

To be read in conjunction with
the tabled evidence/statement



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

FRIDAY 18 SEPTEMBER 2009

HELD AT TE RUNANGA O NGATI AWA, LOUVAIN S1

HEARING OPENED [10.06 am]

APPEARANCES

Mr W Vercoe, Ms B Hughes and Mr J Gardiner, Te Rūnanga o Ngāti Awa

Audio file: dpm 0153

CHAIR: Please be seated. Tena koutou katoa. We are very glad to be here to hear the submissions that you're going to present to us. We've been going around the country since the 30th of June hearing submissions from people who want to talk about the National Policy Statement, and this is the last of that series. So it's a special pleasure to meet you all, and to be here today.

Now those of you who are going to present may chose to introduce yourselves, and just present as you would like to, there's no special formalities, and when we come to the end of what you'd like to say, we may have some questions for you. Thank you.

MR GARDINER: Would it be okay if we started with a karakia?

Waaka Vercoe Karakia and welcome

MR VERCOE: Would you join me in a brief prayer. Your Honor, we are honored that (inaudible) is here this morning, and I said that in the (inaudible). And one of the smart things you do when you're talking to somebody from that area, you quote him back one of his own proverbs, it gets them thinking. So I used the one appropriately, I would venture to say this, "A moving stream never returns to its source." It's quoted in the original Taitokerau, they have a strange way of speaking those people.

There's a (inaudible). We wouldn't quite say it like that but in deference to our dear friend Kevin, I will quote it in the Northern way. Before I sit down I will quote in another one. One of our submitters today is also part from Taitokerau and they have an even better expression and they go (inaudible), and that means, very cleverly, (inaudible) on behalf of

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Beverley when she speaks. The expression says, “Night has been served, the coming of the dawn, the morning is unfolding.” That one is actually from further North from (inaudible). With those two expressions from the North, I can welcome you all on behalf of Ngāti Awa.

(Māori speech)

We won't take any more of the commission's time. We were going to sing you a song but not only are we very poor singers, it might spoil the occasion. Thank you very much Your Honour.

[10.10 am]

MR GARDINER: (Māori introduction)

Thank you very much for the opportunity to address the Board. I appreciate the effort that you have made to come and see Ngāti Awa and Mataatua and I hope we'll have quite a bit to contribute towards your considerations. My name is Jeremy Gardiner, I am Chief Executive of Te Rūnanga o Ngāti Awa, and to my left -

MS HUGHES: I'm Beverley Hughes, kiora. I'm Manager of Environment Ngāti Awa.

MR GARDINER: You received our submission and then a following submission previously and I don't really propose to go through those word for word, but I've taken the liberty to just put some thoughts down to cover generally what our interests are, and Beverley will speak specifically to some of those issues.

Just before I start, as a whakatauki of Ngāti Awa, or an introductory statement that we say which describes who we are and where we come from, and that's - I've paraphrased it a little bit, but (inaudible) and what that Mataatua is the waka, Poutauahi is our mountain, which you can see clearly across the plain I hope, on a clear day, and importantly for your consideration that the three rivers which mark our territory, Rangitikei, Whakatane and Tarawera, and that Ngāti Awa is the Iwi.

So this submission is on behalf of Te Rūnanga o Ngāti Awa, and Te Hono o Mataatua, the Mataatua Assembly. Te Rūnanga o Ngāti Awa was established in its current form in 2005 as a result of treaty settlement. Te Rūnanga represents over 18,000 members. I think we're number ten by population. So some way behind our northern neighbours but big nevertheless. Our traditional rohe is described to you on our map, but roughly extends from Otamarakau in the West to Ohiwa in the East and inland to Poutoaki and Matahina. And in that - I'll come to that in a minute. Also here on behalf of Te Hono o Mataatua, the Mataatua Assembly, of which Te Rūnanga o Ngāti Awa was a founding member. The rohe of Mataatua extends across the whole of the Bay of Plenty from Nga Kuri A Wharei which is just West of Little Waihi Beach, or halfway along depending on your view of that, Eastwards to the Eastern tip of bay at (inaudible). And this region includes the Iwi of Ngāti Rangī, Ngāti Manawa, Ngāti Whare, Tuhoi, Ngāti Awa, Whaka Tohoi Ngaiti, and our sometimes relations, Whanau Apanui, depending on which side of the bay suits them best.

But this region includes lakes, rivers, waterways, and bodies of water of significant cultural and ecological value.

Ngāti Awa's traditional rohe encompasses three major rivers, numerous tributaries and waterways, and a number of bodies of freshwater. In

addition a significant aquifer is located at Braemar and I see that Antipodes Water who collect the water from Braemar has just become the water of choice for the QEII and the Queen Mary II which those liners are. Many of these bodies of water are significant markers which the people of Ngāti Awa use to define ourselves geographically and culturally. So as I said in the whakatauki, the use of the river is defined - if I say Whakatane Te Awa people know we're from (inaudible) they know automatically who you are and where you're from.

So I thought I'd just touch very briefly - I'm not an expert on this, but I thought I'd just touch very briefly on the cultural, and spiritual importance of water.

We view water as having a mauri, a life force, or a life principle of its own, whether the water is fresh or otherwise. Bodies of water are regarded as important spiritually and culturally, as well as providing support to life. And we use geographical markers, such as mountains, lakes and rivers to define who we are, and where we come from. As I said in that opening comment about Ngāti Awa referencing itself by its waka, by its mountain, and by its rivers. As such water becomes more than something to be just used and discarded. In some ways this reflects a western view of bodies of water as ecological systems, rather than just water.

Therefore in developing policies on the use of water, due regard must be given to protecting that mauri, or life force, by ensuring that the use, extraction, or discharge does not destroy that life force.

And just to perhaps elaborate on that a bit. Water as a taonga, because of that spiritual and cultural importance, and the importance of water to be undisturbed, use and possession of our lands, forests, and fisheries, and estates, it's the view of Te Rūnanga o Ngāti Awa that rivers, lakes and

other bodies of water are taonga guaranteed under Article 2 of the Treaty. As such Tangata Whenua rights of possession of those taonga must be recognised. Therefore, in assessing any matter relating to those bodies of water - proper regard must be given to the possession, associations, interests, and views of Tangata Whenua. Any policies, plans, or regulations relating to those bodies of water must first recognise the primary interest of Tangata Whenua. Further any decision on the access to, extraction, or use of that water must recognise the priority, and primary interest of Tangata Whenua.

At the very least for the National Policy Statement, it must provide clear direction to consent authorities on how to give effect to that Article to right. And for that reason Te Rūnanga o Ngāti Awa and Te Hono o Mataatua support the submission of Environment Bay of Plenty for the National Policy Statement to provide greater clarity, and uniformity on how Iwi, and Tangata Whenua participate in addition of making processes. And just to elaborate a little bit further on that Te Hono o Mataatua is preparing a declaration on water. I'm not sure whether you're aware, but in 95 Mataatua drafted a declaration on cultural indigenous intellectual property rights. And it's the intention of Te Hono o Mataatua to pass a similar declaration in regards to water. Now that's still in the development stage, but the principles of that reflect what I've just said around water as a taonga.

This is following on from - on water as a taonga and the treaty implications. The Ngāti Awa Claims Settlement Act makes provision for statutory acknowledgements and deeds of recognition over the Whakatane, Rangitikei (ph) and Tarawera Rivers. Now these require relevant consent authorities, the Environment Court, and the Historic Places Trust to have regard to Ngāti Awa's cultural, spiritual, and historical association with those rivers.

In our view therefore the National Policy Statement must also take account of these acknowledgements, and give clear direction at a national level of how these are to be given effect to. Failure to appropriately consider these acknowledgements through the planning and policy documents and in decision making will give rise to further issues.

And then, just really in summary after this short submission, this Board of Inquiry provides an opportunity to give clear guidance to all agencies and authorities, and hope to provide for and give effect to the relationship of Tangata Whenua to water. And I think perhaps a further unique opportunity to adapt, or adopt a New Zealand approach to the management of water, which reflects a Tangata Whenua/Iwi perspective on water. Under such an approach the development of plans and policies for the management of freshwater acknowledge that bodies of water have a mauri, or life force of their own, and this must be protected and nurtured for current and future generations. Thank you.

CHAIR: Thank you very much. Would it be sensible if we hear Ms Hughes presentation next, and then maybe we could have an exchange of questions with both of you?

MR GARDINER: In your hands.

CHAIR: Would that be all right?

MS HUGHES: Yes.

CHAIR: I think that's the way we would prefer, if that's comfortable to you.

[10.20 am]

MS HUGHES: Thank you Sir. Kia ora, my name is Beverley Hughes, I'm Manager of Environment Ngāti Awa. I hold a Bachelor of Social Sciences degree conferred with First Class Honours from the University of Waikato, and majoring in Resource and Environmental Planning. I brought with me to Environment Ngāti Awa 8 years experience working at regional council, that is the Environment Bay of Plenty, as a Resource Planner in the Strategic Policy Division. In that role I had a hand in the development of Māori Heritage criteria that perform part of the assessment of heritage values, both cultural and natural heritage values, which are Instruments that are operable in the Regional Policy Statement. As well as that I contributed as an officer that processed district applications as well, to look at the interface between regional and district functions, in particular of water management and the management of riparian margins, earthworks and soil conservation came into that role as well.

I commenced my employment here with Environment Ngāti Awa in 2005. Since that time we have been contributing our texture to the open textured framework that is the Resource Management Act by taking up an opportunity to prepare assessments in respect to section 6(e) of the Resource Management Act as a way of contributing to the decision making of regional and district councils.

We have made submissions to the National Policy Statement on Freshwater. We've made two in the past the first one made in 2008 and then earlier this year we made a further submission in which we supported a number of submission points that were made by Environment Bay of Plenty. I have prepared for you a submission in writing which is there really only to guide the further comments that I would like to add to what we've said previously and to keep things simple. Now I'm looking on page 2 of a wad of paper you might have in front of you, all I've done really is to bring the two submissions, the first submission and the further

submission, together in this one paper. They're also attached at the rear of the paper. And I've added another column down the right hand side which is a statement in support of the submission that we've made before. And they're relatively standardised, each one is - first comment is saying that it is both Te Rūnanga O Ngāti Awa and Te Hunga O Mataatua (ph) who are speaking through these submissions also saying that we support all of the submissions that we've made previously to the Board of Inquiry. And then below each there is a little prompt for me to give further expression to you about some of the points that we have made.

We hope that as you look through the relief sought column that you'll see there our ideas for text that we feel could contribute to the policy document. And we'd like very much to provide you with further explanation for the reasoning behind our suggestions for that relief. We're going to tackle in our submission some pretty difficult issues which we think are felt by all Māori and all Iwi and Hapu across New Zealand. And in particular the issue of the expectation that the assessments we contribute to councils decision making be made at our cost. That is a tremendous issue for Iwi and Hapu because that expectation is prevalent throughout New Zealand. In effect our position is we are being asked to pay a third and a fourth time pay to give advice to councils who are obliged under the RMA to demonstrate that they have recognised and provided for our contributions to their decision making and that is the link between our contributions and their decision making is the assessments that we provide that come as the outcomes of consultation.

We in Ngāti Awa in particular have a way that we have obliged ourselves to act in the preparation of assessments of that type and that requires my unit to have domestic consultations amongst our Hapu including the Hapu member to the Board who is mandated to represent that Hapu at the Board, also their Uri (ph) who we ask the Hapu delegate to identify to bring to the table. The Pukinga (ph) on whom we rely that is the cultural

expert on whom we rely and who are widely known amongst the Ngāti Awa to be the people on whom we rely to know the most about our relationships, culture, traditions and that connection with our ancestral taonga, critically important to contribute to the assessments that we make. And we also go further, where there is a proposal for change and development that will affect Māori Trusts that are affiliated to Ngāti Awa either adjacent to or on that property then we are to undertake consultation with them also, and they contribute therefore to our assessments. Likewise if there are Iwi who are our neighbours and we have a area or a resource in common or there are sites of significance that we have in common then we also prepare our draft assessments and share them with them before we distribute out to all parties simultaneously. In this simple way we feel we are able to work collaboratively as kaitiaki and deliver assessments that have been robustly and thoroughly contributed to and are vetted by our folk before this material moves off to represent us in our name of Ngāti Awa. We also wish to continue to do that work with our neighbour's, Iwi, who are outside of our rohi but who have placed some significance to them inside of our rohi. And we have set aside issues of mana whenua when we engage with them because we are all there to deal with the issues of face and act as good kaitiaki so we work very, very hard on that kind of process.

I'll talk about some examples of our work since 2005 which I've prepared in a folder and asked Steve to have available to you but I won't point to those yet, I'll firstly go through these pages of these submissions so that we can look at what we've said in each of the submission points that we've made.

So on page 2 of my evidence you'll see that we are following up on our suggestion with regard to the preamble and while we accept that preamble is really only an introductory statement it does contribute the purpose of the material following it. So we have suggested that the preamble in its

introductory and explanatory statement and a document that explains the documents purpose and underlying philosophy when applied in the opening paragraphs of the statute it may recite historical facts pertinent to the subject of the statute. We ask that you consider the statements that Jeremy has made with respect to Māori people generally and their relationship with water and requirement to have water. And consider statements that we've made there and relief sought as to whether they will be appropriate inclusions in the preamble in the context of reciting historical facts pertinent to the subject of the statute.

The next point below that in Column 4, "Statements in Support of Submission" is that in New Zealand it is important that pertinent historical facts relating to access, use and management of freshwater resources in New Zealand, recognise and provide for relationships and the rights of Māori people. So I would just move on to the next point.

[10.30 am]

Again in the preamble on page 3 in the second box down we're making a very similar assertion. We've offered you text to consider for inclusion in the preamble on page 2. And I'd like to offer you some examples of the way in which Ngāti Awa has contributed to councils decision making in the planning arena. For example, and not only to council but also to central government Ngāti Awa was able to contribute in a non-statutory process that is in a privileged position at the beginning of the preparation of a pre-draft of the National Policy Statement for Flood Risk Management to that flood risk management statement. We were very pleased to be invited to make a contribution of that type and we understand that that was the regional councils that recommended to the ministry that we be invited to make our comment. We feel that that's a manifestation of the type of engagement we would wish to expect and it also provides us an opportunity to be right at the beginning of a forthcoming new policy

statement that will have an effect in regional policies and regional plans and district policy. Likewise we engaged at the other end where Environment Bay of Plenty prepared the Rangitaiki Tarawera (ph) Flood Risk Management strategy and we made a significant contribution to that and in particular material that came from a Rangitaiki (ph) river cultural base line report which is an Iwi planning document prepared by Ngāti Awa and the Rangitaiki (ph) Hapu coalition, of which I might point out (inaudible) is a member. And we were able to make that plan have life through the flood risk management strategy. That contribution was welcomed by the Environment Bay of Plenty because the Rangitaiki (ph) cultural baseline report which is included in a wad of material I'll provide to you which are examples of the way in which we give effect to our policy and to regional policy by commenting on abstractions, the use of water for hydro electric power schemes and the way in which discharges to water should be dealt with and irrigation via abstraction of water also. It's got a number of examples of the way in which we engaged in those processes and contributed to council's decision making on that. So we're wanting to tackle now the instruments that councils use because that will relieve us, we cannot sustain the extent of the work that we're going to in the consents area. We need to focus in on the planning instruments so that we can set in the planning instruments some conformance standards for councils to reach for and utilise with our support, that will relieve us tremendously from continuously having to be very thorough in our assessments of applications for resource consent.

We wish to avoid having to duplicate what councils do. We believe that in our contributions to councils decision making with respect to recognising and providing for Māori relationships, culture and traditions with ancestral taonga including the water. There are some things council itself should be doing that we are picking up, we are hoping that they will do those things more for themselves which again will relieve us. We feel they are not performing well enough yet on meeting their obligations under

section 6(e), nor recognising fully the role they have to play as a heritage protection authority.

So in that second box we've suggested amendments to the proposed National Policy Statement. In the third box we start to get into our comments with regard to the objective. We offer you some working and some further explanation. The wording is to ensure that freshwater resources are sustainably managed, we're asking for the inclusion of the word "sustainably" into the objective and let the objective flow on to the remainder of the wording that is there. We've asserted our reasoning that it's important to ensure that freshwater resources are recognised as essential to survival of all life in the environment, not just human kind. It's a very important for us, if I take a strand of Jeremy's submission, to emphasise the need of avoiding co-modifying water as a resource. Co-modification of water as a resource would be a tremendous disadvantage to New Zealand as a whole but we have to accept that there has to be ways and means that one can use water as a resource and ways and means of considering the value of the use of that water. And so we are attempting to contribute our ideas to your thinking on that.

In the box below we have offered you some wording with regard to integrated management and best management guidelines but I'd like to move on to the second part of that on page 4 which is really to emphasise with you the assessment that we make. And it's at this time that I would like to offer you the examples of the assessments that we've made in the past of a variety of different types of activities which will I hope give you some ability to consider precisely how we have acted and precisely how we have contributed to the thinking of the consent authorities in the way that they make decision on applications for resource consent to abstract, in particular - and to use water for the generation of electricity.

So in the first part of this document - if I might point out you've got two that look very similar firstly we've got this document here which you'll see is the Tasman Mill Resource Consent Renewal and the new landfill project proposal. We're offering you this particular example to show you how we engage in the consenting process and how it is always a battle to say to the consent applicant, even those that are very well experienced in consenting, the reasons why they should recognise that they are calling us away from our tasks, to set aside our work to address a matter as important to them that will take us a great deal of time to produce an assessment to contribute to their assessment of environmental effects. To contribute to the council who is obliged to demonstrate that it is recognised and provided for our relationships. We fully accept that it is not the applicant's obligation to come and consult with us, there never has been that obligation on the applicant in the Resource Management Act. However we assert that it is the obligation on the consent authority to be able to demonstrate how they have recognised and provided for our values, our relationships, culture and traditions.

And so here is our way of contributing to their decision making and it's our way also of being thoroughly informed of the proposed activity and then able to focus in on the environmental effects and address them as an act of Kaitiakitanga. And as I described before, we all work as a team when we are contributing those assessments to the consent authority. The battle that we have at the beginning of that process is that the applicant more often than not walks in with a wad of paper with an expectation that we will either do a once over lightly job which is unsatisfactory from our perspective, or will dedicate from our work programme 10 to 40 hours of our time assessing and preparing an assessment that once in their hands will be used by them to give evidence to the consent authority that they have consulted and evidence also that they have received some advice from us as to how to mitigate the adverse effect that we have identified. We cannot sustain that, it is grossly unfair and is entirely unreasonable in

our view to have an expectation that we should do that when we are not receiving a vote from central government or the rate to contribute to our ability to do that and when we have to use our inheritance to pay for staff like me to prepare that material for the benefit of those people.

Inevitably also, our comments, as you'll see through that material, are embracing of values that are broadly of concern across our community and they aim to minimise adverse environmental effect. In effect then we are making yet a further contribution to our community again at our cost. So we need to tackle these issues because it's precisely the type of work we should be doing, but we cannot sustain doing that work at our cost and we need to have some form of prescription and National Policy Statements that provide some support and longevity inside of regional and district councils for their decision to routinely ask us for our opinion to contribute to their decision making so that they are relieved of the vulnerability of making decisions having a guess at what we might have said, had we been asked.

So essentially our submission points are all about those matters and they also are ways of manifesting the way we can contribute to decision making, feel satisfied and comfortable from our perspective that we are exercising our rights under Article 2 of the Treaty of Waitangi.

By exercising Kaitiakitanga in this form we are satisfied that we have done so as a gesture of our tirarangatiritanga (ph) and as a demonstration of our mana whenua.

[10.40 am]

There are a whole lot of other points there in the submission but that is the main one. All of our submission points and all the relief sought have been sized and burnished by this context that I have spoken to you about. That is the context in which we exist. It is a tremendous difficulty that we face each time we have a new applicant walk in. It's tremendous difficulty that

we face when we see a consent officer go, and they come and go frequently, we don't, we stay. Tremendous difficulty when we see a new crop of councillors come and go, because we have to go over this again and again and again. And it's very draining of our resource it doesn't foster our capacity to contribute to council decision making. It diminishes our capacity to do so.

We ask you to consider these matters to consider them right from the preamble and throughout all of the objectives and policies in the policy statement that you are preparing.

I'd like to turn now to page 9 of the submission because I feel that all of the matters that I've spoken with are dealt with and there are some prompts for you now in the first 8 pages of the submission. On page 9 I'll bring you to some points extracted from Ngāti Awa's further submission which is lodged this year on April the 14th. And I'd just like to emphasise also that this further submission was drafted largely on our examination of the regional council's submission. And there are some other examples of work that I'd like to speak with you about, the routines that we are now seeing coming through in terms of river and drainage management and in summary of consents that we receive from them. But firstly I'd like to go through these points because there are some significant actual natural resources that we'd like to speak to. You've heard Jeremy speak about the Braymar Springs (ph), in this first box on the right hand side we're speaking specifically about Te Kohe Kapa (ph) and you may know of Dr Jeffery Irwin's recent edited document called Te Kohe Kapa (ph) which is an archaeological swamp site out there on the Rangetaiki Planes (ph) and that demonstrates the significance of this swamp pine as a find.

We've made the point in our submissions that wetlands too can be repositories of very ancient carvings, they were, in pre-European times, the place that these items were deposited and covered over because of

the hydrology having a preservation value. So when wetlands are destroyed there's a potential for these things to just be destroyed, that's a loss to New Zealand when they're destroyed. So we're really very interested in seeing all wetlands preserved, we have so few left. But in particular where there are these values that are either known or unknown we feel there is a need to consider them in the gamut of management of freshwater. Wetlands we know in our region are a particularly significant and there are provisions for them, we've emphasised this with our regional council and they appear to be providing for it in policy. We're seeing it now being provided for in the implementation of their amendments. We would like the rest of New Zealand to know that there are other wetlands elsewhere and this is probably unlikely so we would say, please consider providing for a policy that recognises that these places can be the repositories of ancient material, they are critically vital to New Zealand's heritage, let alone the heritage of the folk who are the descendants of those that made these items. But also that there are provisions and Environment Bay of Plenty's (inaudible) that would be good to turn to, to consider where there might be other places that they could be put as well in other regional planning instruments.

In the second box below that we've agreed with Environment Bay of Plenty's recommendations that central government should develop policies and funding methods to support the capacity and capability of Tangata Whenua to participate in freshwater management. We support that strongly. We believe they are starting to hear what we've been saying and they're starting to see the difficulty that we face. I think they're starting to see the benefit that they receive when we have said, "Here is our recommended consent condition. Here is our recommended advice note." We had a go at some wording, if you have a go at wording similar affect and said in the decision we're going to be very happy. We'll have spent our time and energy up front and we've been relieved of having to go through with the litigious follow up which is going to tear time and

resource away from every participant. We would like for that to be the way we move forward in New Zealand.

We need to be fully engaged at every level and we've provided you with examples of how we've been doing that here in our little neck of the woods, we'd like to consider that as a potential for expansion given this policy statement will have a life span of some ten years. It's time now to move towards that, it's time now to embrace this capability of the Māori people and recognise it's a capacity issue that needs to be addressed and we're offering you some suggestions and even some examples of where this is working okay but we're always striving to see it improve until we're absolutely satisfied and comfortable with the integrated assessment procedures that we are now engaged with with the regional councils.

I'm now on page 10 and I think that what we've said there speaks for itself and it reiterates what Jeremy has said before and just behind that material you'll see our first submission and then our second submission which we've provided to you as a courtesy so that when you go to check whether we've strayed from our submission points it's all there handy for you in one document.

I'd like now to turn to the examples of material that we have provided to you and the first one I would like to turn to has got the words "Tasman Mill" and you might have a little slip of paper on the front of yours that says that these are examples of our work. I just want to turn firstly to the back because this was in 2005. I've put them chronologically in order from 2005 at the back where when you read those letters that we've written to the regional council which are also our submission you'll see there, outlined for you, the kinds of issues that we faced. And I think (inaudible) will offer you further information about the difficulties that we faced in 2005 in being able to even contribute our assessments to the consent authority. You'll see how we have referred to the information we

had at hand, the site visits and the conversations that we've had with the applicants, and the expressions of frustrations that we made there at there being very little understanding of a need for us to contribute, and also sadly having to counter an assessment that was made by a Principle Consent Officer who even after our settlement had been reached and just prior to the alteration of the legislation deemed the Whakatane River to not be culturally significant to any Iwi. So we've gone from there now and we've moved, so I'm here for myself too counting some movement and advancement to thinking inside of council which is very welcome. We think this maybe a good snapshot for you over a period of five years to see the progress that regional council can make and perhaps for you to consider with all of the other submissions you've heard the state of readiness that New Zealand has for some of the ideas that we share with this regional council.

[10.50 am]

So I apologise, you'll flick through - there's a few pages like that. I'm now moving to the next few pages and I'm at an application for dewatering of the hub site, which is the hub site across the river there that you'll go past when you go to the airport. I might tell you that that is an old saw mill which for 35 years discharged PCP and dioxin and other heavy metals into the (inaudible) Canal and the Oreni Canal (ph). That dioxin and PCP is still in the sediments in the bottom of the canals and extends at least 1.6 kilometres up the canal as well. There is a flood gate there across the river and it goes straight into the river and so forth we have statutory acknowledgements with the river and that whole system is in one of the most significant culturally significant landscapes that we could have identified for you. In this you'll see demonstrated before you our concern of dewatering of groundwater from the site in preparation for the site works, and you'll see what occurred there.

I'm flicking on now to the next example, which is an application for resource consent to abstract water from the Tarawera River for irrigation on pasture and I've shown you how we have dealt with that. Just a variety of different activities that we have assessed, and this is indicating very clearly that we want to be involved with these assessments and we feel that we add value to the assessment and the process of consenting that the regional council goes through.

The next example is an example of our comment with regard to the establishment of a green sawmill, Sequel Lumber establishing on the banks of the Tarawera River, and the outcome of that particular example was excellent. Excellent results for the capture of storm water, excellent results with regard to the bunding of the area in which the preservation of those woods was going to be occurring. That's a good example from our perspective of how we've been able to contribute to ensuring that the river has no further degradation by virtue of there being contaminated storm water going into it.

The next example is another abstraction consent, for Mr Robin Ray. The next example is yet another comment on our concerns for river works in a whitebaiting season and the adjustments to whitebait spawning areas in wetlands that are alongside rivers, being very vigilant in regard to that type of thing. And the latest example is the one - second to last latest example is the Tarawera Tasman Mill resource consents which we've given to you in their entirety, and the point in our giving you that one is to show you that in that document, like all of the other examples, we routinely reach for the regional rule, so we are routinely calling out to the regional policy to support our ability to convey an assessment and we routinely vet our work against a regional rule. When there's a matter of a point in particular with regard to an environmental issue that we are proposing a consent condition for, and we look to that to guide for the words that we might use to contribute to the recommending officer's consideration and so they're

forearmed. So in that last example that you'll see that we identify - I'd like to flick through it if you wouldn't mind.

Firstly, we'll provide an executive summary which tells exactly what the purpose of the assessment is. We'll give a description of what we understand the activity is about. We tell the consent authority and the applicant and any party receiving this, including the Historic Places Trust with whom we have a protocol in our legislation and with whom we enjoy a good relationship. We describe for everyone what our status is and whether or not there are affected parties like in this instance Putauaki Farm Trust of which Mr Waaka Vercoe is the chairman and others of us are beneficiaries and of which I am a Trustee. Then we provide maps that give a spatial indication of the localities that we have interests in. We also have built a GIS, a Geographic Information System, that includes all of the layers from the regional council, all of the layers from the district council, and we have invested ourselves in LINZ information. So therefore we have all of the New Zealand Archaeological Association data, we have our own Ngāti Awa Wahi Tapu sites GPS'd and identified on our GIS. We have recommended areas for protection. We have soil quality which is useful in our diligent checks for the properties that we wish to purchase. We can see where all the flood risk management infrastructure is in place, including the culverts which we are routinely commenting on to be retrofitted the for provision of fish passage where it's appropriate to do that. And we are able to show at a glance what we are speaking to the applicant, and very significantly that contributes to the consent authority's understanding of precisely what environmental effect are we honing in on and wishing to comment on.

Very effects-based in our commenting. I received a comment once from a graduate student from the South Island who looked at one of our submissions and said they are euro-centric. Indeed they are. They're very euro-centric in their look and in their way. We have korero tuturu

which we keep for ourselves and if we're inquired after that material, we convey it through this method. We prefer to have that korero tuturu enriching our children first and we provide sufficient information from that and can refer to that further information, but we provide sufficient information here by using our statutory acknowledgements which are a brief description of very longstanding and important relationships that we have. We itemise the consents that are sought, we demonstrate that consultation has occurred and we offered the minutes and also the notices that called those consultation hui to occur. And we tell in a table when, who was involved, and whether the notes are attached and we like to offer photographs too of evidence, because it reminds everybody that that was the one that they participated in that day. And then we also say whether or not we have in the course of development of our assessments, spoken with our neighbours, which we always do when it's necessary or appropriate. We identify our key issues, we box them, then we explain why they are an issue, we recommend our consent condition and we move on to the next issue. That helps us tremendously when we are making our statements of evidence in a hearing and it helps us also to remain consistent with other similar types of activities that we have assessed, because we have our routine protocols that we recommend for a position such as the unearthing of koriri or other taonga accidentally and we give a methodology there for Historic Places Trust for the consent applicant, the site manager and for our own selves to be there on time to assist in the recording and the recovery and the return of artefacts. So we've built up a system of being able to provide for that. And again, for the ease of the hearing committee usually provide them appendices of statutory acknowledgements, the instruments in our legislation and better maps at the back usually, photographs and so forth.

[11.00 am]

Now, in the Tasman Mill resource consents as you'll see in the - I've given you one copy only so far, I beg your pardon, I didn't have time to make further copies but we will ask for them to be made. This is our latest cultural impact assessment for the Matahina hydroelectric power scheme and in it you'll see a very similar thing occurring. But in here, like in the other one, we've identified the regional policy that we are referring to that we wish to emphasise and which we would call out if there were no recognition or provision for the submission points that we had offered. If we were dissatisfied with the decision and on our view of the decision felt that there was no recognition provision, then we have a course of action we could follow and we would use these as the means by which we would present them to the Environment Court. But just in regard to these provisions, we've had very useful circumstances in our iwi in Ngāti Awa in that myself and Mr Waaka Vercoe - Mr Vercoe was formerly the manager of Māori policy at the regional council for a number of years. I was, as I said before, a resource planner in the strategic policy area. So we have brought with us a raft of expertise because it was our hands that were writing these policies. We're very thoroughly familiar with them and their genesis. We were involved with the consultations and we were the ones who were responsible for preparing these tools. So we've now come back to our Iwi and we want to wield them in our hands. So we will wield them and this is how we wield them.

So we offer you these submissions for your consideration and I'll stop there and be available for any questions.

CHAIR: Well, thank you very much, I think that you deserve a break and with that we should take one now, and then after we've had a break we'll perhaps have some exchange after that.

ADJOURNED [11.04 am]

RESUMED [11.28 am]

Audio file: dpm 0154

CHAIR: Thank you. Now was there anything that either of you would, was going to add before we come to an exchange of questions and answers.

MS HUGHES: There was one thing I think I didn't speak with you about. and it was another activity which is routine now and on a routine basis, on a weekly basis, we receive from the Regional Council's drainage and river managers a summary of their works and I'll pass this over to you. I have just the one page, and I'd like to share with you what we do with that. We look at our GIS database when that summary arrives. Right now we have a physical means of checking, as you'll see on the summary there it refers to a length of the river. We use these maps to look at the length of the river, we can then go to our own GIS and check whether there are sites of significance or values relative to those areas, and we are able to contribute an assessment to the river managers.

[11.30 am]

If they are working in an area where we have some concerns, we are able to meet with them in good time on the riverbank and sorry, this would be okay but that is, we'd like you to avoid that. In doing so we are able to work in a collegial fashion with the consent authority, so they can go about their routine business under their bylaw, and we are making a contribution to their works as well which relieves the pressure that they can sometimes feel from members of our community in that locality. Take some comfort from our having gone through a process.

On the western side of our region we call out to the Rangitaiki Hapū. Coalition which (inaudible) is deputy chair, and we do our assessment together on those and we could do them very quickly, mainly because we have our geographic information system that allows us to do desktop assessments, and by virtue of our connection with the Rangitaiki Hapū. Coalition who are thoroughly familiar with Rangitaiki and Tarawera rivers, we are able to get some feed in from them as well as to the willows being pulled out, rockery abatement being placed, so forth and the management of the waterway itself, so we see that as being a contributing factor to the ongoing management of freshwater, given in the cycle of things, and now in contemporary times the need to keep rivers in their course, that this is one way of our contributing into those routine activities of Regional Council as well.

I only raised that point again to demonstrate our desire to have simple and streamlined methods of engaging in the process. We see the Regional Councils consent, rivers and drainage managers are routinely inviting us to comment on the proposed works that they will undertake, and routinely thanking us for our contributions to their thinking. At times, we say nothing and that means we simply do not reply to the email, and we have an understanding that therefore we feel no need to comment. It's very quick and it's very easy. We really would like to have very quick and very easy methods of integrating our assessments of those of the Regional and District Councils, so I guess I'm emphasising the point there that anything that comes out of the National Policy Statement which we hope will be more prescriptive in terms of the types of assessments we contribute, will not be onerous on Iwi and Hapu to an extent that there has to be a significant investment in their ability to be able to enter into those regimes.

That's all, thank you.

CHAIR: Thank you. Now I will see if my colleagues have questions that they'd like to raise with you. We'll start with Mr Prime.

MR PRIME: Thank you Sir. Thank you for your submission. A number of the methods that you'd raised are sort of regional for your area, and so essentially what you're asking is for recognition of the NPS to recognise the Tangata Whenua values for the different areas I guess. Is that essentially what you're asking? This is generic sorry. I'm not being -

MS HUGHES: It's, yes certainly I think that while we have commented on our regional context, we see that there are the issues that we face are common for many Māori throughout New Zealand, and so the instruments that we're looking for are things that can be wielded easily in Tangata Whenua's hands. I wouldn't discount the fact that throughout New Zealand Māori people from Iwi and Hapu will have contributed to Regional and District planning instruments, and if they have, then it's now time to support their capacity to wield them in their hand, and in doing so most efficiently, we see there's an opportunity to compel integrated practices in particular with regard to assessment, and that's the intersection where we all come together. The, any person in New Zealand can apply to do anything, anything at all. Their test comes when the activity they're proposing to undertake is assessed by the consent authority that regulates the way in which the natural and physical resources are managed. So while we're commented on our context, we speak to these issues that affect all the people in New Zealand and we think that some of the tools in the Regional plan here, should be of interest to a National Policy Statement on freshwater management Board of Inquiry, because they may show an opportunity for further advancement that the National Policy Statement can compel.

MR GARDINER: I think the National Policy Statement must provide a framework for the recognition of the values, interests and association of Tangata Whenua, but it has to go a step further than that. It has to give quite clear guidelines, framework, provide a framework for how that is translated through into Regional plans and then District policies, because that's the break at the moment. The Resource Management Act and Local Government Act provide indicators for consent authorities and others about how, about the interests and association of Tangata Whenua, it doesn't really give any guidelines. So you've got a lack of uniformity, a lack of consistency across not just regions, but even between districts, and that's the damage the effectiveness of any Policy Statement towards water.

MR PRIME: Now Ms Hughes in your submission you talk about water as a taonga, now I've got something to suggest that, that should be an almost main statement for the NPS. Do you want to comment on that?

MR GARDINER: Well I think so, I think that if a taonga is something that you hold as a treasure or hold of any importance, which clearly water is to anybody, but when you layer on, and when you layer on the spiritual and cultural associations to water, then you know that provides, you start to provide a very clear guideline about the interests and association of water, so I think you know a statement along the lines of water as a taonga, you know again, that will only be effective if the rest of the Policy Statement gives weight to what that actually means in translation into policy and of course into plans.

MR PRIME: Now Ms Hughes in your submission you talked about the wahi tapu sites, I'm just on your GIS (inaudible) I was just interested to know are those available only for Ngati Awa?

MS HUGHES: No, the wahi tapu sites of Ngati Awa have been shared with the Whakatane District Council and Environment Bay of Plenty, so they feature on their cultural alert layers, when they turn on their GIS databases as well.

Often that triggers consultation with Ngati Awa, or we seeing more and more often now from Regional Council in particular, encouragement to an applicant to consult with us, because of a trigger that's come up on the screen.

MR PRIME: Just one other question for either of you, and I've asked a number of other submitters, do you see a distinction between the terminology used by Tangata Whenua and Iwi and Hapu?

MR GARDINER: No, I think I see a distinction between those terms and Māori. What we're talking about is historical cultural association to water, which come through your association to an area through whakapapa, through historical link, so as opposed to a more general article 3 association of Māori interest in water. So I think probably Hapu, Iwi, Tangata Whenua are reasonably interchangeable because they describe the article 2 relationship with water. Māori in a more general sense describes that citizenship interest that everybody has in water. So I think those certainly when I'm using it that's the distinction I make, that the cultural spiritual association of water comes through that being a Tangata Whenua, a person on the land which is distinct, unique from the interest that I have as a citizen in water. And the two things aren't necessarily in conflict, but they are quite distinct concepts.

[11.40 am]

MS HUGHES: If I might answer also in the context of the guidelines attached to the Regional Policy Statement change number one, which was the introduction of heritage criteria, heritage criteria guideline includes Māori heritage criteria, and in the guideline it says that when Māori, the policy in the Regional Policy Statement is that only Māori can identify their relationships and their culture and traditions with their ancestral lands, waters, et cetera, similar to section 6(e), and in the guideline it says that many Māori might comment, those receiving those comments need to know who these Māori are, so if there are for example submissions from an Iwi authority that has been through a process of domestic consultation with Hapu, whanau, uri, Māori Land Trusts and neighbour Iwi, and it's contained within their assessment and submitted to the consent hearing committee, then they are armed with information about who has made this assessment. The heritage criteria guideline says that any Māori can comment about their relationship with the area of proposed change or development, but the quality of the comment and the comment, the representation of the comment if it's mandated needs to be very clearly laid out for those receiving those comments. So there's a graduation in the quality of the comment that's coming over that really needs to inform the decision maker, so the Tangata Whenua have been identified in the guideline as the critical commenter, because it is they who have the relationship with the area proposed for the change and development.

We try to use the domestic process here that will envelope all of those commenter's, so that even when something like our assessments go forward, any individual from our Iwi can make their own individual submission, but they cannot do so in our name. Unless they can show that they've been through the same process as we have domestically, they can only speak for their own interests, and this is what we would like to see clarified in the process, and we feel that that is a very good direction in which Māori in New Zealand can move.

MR PRIME: Thank you very much. Thank you sir.

CHAIR: Can I just ask another question arising from that, before I invite another colleague to ask a question. Because there are some parts where there is division amongst the Hapu, and there are people who others say are arrogating to themselves an authority which they do not possess to speak on behalf of whoever and I won't identify the examples. From the point of view of a Regional Council or an Environment Court or other decision makers like that, isn't that sort of thing to be left for Māori then to sort amongst themselves?

MS HUGHES: Yes. If I may -

CHAIR: It would be intolerable really wouldn't it?

MS HUGHES: Yes.

CHAIR: For some irrelevant body to be making the decision about who can speak?

MS HUGHES: Indeed and this is another strand of importance of the domestic and inter-tribal discussions that we have before we prepare our assessments in fact earlier this year we were challenged. We had made an assessment, together with other Iwi on the Matata Recovery Works and the Environment Court heard a reference that was made by a small group, that was an incorporated society, and we went through the process of delivering firstly our respective assessments to the hearing committee, and the question was asked of us, which one should we believe and we said, we emphasised firstly that the role of the hearing committee was not to determine who is the Tangata Whenua, their role was to examine the

assessments that have been put forward, and to consider which of those contributed to mitigating or minimising the adverse environmental affect. We had prepared our cultural assessment in that way and tribally. Others had prepared more or less a claim to the Waitangi Tribunal. It went forward on to the Environment Court, and there was a very disappointing and regrettable set of circumstances there for people in that Ngati Awa, Ngati Tuwharetoa Bay of Plenty, and the mandated representatives of Ngati Rangitikei went to the Court in support of the decisions that had been made by the Regional and District Council jointly, because the recommended consent conditions we had offered, which in fact had been taken up by all of the applicants, and offered as mitigation measures to be imposed as consent conditions, were imposed by the councils and those decisions were challenged on the basis of matters that were more relevant to a Waitangi Tribunal case. We went to the Environment Court, and there were assertions that Ngati Awa, Tuwharetoa Bay of Plenty and the Ngati Rangitikei mandated representatives ought not to be commenting on that area, and we made our assertions nevertheless. The Judge, Judge Smith, made his decision and he reiterated exactly what you have said, that the matter of mandate for one particular group who was dissatisfied with an internal domestic issue, had taken their issue to the Environment Court and it ought to have been sorted out by that particular Iwi, and never brought to the Court. We agree with that.

MR GARDINER: I think also you know I guess in summary, Local and Regional authority are required to make those decisions for any group of it's rate payers on a regular occasion, so what it has to be and not to put myself in their shoes, but what they should be doing is satisfying themselves of who the group is and who they represent, and the processes that have been taken to get to the point and at the end, the decision on consents is theirs anyway, so it's a matter of weighing that evidence as much as they weigh any evidence. So I think you know the processes are there, the problem

in the past has been that Councils have sort of deferred from making those decisions, put them in the too hard basket, and said well there's not enough direction from the national level or the Act or the statutory level for us to be able to make an assessment of that, rather than saying, well we have to balance the interest of Carter Holt Harvey and (inaudible) Tasman, how do they do that? It's similar to balancing the interests of Ngati Awa and anybody else. It's just a process.

CHAIR: Thank you. Thank you both. Mrs Vernon?

MS VERNON: Thank you. Thank you for an excellent submission and very clear on what you're doing, where you're heading. I'm interested, you spoke a lot about working with the Regional Council, but I just wonder how your processes work with the District Council, because you would have three District Councils or four District Councils in your -

MS HUGHES: Three at the moment. The fourth is a little bit distant from us, and we've just kept touching base with them from time to time.

MS VERNON: Right. So do you work the same process with the District Council as well, because I mean a lot of the issues are with water, are about land use as opposed to what Regional Councils are doing.

MR GARDINER: Same processes.

MS VERNON: And following on from that, what sort of success are you having with all this work that you are doing?

MS HUGHES: We've been measuring our success. We've been looking at the number of consent submission points that we lodge when we respond, and we've been ticking off whether we've won them or seen them being

made manifest and the imposition of consent conditions, and we're tracking very, very well. We're now seeing routinely earthworks consents. Our - the imposition of protocol for the accidental discovery of sites that are unrecorded and unknown, and that's happening now more often than not. So I believe we're having a great deal of success in the routine processing of consents. Now we're aiming at having greater success in the installation of planning instruments in District and Regional plans.

MR GARDINER: I think that's right. I mean we're having good success from consent to consent, but the workload and effort to get success for consent to consent, could be better spent working with the councils at a plan and policy level, to have those things done as a matter of course, and then we only interact that on matters of exception, which means we can spend our, as I said earlier, we can spend our resources doing things that we actually want to do.

MS HUGHES: Yes.

[11.50 am]

MS VERNON: Under Objective 8, we've had quite a few submissions suggesting that the words Iwi and Hapu should be deleted and we just stick to Tangata Whenua, and the reasons given of course is that you know some areas just had far too many Iwi and Hapu and I mean you're getting the reverse of costs from the other side. That's where most of these submissions have come from, and I'm just interested because I looked at your rewording and you've left Iwi and Hapu and actually taken out Tangata Whenua. So you know, that's fine, but I'm just interested in the bigger regions where there are a lot of Iwi and Hapu, is it achievable what in your opinion, what you're asking for can happen, and should it

perhaps still be left at Iwi and Hapu and Tangata Whenua so it gives a bit of flexibility for say some of the bigger regions or bigger councils?

MR GARDINER: I think it's really the wording that was, if you take the summary objective, it says to ensure that Iwi, Hapu are involved and Tangata Whenua values and interests are identified and reflected, which gives an impression of those two things being separate, which in fact you know you can't be Iwi, Hapu unless you are Tangata Whenua somewhere. So I suppose it's just a regional wrinkle, but that will come down to the clarification of what terms are meant by those and if they use, if they would be used interchangeably or do they mean something slightly different in the certain situations.

MS VERNON: Also in your rewording on page 6, you talk about, and I notice you've taken the words "identified and reflected" out and we've had quite a few suggestions that if we're going to use any word that it would be better to stick with what's in the Act which is "recognised and provided for" because these are two new words that have not been identified, not been defined or anything, but you've actually rewritten it entirely differently and I'm just interested on page 6, you use the words "values and interests are evident in decision making in the management of freshwater". I just wonder what is at the back of your mind that would be evidence, that in fact that has happened.

MS HUGHES: That Iwi and Hapu are involved and their rights, roles, relationships, values and interests are evident in decision making in the management of freshwater resources including the matters specified in Objectives 1 to 7. It is that there is provision of written material. That in that written material the expressions of Tangata Whenua, and the reasoning behind the assertions they are making are laid out for those who are making decisions.

MS VERNON: So it would be more along the lines of what you've got on page 4 which actually, you've highlighted "including the assessment of the Tangata Whenua and by including the -

MS HUGHES: Yes indeed. I'm meaning that those assessment service evidence, and if they're well made and they show the decision maker how they were made, and who was involved in their making, then the determinations of the Court are informed by those best capable of giving opinion to the Court or to the hearing committee. Therefore the mention of the (inaudible) critical, our cultural experts being critical in their contribution, is a significant one in that context and it contributes significantly to that, but if I might take another point too, we are very privileged in Ngati Awa that we have enjoyed for many years the strong unification amongst our Hapu, and we are privileged also in later years to consider ourselves to be a confederation of Hapu, that is working in as an Iwi and having an Iwi authority that is committed to that unification. So we do understand that that's not the circumstances of many other Iwi in New Zealand, but we feel it's time now to take those philosophies and to give them some meaning by practice.

MS VERNON: I understand that, Just going back to Objective 2, I noticed, I just wonder I can't imagine that you'd have any difficulty in fact if it said, "integrated catchment management" rather than just "management"?

MS HUGHES: Yes, that would be terrific.

MS VERNON: All right, and again in Objective 3, we've had a lot of submissions along the lines of how do you define what is swimmable and the word "exceed", a swimmable standard. We've had suggestions that it should be drinking water standards, or at least food gathering standards and I

suspect that Ngati Awa wouldn't mind if the bar was slightly higher than just swimmable.

MS HUGHES: Yes.

MS VERNON: Because for some people swimmable, well there's different standards of what people are prepared to swim in rivers to.

MS HUGHES: Swim in. Yes.

MS VERNON: And it's not defined.

MS HUGHES: No it's not defined. We were a bit confused as to what that swimmable was intended to mean, but yes we would go for the higher threshold, but we do appreciate how difficult it is in some waterways to achieve a drinking water standard.

MS VERNON: Thank you.

MR GARDINER: I think yes, just picking up on that too, because I guess the other thing is if you think about the life cycle of water and we don't want all of our waterways to be pristine and clear, because for example let's take from a Māori perspective, you get the dyes and the materials for traditional dying from paru, from dirty, from stagnant water areas, and if you cleaned up all your water areas, you'd lose some of those, so there is a recognition that water, the whole life cycle of the water is important, not just getting to drinking water, but through it's various stages, because it all has it's use. If there's too much of one sort, and not enough of another, then that cycle breaks down.

MS VERNON: Thank you Sir, and thank you very much.

CHAIR: Dr Harding?

DR HARDING: Thank you Sir. I'd actually like to just continue on that sort of water quality issue for a little while. We have had some submitters who have talked about what they call naturally degraded, and so systems where naturally there might be high mineral content or acidic waters or that sort of thing, and that's sort of what you're talking about a little bit, when you're talking about using some waters that have tannins in them and that sort of thing.

MR GARDINER: I think there's recognition that there are, I guess, what we're concerned about if it was manmade stagnant water, is different from places where water naturally sits and stagnates. Like a wetland or that sort of thing.

DR HARDING: So I guess, some people have suggested the intent of this at the present moment might be to, as a statement, to improve water quality where man, where human impacts have occurred and that sort of thing and that's really what you're in favour of?

MS HUGHES: Yes. If I might add an example in the Tarawera River, for example there was some assertion some years ago, that because of the naturally occurring geothermal waters contributing to the river, and therefore being laden with arsenic for example, that it was okay to discharge volumes of that water heavily laden with silica and arsenic into the water, because it was already naturally occurring in the water body. That, in our view, is inappropriate. And the discharge from an industrial practise, that needs to be regulated. So the cumulative effect of that added to the natural discharge, it doesn't give you an excuse to contribute more from an industrial waste discharge. It just means you have to take

care to know the differentiation between those absolutes already occurring in the water, and the further contribution that being proposed to be made through a discharge from an industrial use. It's quite difficult your job isn't it, it means balancing of things like this. But yes, this naturally occurring water where it is pooled and things like this, particularly where it's not running into another body of water that has a different standard of quality. Usually these examples that Jeremy speaks here - pools contain.

[12.00 pm]

DR HARDING: Currently at the present moment under this draft statement it defines freshwater resources as not including ephemeral or temporary streams, and not including artificial water courses. Do you have a view on whether things like temporary or ephemeral streams should be included as water resources?

MS HUGHES: Well if we can pick up the point that you made about land use for example. If you have an ephemeral water course and you have a shearing shed in the way of it, with a lot of detritus under it, and the storm water passes through and contributes to a next door stream, then you may want to consider some form of provision for that. But that could be pointed to in a land use regulation. Another example might be that - you talked about ephemeral temporary water, and what was the third sorry?

DR HARDING: Artificial.

MS HUGHES: Artificial. Some artificial water courses are actually following the route of a natural water course. It's been converted from a natural into an artificial one. We've got numerous examples in our area here. So there's really some mechanism that needs to be available for regional councils in particular, given they now have biodiversity responsibility to add to their

catchment management responsibilities. And I believe that the policy statement could consider in that particular policy, some consideration provision for when an artificial water course has been borne out of a natural water course. If they are constructed mechanically, or in a manmade construction there may be a different set of regulations to be inspired by that, but if they had been a natural water course that has just been made into a drain then there may need to be some consideration of that, depending on the locality and the catchment I would imagine.

MR GARDINER: I guess when you look at the Rangitaiki Plains for example which contains a lot of drainage systems, and they all run into the canals and then in to the rivers. If you're not managing the point source of the problem in the river then you might have great policies and plans for the freshwater management of the river, but all of the manmade water courses that flow into that river are hindering your development, so I think that would have to be included, if they had an effect on a body of water, which was covered by the National Policy Statement.

DR HARDING: Do you have examples of sites that have cultural significance to you but are now ephemeral, or temporary? Maybe they used to be permanent systems?

MS HUGHES: We have got -

MR GARDINER: Rangitaiki Plains -

MS HUGHES: Yes

MR GARDINER: An 80,000 acre swamp at one stage, but - yes.

MS HUGHES: And that we have rivers that have been realigned and straightened. All our rivers have been realigned and straightened, Whakatane River, Rangitaiki River, and the Tarawera River. And the water ways connecting them that were our traditional routes to traverse to get to our rohe have all been turned into canals and unfortunately as mentioned before the Kopeopeo and Orini canals are very heavily contaminated. If I may take it a little bit further too, because this may be of interest, there is one metre of sediment in the bottom of the Kopeopeo and Orini Canal that is heavily contaminated with PCP. The regional council struggle to manage these canals in the capacity to take storm water out of a catchment that has a water table that's only one metre below the surface of the land. So the very heavily saturated catchment, they're desperate to remove that contaminated material because it allows a greater capacity for the canals to take water out but they're stumped by the fact that this material is very heavily polluted. We're working on bio-remediation methods with them, and working in a very collegial fashion with them on resolving this issue. But what follows that is without the removal of that material from these canals growth in that area has to be minimised, because the storm water flow that would come from a permeable layers being erected, rather than now a pasture and pitter-patter of raindrops onto open pasture and therefore absorbed into the soil, would create an even greater volume of water to discharge out of the canal. So there are issues inside of the water body itself. The bottom of it needing to be remediated to resolve an issue that will have an exponential benefit for all people around, including importantly the removal of contaminants and the provision for greater quality of storm water going into the river and being able to see. So these are other issues that we have been tackling and I think it would be important to mention to you too, because there are likely to be others like those around the country.

DR HARDING: Well thank you very much for that and thank you very much for your submission.

CHAIR: I'd like to come back to a couple of points. Just on the last one, what was the source of the PCP's in those canals?

MS HUGHES: It was New Zealand Forest Products sawmill at Whakatane Board Mill.

CHAIR: Okay thank you. Now coming back to the important word "evident", and this is Objective 8, and you're asking that it be amended, "to ensure that Iwi and Hapu are involved, as their right roles, relationship values, and interests are evident in decision making." And I had read that as intending something a little bit different from what you gave in answer to my colleague. So I want to try this to see whether this is an additional way it could happen, or if I've got it wrong. But I supposed that you could say that Tangata Whenua values are evident in a decision, either because the decision is different from what it would otherwise had been if they hadn't been taken into account, or because the reasoning that comes with the decision identifies the Tangata Whenua values that were raised, and however it deals with them, at least it's touched on in the reasons, so that you could say the values are evident if they are apparent from the decision from some express words in it, or from what the decision itself is. In other words, if it might be - consent is refused, if that's what the values led to. Now have I got it wrong, or is that part of what you were intending?

MS HUGHES: Yes, I think you've taken it to the next phase of the process. Our role would be to provide evidence of our contribution and that contribution is our assessment, and it is the recommended consent conditions, and advice notes that we offer to the Recommending Officer. When we see or recognise what has gone forward to the Hearing Committee, and in turn

we see what has come out in their decision that has been influenced by the submissions that we have made, and we recognise them, then there is evidence in the decision making that what we have contributed has been recognised and provided for in the decision. The decision can be on a continuum from - we will take that recommended consent condition and we'll use words to similar effect, considering all of the weighted arguments and provisions that we have, to bring to a decision about this activity and we will install a provision in our consent condition. Or at the other end of the continuum, if it's recommended to avoid the activity altogether then we might see that the activity might be refused, or that there are compelling conditions that for ongoing monitoring that absolutely reduce the issue that needs to be mitigated.

[12.10 pm]

So, essentially our assessments offer the opportunity for that evidence to be given from weight and to have an effect on the final decision efficiently from our perspective that we recognise in the decision that our contribution has been provided for.

CHAIR: It won't always be provided for will it? I mean sometimes it might not be provided for.

MS HUGHES: That's true.

CHAIR: So long as it's deliberate and apparent that it's been considered, it might be that it was felt in the circumstances of the particular case, by the decision maker, that it didn't deserve to be influential for whatever reasons.

MS HUGHES: Yes

MR GARDINER: I think, as Beverley said, that's probably the end result. I think picking up on Environment Bay of Plenty's submission for example, that the councils are also looking to the National Policy Statement for some framework, some guidance to what would be considered, "Taking into account, or providing for the interests of Tangata Whenua." I think perhaps that that's where some additional thought is required in the policy statement. Because at the end result -

CHAIR: Well that's going to be impossible I think, because with the huge variety of circumstances of applications. Your illustrations show that, and throughout the country the variety is enormous. I don't think it's possible for the National Policy Statement to say how Tangata Whenua values are going to be influencing decisions. I prefer what you're asking for as being well tailored for a National Policy Statement.

MR GARDINER: This is just a comment, that councils have right from the Resource Management Act and Local Government Act said, "Well we can't do anything, because we don't really know what to do."

CHAIR: Yes. You and I know well that that's just an excuse for not getting on with it.

MR GARDINER: So the clarity that the National Policy Statement can bring to this is, if what you're talking about Sir is clarity in decision making, there will be consideration given to that evidence, then that should be enough for the councils to proceed on.

MS HUGHES: Sir, it provides us with an opportunity to assess. Then gives us a paper trail to look back to, and it also gives us the opportunity to receive the decisions, which we don't receive, we have to formally request the

decision. And once we see the decision we can then see whether or not we are satisfied and comfortable with what the decision has meant and if we are not we have a course of action we can pursue.

CHAIR: There are a variety of (inaudible).

MS HUGHES: Well it's critical, yes, indeed. And the course - it's up to us to consider the level of satisfaction of comfort we take from the decision that's been made. How will we know whether or not there's been satisfactory consideration of our input unless we receive a copy of the decision? Just being able to make the assessment and not being required to cover the costs of that assessment ourselves is what's really critical for us, because the rest of the process should flow.

CHAIR: Well, thank you. You know that the policy statement is a policy statement. It doesn't contain rules, it doesn't compel anybody to do anything other than to take notice of it. So with all of your eloquence about the issue you've just reminded us of we'll need to consider whether that is a matter that can be included in the National Policy Statement, or not. But the point that you're making concerning Objective 8 doesn't have that same question about it. And to me it's a very clear and simple request and one that's attractive as presented by yourselves. So thank you very much for what's been an excellent presentation. The last of our series.

We've been very grateful to all who've made submissions, but yours are of the standard that we would have liked all them to have been. So our task now is to deliberate amongst ourselves over the next few weeks, and perhaps months and then make a report to the Minister about what amendments should be made to the contents of the proposed NPS, and what the Minister does with it is for him to decide and we may or may not

hear - we may be like you. So thank you for your hospitality here and we'll get on with our task.

MS HUGHES: Thank you very much. Thank you for accommodating us by coming to Whakatane. Thanks very much indeed for your efforts.

MR GARDINER: May I ask (inaudible) closing, we'll send you on your way with blessings.

CHAIR: Thank you very much.

MR VERCOE: Kia ora Your Honour, and your fellow colleagues. (Inaudible) was very proud of (inaudible) and I wish you all very well in your deliberations.

I just want to make one point if I may although the hearing is over I think.

We are very fortunate in the Bay of Plenty, while Bev and I work for the regional council we managed to talk our very heartland council into establishing three Māori seats on our regional council. It's come to the fore recently with the intense debate in Auckland over the same issue. And the points have been made that it's possible for Māori to stand for a general seat. The point is considered, but the difficulty is those members, if they ever show any bias towards Māori figures, they're out the next election. Whereas for the Bay of Plenty our three members, they can say what they like pro-Māori because there's only Māori (inaudible) and that is actually quite an important difference. So I just want to leave that point with you about the Bay of Plenty, the three members that we have. They are there to express their Māori viewpoint and of course (inaudible) to use them for that purpose and I make that point just by the way.

To be read in conjunction with
the tabled evidence/statement

We greet very formally and wish you well in your endeavours. We also especially mention our fellow Mataatua sitting in your midst.

I invite you all to join me in a brief prayer.

ADJOURNED [12.16 pm]