile. Sometimes like the machines of modern agriculture, but more complicated and powerful. Think of this awesome machine running over open terrain and ignoring familiar boundaries that ploughs across fields and fence rows with a fierce momentum that has exhilarating to the whole and also frightening. As it

goes the machine throws off enormous mows of wealth and bounty while it leaves behind great farrows of wreckage. Now imagine that there are skilful hands onboard, but no one is at the wheel. In fact this machine has neither wheel nor internal governor to control the speed and its direction. It is sustained by its own forward motion, though by its own appetite and it is accelerating”.

It is our job as one of the vested interest groups and this Board to harness this machine, and bring some rationale and direction or if not we are eventually going to lose big time and not just with the EU or loads of foreign tourists, but our own sustainability. This is why I was perplexed after an audience with the Environment Court Commissioner, Mr McIntyre, when I told him that my generation and our children’s generation were now learning environmental law and planning to cope what was going down. He smiled and with a light laugh said, “Tell them to learn folk law” and I pondered on this for over three years, and I’m wondering if he was mocking our efforts. He’s a very fine gentleman, but it’s true, we, the people, must show guardianship, kaikiaki and consider and I quote again, “For what purpose has it been used, if you have a pipi bed - for example you cannot talk about kaikiaki until you know about the concepts and life of the pipi, so you need to know how to keep the pipi safe, but you keep it safe for the pipi’s benefit, not for yours, because the job is to keep all things of creation safe. The return from this relationship, you get knowledge and learning and that comes from that. For us this is doesn’t mean being in charge of things, but to ensure all things are respected. So for example - you don’t go and tell the pipi how to live - you allow it to have the opportunity to live the way it knows best. So it’s about knowing the place of things in the world. The pipi needs protection and a place to live, just like we surfers do”.

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So we'd like the Board to have an expansive vision, and not to be short sighted about our future, that is surfing and the inter-tidal zone and it's potential.

A quote from Peter Blake, "Good water, good life, bad water, bad life, no water, no life" and from Sir Ed, "So the greatest gift we can give our children is clean water" and that's really, really true.

The next page we can take as read. These are the other submitters that we support, and then we just have a little photo essay of what estuaries can look like when you have too many nutrients, and that going. This is the Moana Anu estuary. It's a blue algal bloom, that's the state of the water in the jug. This is one of the streams on the lower side here, with - full of mack running into the estuary, and this is the estuary at the top here, at night time. So we had generators, spotlights, boats with spotlights, so you could see these massive macks, they cover acres and we've seen them all up and down the Coromandel Coast in different estuaries. Then you can just look - it's pretty much just take it as read, it's just a photographic survey, trying to express how we feel and that we are very genuine in what we're trying to say.

We have a little DVD video at the end of here. It's only 20 minutes long. I won't pressure you to watch it now, but if you could maybe watch it, that's a more visual version of the first lots of photos - but in video form. It's taken by four different people from the ages of 19 to 84, and I managed to just race round and get someone to condense it down into 20 minutes. Some of them ran for like seven hours, you know, so I had to sit through like seven hours of stuff. But they are all genuine people and all had - interested and concerned in what we were trying to say.

So - that was pretty much, basically us. It's really straightforward and simple. The inter-tidal zone where surface's - kayaker's and all that it's - how would you say, it's getting massively populated, and it's not just in summer, it's all year round and it's a massively growing sport. It's - if you see around the world, it's a major tourist draw card. In Costa Rica - the Government there has estimated that the surfing is worth 400 million to their economy, and they are actively promoting surfing as a - for a venue, just like we in Queenstown, promote skiing and snowboarding as a venue. This whole active of sport thing, you don't stop it at 25, you know I'm now 55 going on 19 and I'm keen, still keen as and it does - going surfing keeps you mentally fit, physically fit and you don't want to be getting ill, because of an oversight or negligence or ignorance or, in some case, arrogance, because we are the future and we got to - you can't survive, you know, simple thing like Ed Hillary said, we've got to have clean water, and I can understand the demise of the gentlemen that were here before us, but in a way they're kind of on the other side of the fence, and we're always badgering those type of people, and so that's why we are really welcoming that central Government has brought in to have a policy on freshwater. The thing is, is where does it start, and when does it finish, you know. You have the mist in the Urawera's, you have the frozen ice on the mountain - the frozen water on the mountain, so we felt that our little zone, the inter-tidal zone was not being, possibly not being thought of and so we needed to raise that issue, because there's a lot of freshwater, especially after a heavy rain. You're floating on it and many a situation I'm going, well I shouldn't be out here, you know I'm going to end up with the flu, you know, I just know and then you're down for five days. You've lost production, the people you're working for have lost time, and it rolls on like that.

[3.00 pm]

So our group, sorry just getting off the water a minute, we're just trying to raise the image and consciousness of surfing to the New Zealand bureaucracy that we exist, we're enthusiastic, we spend hours in the water, it's not like in the 19th century lying on the beach and running down and dipping your toes in and running out. You're submerged in the water for up to six hours at a time, and I'm raising the issue of new technologies. Now the modern wet suit is now electrified so you're in like an electric blanket. You have batteries and so that means the deepest southern waters of New Zealand can be surfed, so you'll have people moving from Queenstown to say Curio Bay, and in fact there's a surf school there, but at the same time you want the expansion of dairying in Southland, I think and in Curio Bay they're wanting to a modern dairy farm, but the people there are worried about the discharge into their surf zone, and into the wildlife zone, and so they - that small group of people there see a great potential with this new technology for the growth of the service they can provide both New Zealand tourists and overseas tourists and it becomes an extension of Queenstown, and so this is evolving. I mean who would have thought skateboarding 20 years ago was going to be a sub-culture - you know and so this is just what we're saying, just hold the vision for us guys. We need really clean water to perform at our best, and we need to come home after we've been surfing healthy. We don't want to be going down and being ill with rashes and flu like symptoms.

CHAIR: I think we've got that message.

MR SHANKS: Thank you very much.

CHAIR: And thank you for explaining it so well. Thank you very much for bringing some additional photographs as well. One of the submitters that we've heard in another part of the country, also provided us with a substantial number of photographs and he too, you'll be pleased to know,

was bringing our focus and our attention particularly to the interface of the sea water and the freshwater.

MR SHANKS: Oh that's good.

CHAIR: So you're not the only person singing this song. May I inquire whether any of my colleagues have any questions to ask of you - will you be agreeable --

MR SHANKS: Oh yes, yes.

CHAIR: -- if there's any questions, no problem. If there's something we're not clear on. Mr Prime.

MR PRIME: No, well I guess I'd like to just hear your analogy of using pipi - would that apply to others or is it mainly just other species like flounder, mullet and -

MR SHANKS: Yeah anything that's in estuaries you know, because that's basically - a lot, in fact probably 90% of the surf rates on the Coromandel are estuary. Northland is estuary. Even - and then in Taranaki - it's usually all rock point, but you have dairy farm streams, running into the surf breaks. In Wainui in Gisborne, it's a beach break and the surf there is some of the best beach breaks in the world, because you have variety of surf breaks and it's the storm water system that - whether it's a natural storm water system or an unnatural storm water system, it's created a great surf, so - and when the council wants to change the storm water system there, the people are a bit worried because it could effect not only their surf, but the economy of that area. But going back to the pipi, you know I used to do a lot of water testing so I was testing the health of the pipi, the mussel, the cockle, and you find that the different shellfish

because they're in different water levels, have different contaminants, like the mussels that were on the poles, they were always in the top edge of the freshwater wedge. Their bacteria count was sometimes like thousands, four thousand times higher than the pipi that were in the base of the channel, but the pipi in the base of the channel, had higher measures of arsenic, that's the - which the mussel didn't have, it had high bacteria.

MR PRIME: Yes and I guess the reason for my question was the samples of sand that you've shown and ask you sort of what - were there particular contaminants or pollutants that have caused this is or -

MR SHANKS: Well I can only talk from my personal experience, and I was the President of the Whangamata Board Riders in '97 when a whole lot of surfers got sick, and we tried to approach the District Council and Regional Council, and the Health Department. In fact we had a, quite a large meeting and they just blew us off, so then we formed a group called Clean Water Whangamata, which the surfers were part of, and then got proactive in trying to show the people of town what was happening in the - and then through that we evolved Surf Break, because other people said "What are you doing here, oh can we do that" and I said, Yes you have go and tell the authorities that you - there is a problem or you perceive a problem, so that they know - because if they don't know you can be standing on the beach abusing them, but they don't know, you have to - and if they haven't got - then go to the Councils, get their information. If they haven't got the information, then it's on your shoulders to go and collect some information.

CHAIR: All right. Thank you. That's explained that. Thank you. Mrs Vernon, do you have any questions?

MRS VERNON: No I don't thank you, but thank you for coming over. Thank you.

CHAIR: I just wanted to acknowledge your compliment to Commissioner Ian McIntyre.

MR SHANKS: He's a very nice gentleman.

CHAIR: He is. I've known him even longer than you have, 45 years. I'm sorry he's not very well at the moment.

MR SHANKS: No that's where I met him, in the North Shore Hospital.

CHAIR: Oh did you, yes. Well, like you - I can feel entirely confident knowing him that there would never be any suggestion of mocking in any thing he said. That would not -

MR SHANKS: That's why I was so perplexed, and I was trying to figure out what he was saying -

CHAIR: No, no, perhaps because he - he's not speaking as clearly as he used to, and that's part of the illness that he's had, but I can say very confidently that mocking is not in his nature.

MR SHANKS: Yeah, well I didn't -

CHAIR: He's a very straightforward person, yes.

MR SHANKS: No, no, he took me aside and said, look there's things we can talk about and there's things we can't talk about so we won't talk about

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these. He obviously took a little bit of a shine to me because we talked for about two and a half hours.

CHAIR: Splendid. Well, thank you for that. Thank you for coming and presenting on behalf of the whole of the society, and that's very important - they chose well.

MR SHANKS: Right, thank you very much.

ADJOURNED [3.10 pm]