

To be read in conjunction with  
the tabled evidence/statement



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

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**TUESDAY 14 JULY 2009**

**HELD AT THE FULLWOOD ROOM, LEVEL 3, DUNEDIN CENTRE,  
1 HARROP STREET, DUNEDIN**

**HEARING RESUMED [9.33am]**

**APPEARANCES**

Ms J Appleyard, Ms R Moss and Ms S Dawson, Meridian Energy  
Mr B Curry, Rangitata Diversion Race Management

Audio file: dpm0102

**CHAIR:** Good morning ladies and gentlemen. It's good of you to come this morning. As you know we are continuing the hearing of submissions on the Proposed NPS. Perhaps I should introduce to you the members of the Board. On my right is Jenni Vernon from Waheraro (ph) in the Waikato. On Mrs Vernon's right is Kevin Pride of Ngati Hine, from the far north of Auckland. On my left is Dr Harding from the University of Canterbury. And as I suspect you know I'm the Chairperson. Now, Ms Appleyard, are you going to -

**MS APPLEYARD:** Yes Sir. I have some legal submissions to present and I have with me Ms Dawson, who's provided some evidence in chief and some rebuttal evidence and Ms Moss who has provided some evidence in chief. What we are proposing to do is I'm going to hand my submissions out. They are longer than the 20 minutes allotted so I'm just going to speak to them. I'm not going to take you through all of them and Ms Dawson and Ms Moss have some speaking notes just to speak to their evidence as well on the assumption that you've actually read their evidence in advance. So if you're happy with that, that's what we propose to do.

**CHAIR:** Yes.

**MS APPLEYARD:** I should also introduce Mr Turner, Richard Turner, from Meridian. He's not giving evidence but he's overseeing this process and we also have Mr Hamish Cuthbert who's in-house counsel at Meridian in the audience. So we've got lots of experience. I'll hand out some legal submissions. I'm conscious of not burdening you with lots of cases, so I have got some case books. I thought maybe I might just provide you with one or two.

**CHAIR:** I was hoping you might have brought one anyway. Thank you.

**MS APLEYARD:** All right. I'm hoping that most of those cases will be very familiar to you. They are largely the Canterbury water wars and I think I've been counsel in just about all of them, so I'm not referring to them at length, but they're really the example of what happens when things go wrong. Now I won't read these in full, but I'll just take you to the portions of the submissions that I'm referring to as I go. Are you happy for me to stand or would you prefer that I sit?

**CHAIR:** Which ever is comfortable for you.

**MS APLEYARD:** Well I might sit then.

**CHAIR:** If you'd like to be seated, it's okay to be seated.

**MS APLEYARD:** Thank you Sir. Paragraphs 1 and 2 just introduce Meridian. Paragraph 3, given its experience in the issues associated with freshwater management, Meridian believes that there is a strong resource management need for central Government direction through a suitable NPS regarding the management, use and allocation of New Zealand's freshwater resources. However, Meridian considers that the Proposed NPS is sufficient in its drafting in a number of fundamental respects and at paragraph 5 I've just summarised effectively what Meridian considers they are.

First of all, Meridian considers that the Proposed NPS lacks a clear or useful purpose as it does not identify the existing issues to be addressed or their vision to be realised by implementation of the Proposed NPS.

Secondly, Meridian considers that the NPS does not recognise the fundamental interconnection between in-stream values and out-of-stream use values in planning for an integrated freshwater management and allocation framework. Meridian considers it fails to address the issue of water allocation competition for the resource which is a fundamental aspect of freshwater management. Meridian considers it is necessary for the Proposed NPS to give direction to local authorities as to the setting of water allocation preferences to ensure a comprehensive Freshwater Management NPS is achieved.

Meridian considers the NPS demonstrates a lack of suitable recognition of the value of existing infrastructure investment which is associated with activities using allocated water. That is does not suitably recognise that freshwater resources continue to be able to be appropriately used for renewable electricity generation purposes. And lastly, that it seeks to introduce new and complex technology which isn't used in the RMA which is uncertain, vague and difficult to understand. And we consider that there is terminology in the Act that can be used.

Paragraph 8 of my submissions. Despite the above, Meridian does consider that the Proposed NPS can be amended to be effected through the course of this process. This includes a significant body of proposed amendments to the Proposed NPS and ideally, and this is just a suggestion on Meridian's part that the possibility that submitters get the opportunity to comment on a draft report from the Board prior to a report back to the Minister.

Now paragraphs 10 through 14, I have just dealt with the statutory framework for the inquiry. I don't think it will be necessary for me to take you through that. It's just there for completeness, but I will just refer you to my paragraph 15 which is just to note that the RMA does give significant

discretion and prerogative to the Minister as to what is finally determined to be the form of the RPS and that's through a number of ways and I've set those out at the bullet points in 15 and in particular 15.1, there are a large number of matters that you as the Board can take into account in your inquiry. Section 15.2 does not constrain what the Board must report and recommend within the terms of its reference. Section 45 leaves significant discretion as to what is identified to be of national significance and relevance and similarly the Minister has a broad discretion in considering the report and recommendations and making its recommendation.

In essence, I've said at paragraph 17, Meridian submits that NPS are intended to enable the Minister to give policy, leadership and direction to RMA decision makers, which includes the Court, on issues the Minister determines to be of national significance. In this way, NPS enables decision making on national significance issues to be strategic. As such this inquiry is a means of assisting the Minister to make that policy decision properly informed of all issues relevant to what the NPS identifies as the national significance matters, the nature and contents of the objectives and policies of the NPS and the nature form and content of directions that objectives, policies and related other provisions of the NPS should give to local authorities.

It is Meridian's case that an effective NPS on the use, management and allocation of New Zealand's freshwater resources will assist in furthering the RMA section 5 purpose and for that reason Meridian has proposed amendments to the Proposed NPS.

Over at paragraph 23, I draw, or make some comments about the relationship between this NPS and other policy instruments and in particular at paragraph 25 I refer to the now operative NPS on

Electricity Transmission and also at 25.2, the Proposed NPS for Renewable Electricity Generation. Obviously the first one is operative, the second is currently before its own Board of Inquiry.

The concern that's being expressed in these paragraphs here is the need for integration between this process and those other processes and I've said in paragraph 25.2 that while the final form of the Renewables NPS can't be predicted at this time, it is clear that there is a need to recognise and enable renewable electricity generation given the role that such generation has and will have in meeting New Zealand's energy requirements.

[9.43am]

In paragraph 26 and 27, the point that's being made there is that in our submission it is vital that the Proposed NPS, this one, give suitable recognition to the use of freshwater resources for renewable electricity generation purposes and in that way it will ensure that the aims of the Renewables NPS and the Transmissions NPS are realised. In our submission it's not sufficient or appropriate for the Proposed NPS here to rely on separate policy documentation for the protection of renewables and the implementation of section 7(j) when all are intricately connected with the management of freshwater resources.

Now over at paragraph 29 onwards, I just discuss why, in Meridian's view, an NPS is required for the sustainable management of New Zealand's freshwater resources and at paragraph 31 I make what is quite a pivotal point to Meridian's case and that is that we don't consider that there is any fundamental issue with the current RMA framework for the management of freshwater resources. What we consider the issue is, is that there has been a failure by councils to date to implement the tools that they already

have available to them in an effective manner and this is where the Proposed NPS can fulfil a much needed role in assisting and directing councils to get over what appears to be a failure to date.

Paragraph 32, I set out what really are in Meridian's submission some reasons why there is a strong resource management need for there to be an effective NPS on Freshwater Management. This is really that the - highlights the problems to date.

Paragraph 32.1, to date there has been a clear and consistent lack of planning in relation to freshwater resources by both regional and district councils. That lack of planning and lack of investigation work has resulted in lack of policy, guidance or rules to assess specific resource consent applications against. There has been a general failure of councils to make clear overall judgements regarding the integrated resolution of conflicts between in-river values and water allocation use values of freshwater resources. Many catchments do not have specific environmental flow regimes set after a proper weighing of both the enabling and protective aspects of the RMA. In many instances there has been a complete failure by councils to identify in RMA plans or instruments the potential or maximum level of allocation that can be sustained in a particular catchment.

In our view, councils are struggling to transparently address water allocation issues. Plans have normally avoided making the hard decisions about competing freshwater uses and have not even attempted to express clear preferences between those uses. In addition, there has typically been a complete absence of an affective means and by that I mean rules to deal with issues of competing uses. The lack of proper allocation regimes has led to a gold rush mentality to be first in and other than, as the Chair will be aware, the Waitaki catchment, there is no allocation in

other plans to classes of activities or to geographical areas. The water management issues that have plagued Canterbury are a case and point and that's the reason I've referred you to what I call 'the Canterbury water wars' and I've summarised some of those at the back of the submissions.

District Plans are also not adequately addressing issues of water quality and water availability in relation to land use and subdivision development. An example of this is referred to in Ms Moss' evidence where the McKenzie District Plan allows subdivision as a controlled activity despite the fact that that would occur in a fully allocated catchment and where unlimited water availability cannot be guaranteed.

Many Regional Plans are not adequately addressing the integrated effects of land and water use on water quality. They do focus on point source discharges, but there is a failure to deal with diffuse discharges. For example the Environment Court during the very recent, not the last week, North Bank Tunnel hearing relating to the application to take water for hydro generation, the Waitaki catchment queried why Environment Canterbury's Proposed Natural Resources Regional Plan does not deal diffuse discharge as opposed to dealing with point source discharges.

There is insufficient recognition within planning instruments of the benefits of using freshwater resources for renewable electricity generation purposes and how those benefits should be treated in relation to other values. Policy statements and plans do not adequately recognise the high levels of existing investment and associated infrastructure that often accompany activities already using allocated water.

And finally, there has been a complete lack of understanding and acknowledgement by local and regional authorities as to the extent of

existing consents prior to determining allocations, or prior to implementing water management plans.

Paragraph 33, an effective NPS on Freshwater Management would assist councils in the forward planning and management of freshwater resources. It is Meridian's primary submission that the role of the Proposed NPS should be to ensure both District and Regional Councils give effect to the currently available allocation regime through the development of appropriate Regional Plans and in no instance is it necessary for the Proposed NPS to actually make substantive decisions about particular uses or the actual allocation and the management of resources on a site specific basis. The NPS does, however, have an important role and recognises the importance of particular uses and we've given some examples there and Ms Dawson refers to this in more detail, at a national level.

Now this next section Meridian's amendments to the Proposed NPS. I won't take you to that because Ms Dawson's going to deal with that in more detail. But the section on my paragraph 36 just gives some examples of why we consider there is a need for councils to address water allocation and I've referred you in paragraph 38 to the problems that arise from effectively a lack of planning and a case law which supports the first in first served test and what that creates in terms of problems. And I've said in paragraph 40, this is the issues that were faced by the Canterbury Regional Council with a multitude of competing applications for the taking of water from the Waitaki catchment. A recognition of the fact that the comparative merits of applications could not be dealt with through decisions on resource consents, the issue there was ultimately resolved by the passing of special legislation that supported the preparation of a plan allocating water to activities against which competing applications could then be processed. The Waitaki Plan that resulted

allocates specific quantities of water to classes of activities and in different geographical areas through robustly drafted rules. Within each class of activity, the processing of applications is then still determined on a first in first served basis.

After that somewhat special legislation the Waitaki Plan amendments were effectively passed into the RMA through the insertion in 2005 of section 31(f)(a)(1) and (4) which enable Regional Councils to prepare plans like the Waitaki one and which allow plans to contain rules allocating water to certain types of activities and I've just set out sections 31(f)(a) and 34 of the RMA there which set out what in our submission is the tool kit, that councils do have available to them to do, or undertake this types of processes that were undertaken, for example in the Waitaki. But what we say about that is that councils appear to have struggled with that as the tool and how to actually implement that.

Paragraph 44, it is therefore clear that what the amendments to the RMA contemplate is the development of plans, for example, with rules like the ones in the Waitaki which can allocate quantities of water to types of activities and/or in geographical areas. The water is then reserved for that activity and applications for resource consent are then made for water in particular categories and processed in their proper priority order according to the Parliament's first in first served principle. And as I've just said, despite the presence of those sections, Regional Councils seem to have struggled with the rule making mechanisms provided for in the Act and, in some instances, there's been a clear failure to effectively use the tools to allocate water between competing uses. In this respect, in some examples, tough allocation decisions have been left to poorly drafted policy as guidance. An example I give there is the policy which sets out clear preferences for allocation of water, different types of activities, but no rules to actually implement that policy and what that means is that the

debate is still to be battled out in adhoc resource consent processes and proceedings through all level of Court, rather than systematic plan change processes.

[9.53am]

Probably these next sections I will leave for you to read at your leisure. Paragraph 53, which is a second critical part of Meridian's submissions, which is précised more in Ms Moss' evidence. Meridian considers that there is a clear need for the NPS to recognise renewable electricity generation. The electricity system from generation to local distribution is critical infrastructure for the New Zealand economy and as I've said at paragraph 54, Ms Moss' evidence demonstrates the vital role of existing hydro electricity generation facilities and the freshwater resources that they rely on.

Over to my paragraph 57, relying on Ms Moss says in her evidence, it's Meridian's submission that the appropriate management of New Zealand's freshwater resources is a matter of national importance for the electricity industry and the provision of that electricity is of fundamental importance to New Zealand as a whole. So against that background our critical submission is that it is surprising that the Proposed NPS fails to recognise that renewable electricity generation is an important and appropriate use of freshwater resources. Without suitable recognition the use of freshwater resources for electricity generation purposes will undoubtedly be challenged in future as being an inappropriate use of freshwater under the provisions of the Proposed NPS and in my submission such an outcome will be inconsistent with the Renewables NPS, section 7(j) and the wider sustainable management purpose of the Act.

Paragraph 60 through to 63, I've just made some comments about the lack of recognition in the Proposed NPS for the need for certainty amongst existing consent holders and at paragraph 61 I've just set out the submission that given the significant investment associated with existing water consents, Meridian's view is that it is appropriate that the Proposed NPS recognise the value of existing investment and it is also appropriate that the rights of existing consent holders are protected so that there is some certainty to consent holders and that resources are used efficiently.

In paragraph 62 I've just referred the Board to the Aoraki decision which I'm sure you will all be familiar with and I've summarised the effect of that decision in annexure 3.

Paragraph 64 through to 67 are matters that Ms Dawson will comment on in more detail and I understand some other parties have commented on these as well and this is just examples of terms that are used in the NPS that aren't terms that are used in the RMA and I suppose the short answer is that's good for lawyers because we can have lots of litigation about what things mean, but it would be preferable if the NPS used terms that the RMA use that are understood and to some extent have been the subject of judicial interpretation.

The next point I want to touch on is at paragraph 76 and this arises in relation to a suggestion from Environment Canterbury and Environment Southland, who have submitted in opposition to the catch and transfer of water permits. Once again Meridian's submission is that there are tools to deal with transfer already in the RMA and that they are specifically contemplated by section 136 and that the transfer of water within a catchment is an effective mechanism to reallocate water in catchments, especially those which are at, or are close to full allocation. So Meridian is

generally supportive of transfer as a voluntary tool to distribute allocated water, however, given the existing ability of local authorities and the successful implementation of transfers in some areas, we say it is questionable as to whether the Board needs to go to the extent of proposing specific criteria and policy to deal with transfers. We think the RMA mechanisms deal with those adequately. But in this regard, Meridian has sought changes to the Proposed NPS which would recognise that there should be opportunities to enable transfer of water amongst users and Ms Dawson's going to refer to these, but without being overly directive as to how this is achieved.

And the last point I want to touch on is one also raised in the submission of Environment Canterbury, who appear to have taken an approach to the problems of allocation that they face, that this can be solved by allowing amendment of allocation levels across consents through public notice. I'm reading that as conceivably a simple notice in the paper to consent holders. In Meridian's submission the only lawful approach to amending individual consents would be through some sort of review process, probably accompanied by a hearing. This includes the ability to amend flows and restrictions on consents when a Regional Plan becomes operative. So once again, we say that the tools are already in the existing RMA to achieve that, they just need to be utilised.

So that's - I think I'm around about bang on time. I was going to have 20 minutes. I have set out some annexures, just a summary of Meridian's evidence. Annexure 2, I've tried to set out a brief summary of the Canterbury water wars and I'm happy to answer questions on those because I'm familiar with all of those cases and annexure 3 I've just set out a brief précis of the Aoraki decision for the Board's reference. I'm sorry that was so quick, but I think I've highlighted the main points and you can read the rest at your leisure.

**CHAIR:** Well thank you very much. I wonder whether it would be satisfactory, if I see here that my colleagues have any questions to ask of you before we come to hearing Ms Moss.

**MS APLEYARD:** Yes, that would be acceptable.

**MRS VERNON:** Most of my questions might relate to the -

**MS APLEYARD:** To the evidence.

**DR HARDING:** I have no questions.

**MS APLEYARD:** I'm happy to leave questions until the end because between the three of us and in particular the drafting that Ms Dawson's done it may well be that between us we can work out who the appropriate person is to answer the questions.

**CHAIR:** Well I think there are one or two things I'd like to clarify, which are perhaps more of the legal and constitutional side that you might help me with.

**MS APLEYARD:** Yes, I can do that.

**CHAIR:** Could we focus on your paragraph 25 for a moment.

**MS APLEYARD:** Yes, the interface between the Renewables NPS and this one?

**CHAIR:** Yes. And I don't know whether you've had the opportunity to see a transcript of a similar exchange that I might have with the previous

submitter, but it seemed to me that it's possible that the regime that we are in, excludes this Board from being involved in the kind of integration or recognition of other instruments that you had in mind there and I just wanted to be clear that that's Meridian's view as well. So if I could just put to you in a rather brief form, my understanding, and you can tell me if that needs to be corrected. As I see it, in the regime we're involved in, it's the Minister who has that role of ironing out or removing any possible inconsistencies at least in the event that we have at the moment where there's more than one NPS on the overlapping topics, running at the same time. And it seemed to me that the Board's role, as you've rightly reminded us in your submissions, is quite closely confined by the Board's terms of reference and we have to focus on the content of this particular instrument. Is that how you see it?

**MS APPLEBYARD:** Yes, I don't have a difficulty with that. Had the Renewables NPS not been on the table, if you like, Meridian's submissions in terms of the need to recognise electricity generation in section 7(j) would have been exactly the same.

**CHAIR:** Of course.

**MS APPLEBYARD:** So it doesn't change the content of where we think you should end up, but we're certainly not suggesting that you go off and have a separate discussion with the Renewables Board of Inquiry. I'm not suggesting that sort of interface. We're just saying that we think that you've got a role to perform here, that electricity needs to be recognised, generation needs to be recognised here, and that what you shouldn't be doing is thinking, "Oh, someone else is dealing with it." That it can all be dealt with in this process.

**CHAIR:** Well of course, I'm grateful to you for that reminder. It may not have been necessary. Then the next question, paragraph 29, whether an NPS is required or not. Certainly, the Board has heard from other submitters who say that our task is pointless. But that actually doesn't assist us. We have a task, we're getting on with it. So I'm inclined to think that while, of course, it is helpful for us to know Meridian's view on the topic, that's actually not a matter on which we have any decision to make. We have been given the task, not to decide whether there should be an NPS for freshwater management, but to decide what its contents should be. Is that all right?

[10.03am]

**MS APPLEYARD:** Yes, that's all right, and I think one of the points that comes out of Ms Dawson's evidence is that it would be good if the purpose was more fully spelt out, but that's a content matter, but I agree with the fundamental that you've been given a task to -

**CHAIR:** We value Ms Dawson's evidence of course on that topic. Now paragraph 77, just the topic of transferability. I had the thought that transfers of water permits could just be a laissez-faire leave it to the market situation, but that's not really what the RMA contemplates. It contemplates that there would be place for a market but within a framework of regulation. Isn't that how Meridian sees it?

**MS APPLEYARD:** I think probably, yes it is.

**CHAIR:** We can't be completely ignorant of circumstances that have occurred across the Tasman where free markets have resulted in results that have been quite unsatisfactory to the environment, generally.

**MS APLEYARD:** Yes, the transfer provisions in the Act are quite limited. It is a very basic tool. I think if it was going to be any more sophisticated than that it would need some regulatory intervention.

**CHAIR:** Yes, all right thank you. Finally is addressing over-allocations, and your insight has already been provided for and presumably Meridian is saying that that provision is adequate and there is no need for anything to be (inaudible) in the contents of the NPS on that topic, is that right?

**MS APLEYARD:** That's correct.

**CHAIR:** You've given us some material that we want to study about this experience of over-allocation in Canterbury and it just occurred to me how practical it would be to deal with over-allocation by review provisions in circumstances that are as widespread as they seem to be in South Canterbury. Are you really contemplating what must be hundreds, possibly even over a thousand, grants that are over-allocating would all have to be reviewed and how could that be managed in practice, short of some kind of more legislative intervention, in the sense that there might be subordinate legislation, something that is more than a case by case adhoc.

**MS APLEYARD:** Canterbury might be a specific example, in particular, Canterbury's groundwater resources. There isn't over-allocation everywhere in terms of Canterbury's groundwater resources, so one of the fundamental problems I think has been getting a handle on actually what is there and what is allocated has been one of the problems. I suppose in a practical sense, Canterbury's problems may need a special solution. But in theory, in terms of my understanding of it, there are hotspots in terms of groundwater. The argument at the moment is how much is allocated and whether ECan is being overly conservative. That hasn't

even been ironed out yet, before we even get to the stage of saying whether consents have to effectively be called back in and reviewed. I don't think the problem is as great as it is made out to be and I think once they work out how much water is there, I think there will probably be a couple of groundwater catchments where maybe that sort of process does have to be gone through, but I don't think it's going to be wholesale across the whole of Canterbury. So I think in terms of numbers, it would be manageable to deal with it in that way.

**CHAIR:** We've also had a submission from the Otago Regional Council in support of which, we were told by that Council of considerable over-allocation in parts of its region, so that the over-allocation issue isn't solely Canterbury and so what's going through my mind and I'd like to share with you is that leaving it to review on a case by case basis may not prove to be a practicable solution.

**MS APPLEYARD:** I mean, I think there would have to be, which is what is happening in Canterbury to a certain extent, the review process ends up with all consents being called in effectively at once, so they are not dealing with them one by one. So we actually effectively end up with more or less a plan allocation hearing whereby all the consent holders come in with their groundwater consents together and then the argument is whether they are going to pro-rata all off, we're going to take some off everybody, and are the ones that were there first more reliable than the ones that were there later. So practically it is difficult and there may be some mechanisms that might be able to assist that process, but I suppose the fundamental point that we make is that there is a process now that they could be using that doesn't seem to be being used.

**CHAIR:** Thank you very much.

**MS APLEYARD:** Just on that last - a case you may not be familiar with which is the last one I put in the casebook, and that's the Linton Decision, and I'm not sure if you're aware of that, it's a decision of Judge Smith's division and it was an application to take water from Canterbury groundwater resources. It's the only one that's come in front of the Environment Court, and the argument in that case was whether it was over-allocated, whether the Court could grant another consent, and the Court was particularly scathing of the Regional Council there and its inability to have figured out how much resource is there, to call in existing consents and review them if necessary, and actually awarded \$75,000 costs against ECan. It's just a case in point of the difficulties that ECan face in terms of its groundwater resources, and just in the context of the other cases, it may not be one that you're familiar with because it hasn't reached the High Court, Court of Appeal or Supreme Court.

**CHAIR:** Thank you.

**MS APLEYARD:** Now, Ms Moss is going to give her evidence now, and she's just going to speak her evidence, but she just has a couple of maps that she wishes to refer to as she delivers her speaking notes, so I'll hand those out if that's acceptable.

**MS MOSS:** Good morning. If you perhaps pop the maps to one side if you like and I'll refer to them when I advance through my speaking notes and refer to them specifically at certain points, and take you through them. What I'll do is talk sequentially through my evidence. I have some speaking notes that I will read from, but it pretty much goes through paragraph by paragraph. If you get lost, just sing out, but I'll keep trying to reference you back to paragraphs as we go.

[10.13am]

My name is Raewyn Moss, I'm employed by Meridian Energy as their Natural Resources manager. In paragraphs 2 to 4 I outline my role at Meridian and I set out my qualifications, background and experience in paragraphs 5 to 7. The topics I wish to cover at this hearing today are outlined in paragraph 9 of my evidence. In paragraphs 10 and 11, I note that Meridian is a state-owned enterprise established from the split of ECNZ in 1999 and I set out Meridian's statement of corporate intent. The assets Meridian acquired in 1999 included the Waitaki and Manapouri Power Schemes and the Brooklyn wind turbine. Since 1999 Meridian has continued to operate, maintain and upgrade these assets, to enhance our existing hydro generation operations, and I'll cover this in more detail later.

In paragraphs 12 to 14 I note that as a state-owned enterprise, Meridian is required by statute to operate as a successful business while exhibiting a sense of social responsibility. Our company objectives include maximising shareholder value through Meridian's commitment to sustainable management and the development of the natural, physical and human resources utilised in our business. Of particular note at paragraph 15, Meridian is New Zealand's single largest generator of electricity and we generate that electricity from renewable resources. We are also New Zealand's largest developer of new renewable electricity generation

infrastructure under the RMA. Meridian hydro generation accounts for approximately 31% of New Zealand's generation capacity and our hydro storage capacity is approximately 74% of New Zealand's hydro storage. Consequently, Meridian's electricity generation infrastructure is critical to the performance of the New Zealand economy and to the social well-being of people and communities.

Meridian has also investigated, consented and constructed new generation assets. Two wind farms operating, Te Apiti and Whitehill, with a third under construction in Wellington called Project West Wind. Meridian has also been actively investigating and pursuing new options for renewable electricity generation, many of which are now in the consenting phase. We also keep a watching brief on renewable technologies of the future, such as solar and marine energy.

I will now set out the importance of freshwater to the electricity industry in New Zealand. In paragraphs 19 to 22 I note that the electricity system is critical infrastructure for the New Zealand economy in modern day life, reliable and cost-effective access to electricity is fundamental to the ongoing progress of, "New Zealand its economy." Recent periods of electricity shortage in winters 2001, 2003, 2006, 2008 have really demonstrated the criticality of a secure, reliable and cost-effective supply. Given New Zealand's abundance of renewable resources that have historically been used for electricity generation, New Zealand has enjoyed when compared with other OECD countries relatively low-cost electricity. This enables New Zealand to more effectively compete in international export markets and for New Zealanders to benefit directly from lower electricity prices for households.

In paragraphs 23 to 24 I note that as the New Zealand economy has grown, so too has the demand for electricity, and this has been at an

average growth rate of 2% per annum over the last 20 years. Future demand forecasts indicate continued growth in the order of 1.5% per annum. I set out that all of New Zealand's electricity system is reliant on freshwater to a greater or lesser extent, either as a direct fuel in the case of hydro, as cooling water in the case of thermal and geothermal generation, and also note that storage associated with hydro provides an effective buffer for intermittent generation sources such as wind. Figure 1 in my evidence, which uses data from the Electricity Commission, sets out the annual supply contributions for the various generation technologies employed in New Zealand over the last five years. And of particular note, on average approximately 60% of New Zealand's electricity supply is from hydro generation. This has benefits in that hydro generation assists New Zealand to minimise its greenhouse gas emissions, and hydro plants are more controllable and flexible than other technologies and can respond very quickly to short-term changes in markets' demand or supply. When hydro supply is plentiful, thermal generation is utilised less. Hydro, with its inherent flexibility is also able to buffer the intermittent sources of wind that I referred to earlier. Simply, if the wind is blowing, water is able to be stored in hydro lakes and when the wind ceases to blow, hydro storage is able to be used for generation. So they match very nicely, very complementary. Hydro storage is therefore a critical part of the electricity system.

Figure 2 compares quarterly hydro inflows to mean quarterly values. Given the variability in inflows, hydro storage lakes are a vital means of compensating for this variability, and enable better matching of supply to demand. New Zealand's hydro storage lakes include Lakes Tekapo and Pukaki, which Meridian operates in the Waitaki, and which account for approximately 60% of the nation's hydro storage. In addition, Lakes Te Anau, Manapouri, Hawea, Taupo and Waikaremoana also provide hydro storage. Figure 3, which utilises data from MED, sets out generation

output by fuel type for the North and South Islands for a year. The year in question being was the year ending March 2007. In this graph, it shows that North Island generation is higher than South Island generation.

Geothermal and thermal generation provide much of the North Island generation, with a sizeable proportion also from hydro generation. That hydro generation provides almost all of the South Island electricity generation and nationally in that year, 55% of the supply was from hydro. So Figure 3 demonstrates the fundamental importance of New Zealand's existing hydro supply base in terms of electricity generation. Further, with renewable generation expected to grow, the existing hydro base will become increasingly important as it enables the growth of intermittent or uncontrolled sources such as wind generation.

Figure 4, again using MED data, sets out cumulative supply from hydro schemes for five years from 2003 to 2007. It clearly shows that 90% of New Zealand's hydro supply is from four major schemes. The Waitaki and Manapouri power schemes operated by Meridian, the Clutha by Contact Energy, and the Waikato hydro scheme by Mighty River Power. The remaining 10% is supplied from 42 much smaller schemes, although the fifth scheme, the Tongariro Power Development or TPD generates electricity itself and its discharge also provides inflows to the Waikato hydro scheme. Many of the smaller schemes, though, still provide a valuable contribution and could be strategically important in electricity supply terms within a particular area.

I will now turn to addressing Meridian's own operations, so our existing assets, the new developments all of which are reliant on freshwater to a greater or lesser degree. Firstly, to the Waitaki catchment. I set out in paragraph 36 a description of the Waitaki Power Scheme, which utilises water resources within the Waitaki catchment for generation through eight

power stations. This is where I will refer you to the first two maps. The first one, annexure A, which is the yellow one, you'll see the Lakes Tekapo and Pukaki at the top, so the main two large hydro storage lakes that I have just referred to. The little green snaky line that connects those two lakes up is a hydro canal, with two power stations, Tekapo A and Tekapo B. And then if you follow from Lake Pukaki down, you'll see that there is another canal, the Pukaki Ohau canal. It heads down the valley through three power stations, Ohau A, B and C, and then down to Lake Benmore and Waitaki, with three power stations Benmore, Aviemore and Waitaki.

The second one essentially shows the same but it is really just more like a cross section, it shows the head at the top on the left hand side, Tekapo at approximately 700 metres and through down to Lake Waitaki which is at 200 metres, so there is about 500 metres of head which is utilised throughout the valley in terms of generating the electricity from the power scheme.

**CHAIR:** One of these illustrations which has probably been prepared on a different scale and then reduced electronically, which makes it a little bit harder to read some of the -

[10.23am]

**MS MOSS:** You're right, it is a little bit fuzzy. We could do it at a smaller scale which might help the print and the ability to interpret the print, and forward that if that would be of help.

**CHAIR:** Thanks very much.

**MS MOSS:** No problem. There's not much point in giving you something that is hard to read. As I have noted, the Waitaki Power Scheme includes the hydro storage lakes of Lakes Tekapo and Pukaki, which account for 60% of New Zealand's hydro storage, and this storage is recognised in the Waitaki Plan as critically important to the nation's energy system.

Resource consents are held for the operation of the Waitaki Power Scheme and I set out in paragraphs 38 to 41 the process that was undertaken to acquire the resource consents, the controls and operation and effects monitoring required by those consents, and the various mitigation agreements reached with the stakeholders to provide for, amongst other things, their uses of water. For example, for recreational releases, irrigation needs and for ecological requirements and also to mitigate ecological effects.

I note in paragraph 24 the issues Meridian faced in the early 2000's in a plethora of resource consent applications to take water from the Upper Waitaki for irrigation use were made, and there were various legal challenges too, and proceedings in respect of Meridian's resource consents in both the Environment and High Courts. The water allocation plan which I'll discuss in more detail later, and which Ms Appleyard has already touched on, was subsequently developed which has assisted in providing clarity and certainty to all users in the catchment.

I set out in paragraphs 43 and 44 a number of enhancements that Meridian has undertaken to the Waitaki Power Scheme to ensure its continued efficient operation and which have increased the generation output of the scheme. In paragraphs 45 to 47 I discuss the Lower Waitaki catchment which has always been identified as a place for potential further hydro generation development, and has been investigated since the 1970's. Meridian's Project Aqua with resource consents lodged in 2003

was the first serious attempt at developing a Lower Waitaki hydro development option. Project Aqua in part catalysed applications by other users for water in the Waitaki catchment and as a result multitudes of consent applications were lodged before Environment Canterbury, who did not have a Regional Plan for the catchment, nor provisions addressing water allocation. Government established via special legislation a water allocation board to develop a water allocation plan for the catchment, which was finalised in July 2006 (inaudible).

Meridian's submission to the Water Allocation Board requested an allocation for hydro electricity development on the Lower Waitaki River and an allocation was provided for in the final plan. As a consequence, Meridian lodged water-only resource consents for the North Bank Tunnel proposal, with consents granted by Environment Canterbury late last year and the Environment Court having concluded its appeal hearing for these consents only last week. In addition, Meridian, in conjunction with the South Canterbury Irrigation Trust, this is paragraphs 49 to 50, has applied for resource consents for the Hunter Downs Irrigation scheme to utilise water allocated under the Waitaki Plan for irrigation of up to 40,000 hectares. This scheme is strategically important to Meridian, in that it enables the irrigation of a large area of South Canterbury farmland, using water that is passed through eight power stations on the Waitaki Power Scheme, and nine if the North Bank Tunnel scheme was to be built. Rather than taking water from Lake Tekapo at the very top of the power scheme to irrigate a similar area with a consequent loss of actual known power stations generation output.

Now, we'll turn to the Waiau Catchment in the Manapouri Power Scheme. In paragraph 51 of (inaudible) Manapouri Power Scheme utilising freshwater resources for the Wairau catchment generating electricity at Manapouri Power Station and discharging that water to Deep Cove in

Doubtful Sound, and I'm sure you've all grabbed the last annexure C, which sets out Lakes Te Anau and Manapouri. The pink and green stars on that map set out the control structures and the gold star is the power station, the Manapouri Power Station, with two tailrace tunnels which head out to the pink star in Deep Cove where the discharge point is into Doubtful Sound. And the little blue arrows on the rivers essentially show you the direction of the river flow and that there is quite a tricky little bit with Manapouri in the section called 'The Waiiau Arm', where water can go in either direction. It's quite a clever piece of engineering.

So while resource consents are held for the operation of the Manapouri Power Scheme, as set out in paragraphs 52 to 56 of my evidence, the power scheme was originally authorised under special legislation, The Manupouri and Te Anau Development Act, which requires the establishment of operation guidelines for Lakes Te Anau and Manapouri. An extensive consultative process was undertaken to acquire resource consents, and there is also a significant investment made in effects monitoring programs and various mitigation activities. These consents, like the Waitaki consents, also provide for other uses of water. For example, for ecological requirements, recreational releases and community needs. ECNZ and then Meridian have both invested significantly in continuing to enhance the Manapouri power scheme. In particular, via the construction of a second tailrace tunnel between the power station and Doubtful Sound, and a half life refurbishment of the power station, which collectively have increased the generation output by 24%.

A further project to increase the discharge through the power station from 510 to 550 cumecs is also in process, with consents having been lodged with Environment Southland. As I noted earlier, Meridian has also been pursuing a number of new renewable energy generation proposals which

are outlined in paragraphs 60 to 62 of my evidence. Namely, the Mokihinui Hydro Proposal which is based on the West Coast and several new wind farms. The Mokihinui Proposal would play an important role in electricity terms, given the West Coast region is electricity supply poor.

I'll turn now to address Meridian's specific experiences with freshwater management. Given our investment in hydro generation infrastructure, and as New Zealand's largest water user, we take an active role in the management and planning of freshwater resources within the regions and catchments where we currently operate, or may wish to do so in the future. The first area I'll cover is understanding of consents granted.

I set out the particular issues Meridian has faced in paragraphs 66 to 69 in the Waitaki with Councils not understanding the extent of or acknowledging the effects of existing resource consents before planning for the management of water resources, or in deciding whether to allocate water resources to a new applicant. When Environment Canterbury and other users did not recognise the nature and extent of the consented rights previously granted to Meridian and others, Meridian was forced to seek a declaration from the Environment Court to confirm the scope and effect of the existing consents. Only then was it acknowledged by Environment Canterbury that the Upper Waitaki catchment was fully allocated to existing users, including Meridian, and that it could not subsequently allocate water to new users without an approval from Meridian. Another example, we have had to submit in opposition to aspects of a district plan change by McKenzie District Council, who are seeking to identify areas within the McKenzie Basin for future residential subdivisions. Some of these locations which the Council considered appropriate are downstream of the Pukaki Dam and close to the riverbed. These sites would be inundated if the river was to be (inaudible) discharge for flood flows via the Pukaki Dam spillway (inaudible), I think you'd get

very wet feet. Plan change decisions are pending, but there is another example which demonstrates why Councils need to understand the nature of existing consents and their relevance to planning, in this case land use planning, before they embark on plan making. It might seem like a startlingly obvious point, but believe you me sometimes it doesn't happen.

Meridian acknowledge that Regional Councils can plan in advance for water consents expiring, for example, to allocate water, but consider Councils' need to be directed by the NPS to take into account the rights of existing consent holders while those rights are current so as not to be inconsistent or undermine those rights during their term.

Second area establishing plans in a timely manner in paragraphs 70 to 73 I note that many of the current issues New Zealand faces with pressure on water resources and competition for water have come as a result of the lack of policy guidance and planning for the management of freshwater and whether particularly uses of water for infrastructure developments are appropriate. This policy vacuum tends to lead to tensions between existing users, aspirants, local authorities, the environmental interests and Iwi.

[10.33am]

A point in case was the lack of an operative water allocation plan until 2006 for the Waitaki catchment. The end some 15 years after the RMA came into being. Similarly the Waiau catchment after 18 years still does not have a fully operative water plan but the final appeals on Southlands water plan is still being resolved. In addition the proposed water plan for Southland does not actually provide any clarity around whether the Waiau catchment is fully allocated or what allocation is able to be used by non-hydro generation activities. Most major catchments in Canterbury lack an operative planning framework for water and

Environment Canterbury's proposed natural resources Regional Plan seeks to provide this planning framework. But Council level hearings on this first generation plan are only just complete a matter of weeks ago with decisions not anticipated until well into 2010. And with catchment level and flow setting and allocation levels left to a subsequent process to take place. Not surprisingly Meridian considers it's important that the Proposed NPS gives clear direction to councils to undertake and complete planning in a timely manner.

In paragraph 74 to 77 I note Meridian's experiences from a Regional Planning perspective. Most Councils seek to undertake water planning for their entire region in one planning document with a plan needing to address water quality and quantity matters over every catchment in the region. In essence they can take a one size fits all approach to water resources which are often starkly different in terms of their values and uses. Catchments where there are significant hydro dams, for example, simply do not fit a one size fits all planning approach and require catchment specific tailored approaches. The targeted rule and policy framework in the Waitaki plan is a point in case.

Examples of the one size fits all planning approach are Environment Canterbury's proposed NRRP and Environment Waikato's Variation 6. And the one size fits all approach can lead to problems with administering the public submissions and hearing process given the sort of expanse of geographical spread attracts large numbers of submissions. For example, on the NRRP there's been over a thousand submissions. With Environment Waikato's Proposed Variation 6 there's over 30 appeals with approximately 400 section 274 parties so it can become quite unweilding.

Further issues result from the inevitable need to have generic policies and rules for such a wide area. An example of this is with ECan's NRRP

where attempts were made by the council officers to streamline the number of rules relating to discharges. As a consequence, all Meridian's existing operational discharges from flood spillways or from canals to lakes were classified as non-complying as they didn't fit the standard set of activities that they officers had developed. On top of that the proposed policy framework requires the effects of the discharges to be no more than minor. In contrast the West Coast proposed water plan and the Bay of Plenty operative water and land plan classify the activities associated with the placement of hydro consents as controlled activities.

Meridian considers in many instances it would be more appropriate to undertake specific planning at a catchment base level. I would also note that Meridian does not consider it appropriate for the Proposed NPS to make definitive statements about what types of uses should have priority but instead simply set out the important uses that should be considered in a regional catchment planning context. In Meridian's view these include community drinking water supplies, electricity generation, agricultural and horticultural activities, industrial and commercial activities and tourism and recreation activities.

For instance, in some catchments provision or allocation for most or all of these activities will best achieve the purpose of the RMA, whereas in some other catchments provision or allocation for only a few or none of these activities would be appropriate.

Environmental limits and allocation. In paragraph 78 to 84 I note the different types of approaches that councils have used for the management of water resources and setting environmental flows allocation limits and water quality or cumulative limits. In many instances Councils have not even set limits and consequently adhoc planning of catchments occurs by consent processes rather than via plan development. Some Councils blame the RMA as not providing the appropriate tools to achieve these

tasks although in Meridian's view the tools are available in terms of the setting of limits and allocation to activities and plans as Ms Appleyard has referred to in her submissions. Subsequent consent reviews to rectify inappropriate environmental flows and rules regarding transfer to encourage redistribution, just to highlights some examples.

With regards to the Proposed NPS, Meridian is supportive of the direction to councils to set freshwater quality standards environmental flows and levels. However Meridian does not consider sufficient guidance was provided to councils on how to manage issues associated with water allocation. There is no guidance on which uses of water are important to New Zealand how competition or conflict between uses should be managed including the tensions between in stream values and out of stream uses.

Renewable electricity generation. In paragraph 85 to 92 I note the difficulties that Meridian has had in getting Councils to acknowledge the importance of freshwater to hydro generation in their plan. An example is Environment Canterbury's natural resources Regional Plan which was notified after the 2004 RMA amendments introducing section 7(j). In other regions Meridian has had to appeal the applicable plan to the environment court in order to get appropriate recognition of 7(j) matters and the objectives policies and rules of a plan. As noted earlier water is critical to the electricity industry but in particular hydro generation so it is somewhat surprising that the Proposed NPS provides no acknowledgment of the importance of freshwater resources to renewable electricity generation.

I acknowledge that the Proposed NPS on Renewable Electricity is also before a Board of Inquiry, however as the use of freshwater resources plays such a significant role in the generation of New Zealand's electricity supply it's critical to also give it consideration within this Proposed NPS and this is the basis for some of Meridian's proposed amendments which

Ms Dawson will discuss. There is also a need for reasonable alignment between the two NPS's as, if they were to be inconsistent, council officers would be left with a lack of clarity as to how to weigh up the competing directives of each.

In paragraphs 93 to 95 I note the difficulties that Meridian has faced with local authorities in relation to land use and water management who don't suitably acknowledge the relationship between those two areas. For example, the land use planning framework developed by the District Council in the Mackenzie Basin provides for the development of multi-lock subdivision as controlled activities in a catchment where water has been fully allocated by Regional Council decisions. As a result developments have been advanced without resource consents for a floatable water supply with subdivision developers somewhat surprised when they realised the potential challenges of securing resource consent for a water supply in a catchment which is fully allocated.

And in paragraph 96 to 100 I set out some conclusions essentially that electricity is vital to the ongoing wellbeing of New Zealand. The New Zealand electricity system is heavily reliant on freshwater. How freshwater is managed through the Proposed NPS and RMA planning instruments at a regional or catchment level is critical to Meridian's operations and the electricity sector generally. And in Meridian's view the Proposed NPS does not recognise the critical nature of freshwater use to the electricity sector and it does not provide sufficient clear direction nor set realistic goals for freshwater management in particular in the areas of allocation and Ms Dawson will talk about these areas more in her evidence.

**CHAIR:** Thank you.

**MS APPLEYARD:** Ms Dawson has a cold so she's removed herself so you're not subjected to her coughing fit.

**CHAIR:** Is it convenient for me to see if there's any questions for Ms Moss now?

**MS APPLEYARD:** Yes.

[10.43am]

**MRS VERNON:** I've just got two questions, or really clarifications, really. Under your paragraph 83 on page 23 I noted that through your text and also through Ms Dawson's text you keep interchanging the words 'preferences' and 'priorities' but probably I'll come to ask the more specific question on those two terms later on. But with your list here, I wonder if it would be appropriate to see some extra words added if you want electricity because I can see people seeing that as a list of priorities, all right, and you know how it operates out there. So I just wonder with the first bullet point whether it shouldn't really be, "Community and stock drinking water supplies just because you've got agriculture and horticulture activities." Or would it better in fact if you defined what you meant by agriculture and horticulture (inaudible) not just as an activity but as a vital - well, for animal welfare, really.

**MS MOSS:** Yes, I think that stock water would be better represented within the agricultural and horticultural activities and I agree that if it was defined in such a way that it was set out to include stock water and to be specific about including stock water that would be useful. That's a matter where we've had some discussion with our irrigators from the Waitaki over the Waitaki Plan about where stock water fits within the allocation framework that's been set out against activities where it should be counted. So making it clear I think will make it clear to all users.

**MRS VERNON:** What would - I mean under the Act, stock water comes first as well. Thank you. And the other query, just with paragraph 95, page 26, and I know Ms Dawson goes through quite extensively with all the amendments. But just to follow through do you see that perhaps including

the idea of cumulative water quality or just including the term 'cumulative water quality effects' or 'thresholds' would be useful perhaps through Objective 2? It might be a better question to ask Ms Dawson.

**MS MOSS:** It might be, but it does need to be recognised and I think, in particular, cumulative water quality is something that Councils are really struggling with so some clear direction on that would be very helpful.

**MRS VERNON:** Don't you also think that it's also not just water quality that the cumulative has needs to be respected or take account of also that allocation. I mean under allocation, cumulative -

**MS MOSS:** Allocation limits or - allocation and - yeah, cumulative limits for water quality but they also need to mesh together.

**MRS VERNON:** Thank you.

**MS APLEYARD:** Just if I might assist on the stock water issue, I'm a little bit vexed, it is coming a vexed issue. What the Act actually says is, "The reasonable needs of an individuals animals for drinking water." And whether that's a few chickens and pigs or its mass herds of dairy cows is becoming a bit of a dispute. And the Act also says that, "The taking or use is not likely to have an adverse effect on the environment." So there is a rider on that. So it's not as simple as just saying stock water is sort of in a category of its own and comes first. There might be a line in terms of amount where it actually does fall in to be considered in the competing way with other sort of types of uses for agriculture. So in the question of that in degree in each case but I don't think its quite as simple as just saying stock waters provided for under the Act on its own and its out there on its own as a preference because there are some riders in the Act. And there might be some circumstances where it is competing with another use.

**MRS VERNON:** We're aware of that. I'm just wondering whereas that stands in your paragraph 83, I can -

**MS APLEYARD:** That's why I think we probably would prefer it to go into the 'agricultural and horticultural use' and then it can just get consolidated.

**MRS VERNON:** And be defined?

**MS APLEYARD:** And defined yes

**CHAIR:** Is it better to refer to 'the needs of animals' rather than just use the term 'stock'.

**MS APLEYARD:** Yes.

**CHAIR:** It should say 'livestock'. "The Act refers to animals," seems to be a theme of Meridian's position that we should use the same language as the Act where possible and that seems to have much merit.

**MS APLEYARD:** And another area where it's risen and also in the same section it talks about individual's reasonable domestic needs and whether that is large community suppliers as well so there's that sort of fact and degree issue there. So there may be a distinction of that but I think where you are referring to what's in the Act it would be better to use the words that are there.

**CHAIR:** In paragraph 84 in the last sentence you are asking us to consider the position of consentedness and the continued uncertainty of the status that you're entitled. And my question is, is that kind of uncertainty inherent in the scheme of the RMA? Nobody can get an indefinite or a term forever, a perpetual term. All consents and limited terms. And it's inherent in that but at least in theory further consent may not. Each application for a further consent has to be given on its own terms which might well include the value of NPS. But even so at least in theory a further term could be refused so my question is, is that kind of uncertainty something that the

National Policy Statement can deal with or is it inherent in the scheme of the Act?

**MS APPLEYARD:** I mean I acknowledge your point Sir that we're absolutely aware that we need to go through re consenting processes every 35 years for our water consents and that's a process that a company such as ours that is so reliant of freshwater resources takes very seriously. But what we see needs to occur is that the planning frameworks upon which those re consenting activities are undertaken are clear and provide effective guidance and set out policies and objectives that provide for infrastructure. And I accept your point that consents can be turned down or that consents may be granted in a way where allocations may be different, that's essentially what a planning framework such as the Waitaki Plan, for example, it signals that the world would potentially be different in 2025. But having been through those kinds of planning processes at least there's some certainty for everybody about what the scheme of things may look like at that point in time.

**CHAIR:** Thank you. We've only been listening to presentations of submissions on this Proposed NPS three or four hearing days so far.

**MS APPLEYARD:** Early days.

[10.53am]

**CHAIR:** But even so, the topic that you refer to in your paragraph 38 seems to be a wide spread issue. Quite a minor issue compared with some of the other things you've been talking about. Have I got the right paragraph? No sorry I'm jumping ahead to Ms Dawson, I beg your pardon.

**MS MOSS:** Oh, please don't ask me her questions.

**CHAIR:** No.

**CHAIR:** The Board of course we're grateful to Ms Moss for her evidence and we'd like to see if we can proceed now to you Ms Dawson.

**MS DAWSON:** We'll do the same as Ms Moss I have some speaking notes which refer to you paragraphs in both my main statement of evidence and where appropriate to my statements apply. So I hope that you can follow them both as I go and also I'll try my best to point to the amendments that are linked to the various statements in my evidence but please pause me if you want to ask me as I go if you want me to point to various things in the amendments sought by Meridian.

So my name is Sarah Dawson I'm a Director of Boffa Miskell Limited and a Senior Principal Planner in its Christchurch office. And in paragraphs 1 to 9 of my evidence I outline my qualifications so I won't go through those. I'm a qualified planner a member of the planning institute I received its distinguished service award and I have had particular experience in the development of District and Regional Plans and increasingly with this water planning and management allocation and use.

In paragraph 10 of my evidence I outline the topics that I'm going to cover today. In paragraphs 11 and 12 I've set out the applicable planning principles that I've applied when reviewing the provisions of the Proposed NPS and considering the nature of policy direction that I consider an NPS should be giving to the preparation of policy statement and plan instruments and then when developing the amendments I've recommended should be made to the NPS.

Of the planning principles I've set out in my paragraph 12 I consider this the most important in relation to this NPS that there should be a clearly identified, specific and well articulated statements of issue. That the objectives should be targeted and positively wording stating the outcomes to be achieved or the direction that's required to be taken. That policies should be as unambiguous as possible stating the courses of action to be

followed in order to achieve or implement those objectives. That the NPS is clear about what it is that's to be given effect to providing explicit guidance to those preparing policy statements and plans. That the plans articulate the overall judgments that they are making regarding the resolution of conflict between in river values on the one hand and water allocation and use values. And that these should be clearly announced in the objectives that state the level of protection to be given to in stream environmental use values and the availability and reliability of water allocation to water uses. And finally in 12.9 there should be specific decisions for each catchment as to whether or not its necessary to determine preferences for water allocations different types of activities and, where its appropriate, clear statements of what preference is given to allocation of water to what activities and why.

Turning to paragraphs 13 and 14 I describe the existing planning problems of issues of freshwater management in New Zealand that I've observed from my experience. I've included a list of my various experiences in paragraph 13 but the ones I want to focus on most today are 13.2, which is the general failure of councils to make it clear or to clearly make any overall judgments regarding that resolution of conflict between in-river and water allocation uses and to clearly express that outcome and that they've got to in their policy judgments. And 13 .3, that plans have generally not addressed water allocation issues and not expressed clear preferences to water allocation. 13.4, that often the objectives and policies in plans don't provide clear guidance in their implementation. 13.5, that District Plans in particular are not adequately addressing issues of water quality and water availability in their land use planning. And 13.7, many plans have multiple overlapping and potentially conflicting objectives, they often have chapters on different matters and there's not reconciliation between those chapters and their objectives and polices. And in 13.8, the benefits of renewable electricity generation are often not integrated with potentially conflicting objectives and policies relating to freshwater management.

In paragraph 15 I've provided an overview of the general weaknesses in the Proposed NPS that I've identified from trying to compare them against the planning principles and these issues I've just described. And in paragraph 15.9 I conclude that the Proposed NPS provides insufficiently clear guidance for Councils that are in need of national guidance. And I've highlighted some of those matters but Ms Appleyard has covered those well in her earlier submissions so I won't go over those again.

So in the balance of my evidence from paragraph 16 onwards I outline the amendments that Meridian has sought to the Proposed NPS and why I consider them necessary. I've not addressed every amendment sought by Meridian and a complete version of the NPS marked up with the amendments was attached to my submission and to my evidence. So I'll now just summarise the main points through my evidence.

Firstly looking at the purpose which I cover in paragraphs 17 to 19. In paragraph 17 I note that by not stating the reason the Proposed NPS is required and what it is intended to achieve Proposed NPS fails to set the initial direction for Councils as to its purpose. In paragraph 18 I say that given the general failure of Councils themselves to determine clear overall planning direction regarding the integrative resolution and conflicts in freshwater management. I consider it's important that the NPS is unambiguous as to its direction.

As proposed the purpose just says that the NPS is to state objectives and policies where, as I state in paragraph 19, the purpose should be more proactive and target the essential conflict to be resolved. Which is, the ability for people in communities to use freshwater whilst maintaining sufficient in stream water quantity and quality while of course achieving the overall purpose of the Act. And Meridian suggested some wording in its amendment regarding, for example, whilst ensuring best practice water quantity and quality management and there may be better ways of

expressing that in the purpose. But I think it should be more than just that the purpose is to state objectives and policies that really doesn't give any direction as to what the purpose is in resolving this main issue.

Now turning to Objective 1. In paragraph 21 I give my opinion that the Proposed NPS gives insufficient guidance to Councils in developing objectives regarding the level of allocation use and development of freshwater that is to be enabled in a catchment and to what the certain use is. Objective 1 does not specifically recognise the allocation use and development of freshwater resources. As a key objective for an NPS addressing freshwater management issues. I consider it fails to fully articulate the enabling aspect of the Proposed NPS even though this is the only objective in the Proposed NPS that attempts to address this aspect. I state in paragraph 22 that I consider it would give helpful direct guidance to Councils if Objective 1 specifically stated the key range of activities that must be recognised and provided for as important uses of freshwater resources. Meridian has identified five classes of use which should be provided for and they were expressed in Ms Moss's evidence and this includes electricity generation from the use and development of renewable energy resources such as hydro electricity generation.

In paragraphs 22 to 25 of my evidence in reply I set out my concerns regarding Ms Malcolm's full support for Objective 1 and for the deletion of Objective 1 as sought by Ms Stuart and Ms Kensing (ph) as just a contrary position to Meridian's and my recommendation.

[11.03am]

Now turning to Objective 2 which I cover in paragraphs 23 and 24 of my main evidence. Going to paragraph 24, I say that some of the provisions of the Proposed NPS are articulated in an overly complex manner with the inclusion of some unnecessary and confusing additional phrases and terms. And Objective 2 is one such example, in my opinion it's

unnecessarily detailed there are some words in brackets which are to do with coordination and sequencing of land use development infrastructure for supply, storage and distribution of water. And they really only highlight one aspect of integrated management which I don't think is appropriate for a high level objective of this nature. I feel these words distract from the clear guidance that this objective could give to Councils which is that they must address this issue of integrated management in as many ways as is necessary. So I support Meridian's seeking deletion of those words in brackets.

In paragraph 26 of my evidence in reply I indicate my opposition to limiting Objective 2 to water quality matters alone and not water quantity as sought by Ms Malcolm and Mr Curry. Ms Moss has outlined the failure of local authorities to suitably address the relationship between land use development and water quality issues. Objective 2 needs to include water quality in order to ensure that integrated management of land use and freshwater quantity management is fully and appropriately addressed. Sorry, I'm just going to cough for a minute to clear my throat.

In Objective 3 and 5 I look at those both together because Meridian has suggested combining those objectives under the paragraphs 25 to 30 of my evidence. They both address matters relating to freshwater quality improving quality in Objective 3 and avoiding further degradation in Objective 5. In paragraph 26 I discuss how these objectives could be readily combined this would assist the NPS in focusing more directly on these closely associated freshwater quality issues that are currently not well addressed by District Councils nor by Regional Councils in relation to land use development. Meridian's submissions request that these objectives be combined is shown in its amended Objective 3 with a focus on controlling the effects of land sue development and discharges of contaminants.

One of the undefined terms introduced into the Proposed NPS is the word 'swimmable' in Objective 3 and in paragraph 27 I set out my reasons for seeking a replacement of this term with the words contact recreation from the microbiological water quality guidelines which are already established. So I do not support Ms Malcolm's alternative of appropriate water quality standards as explained in paragraph 27 of my evidence in reply. That's just one of the terms I'll come back to some of the other undefined terms later on in my statement.

I'd just like to highlight here my concern expressed in paragraphs 28 to 30 of my evidence. With what I consider is an unrealistic and unachievable objective in Objective 5. As I say in paragraph 29 I consider it is not possible to completely avoid any further degradation of freshwater resources in all instances and at all times of every year and still continue to appropriately use freshwater resources to enable economic well-being as sought through Objective 1. For example the inclusion of this concept in Objective 5 does severely impede future irrigation development even when such irrigation development would be undertaken fully in terms of best industry practices. It is not foreshadowed in the preamble, the purpose or the other objectives of the Proposed NPS, that new irrigation development is to be severely curtailed in this manner.

This little example of overlapping and conflicting objectives, with protection of environmental values on the one hand and enabling of water use on the other, which, from my experience pervades freshwater plans. This results in a lack of clarity as to what is to be achieved overall from the implementation of the Proposed NPS and doesn't assist Councils in resolving such conflicts through their own policy statements and plans. The alternative wording I'm recommending in paragraph 30 would instead focus the objective on contact recreation standards for appropriate freshwater resources in Objective 3(a) of Meridian's amendments. And minimising the effects of land use development and discharges of

contaminants on water quality in 3(b). Now again there may be different ways of expressing that sort of intention but I just want to highlight my concern with the very definite wording of Objective 5 as it stands in the Proposed NPS.

Now Objective 6 it follows on from objective 1 and in paragraph 31 I give my opinion that Objective 6 should be central to guiding Councils as to how to establish the water allocation use outcomes in their policy statements and plans. Now Objective 6 just focuses on managing demand for freshwater and this doesn't appear to me to be critical to the issues Councils are currently facing, as I see it anyway. As I say in paragraph 32, I consider that Objective 6 could help Councils with the matter they are to have regard to when undertaking their own catchment specific management of freshwater. Objective 6 could then become the checklist for integrated freshwater management as listed in 5(a) to (i) of Meridian's submission and just noted here that in Meridian's submission Objective 6 would become Objective 5. As far as possible clarity and ease of interpretation will be achieved by referring in this objective to concepts already outlined in Part 2 of the Act and I'll discuss that a little bit more later in my statement.

In paragraph 7 and 16 to 18 of my evidence in reply I explain my opposition to the call for greater national direction of freshwater management outcomes and the evidence of Mr Hanson and Mr Crisp (ph) they asked for very definite national direction to be provided as to what our water is to be allocated or - and environmental standards. So as I state I consider this to be incompatible with the particular and detailed judgments regarding sustainable freshwater management that need to be made in a catchment or subregional level for the protection between providing definite national standards and the need to make those judgments between use and environmental protection at a catchment by catchment level.

Just looking at Objective 7 in paragraph 33 of my main evidence, I've described why I consider the meaning of Objective 7(c) as unclear and doesn't related to the focus of this objective on the efficient end use of water that's already been allocated. It talks about increasing benefits from the use of freshwater, and for the reasons given on this paragraph I support Meridian's submissions to delete to Objective 7(c).

Now turning to my comments on the policies, first with Policy 1 which I cover in 36 right through to 46 of my main evidence. As I explain in paragraph 36 I generally support the direction contained in Policy 1 of a regionally focused approach with each Regional Policy Statement acting as the principal guide as to how Regional and District Plans should give effect to the Proposed NPS. In particular I support the following as set out in paragraphs 36.1 to 36.4 of my evidence that ensuring that Councils set the appropriate timetables and priorities. That they specify the important or significant freshwater resources that they be identified. That they require plan provisions to set standards for freshwater quality environmental flows and levels and in accordance with Meridian's submission also freshwater allocation levels. And that it specifies the key matters that Councils should address when setting water allocation and management regimes within their plans. So I support the NPS setting out these requirements for an RPS when to guide plan at a plan setting level. Now as I say in paragraph 37, I think there are a number aspects of Policy 1 which could be further improved in order to enhance the ability to give effect to the NPS, to increase clarity and meaning for ease of consistent implantation, and to reflect best practice in planning for freshwater management. So I'll just talk through the main aspects of those.

[11.13am]

In paragraph 38 I've explained the difficulties I perceive in the timeframes required for Councils. I support Meridian's submission that the Regional Policy Statements should specify the timetable and priorities so this would also require associated amendments showing the track changes to Policies 3 and 4. And other people have asked for a range of other amendments relating to timeframes so in my paragraph 68 I refer to those further submissions. In paragraphs 39 to 40 I discuss the confusion the names and efficiencies I consider will flow from the introduction of new terms different from those already used in the RMA. In paragraph 40 I state that in order to avoid the need for interpretation of a plethora of new terms I consider it would give clear national directive if each policy statement was required to identify those aspects of freshwater resources that have values of sufficient importance to be recognised and provided for in terms of section 67 (inaudible) of Meridian's submission.

Paragraph 69 of my evidence and paragraphs 10, 19 and 31 of my evidence in reply I express my concern regarding other requests made by other submitters to put further definition and implication of those terms. I just reiterate my preference for them to be deleted and replaced with more well recognised wording.

In paragraph 41, I describe the lack of guidance in Regional Plans concerning preferences for water allocation between competing uses this is an ongoing significant issue for Councils undertaking freshwater management. Where there are competing demands for use of freshwater and limited freshwater resources to meet those demands freshwater management plans need to give direction as to how much water is available and how it's to be allocated. This would include indicating preferences for types of water use if that is appropriate for the particular catchment. Requirements for water allocation levels need to be placed alongside plan requirements for environmental flow and water quality management.

In paragraph 42 I support Meridian's submission that seeks water allocation levels be included in Policy 1(c) and in paragraph 34 of my evidence in reply I express my difference in opinion with Ms Malcolm regarding the inclusion of water allocation limits in Regional Plans with preferences for types of water use.

In paragraphs 43 to 45 of my main evidence I address the matter of priority being accorded to domestic and municipal water supply through Proposed Policy 1.2. I think it might actually be Policy 1(i) rather than 2.

Paragraph 44, I'll explain that. It is not always the most appropriate approach for sustainable management of freshwater resources in every catchment nor that it should be required to be (inaudible).

In paragraph 45 I discuss how the preferences for water allocation different types of water use will vary from catchment to catchment and region to region. In my opinion, it is the process of setting the water allocation regime through Regional Plans that will determine not only whether it is necessary or appropriate to allocate water to different types of uses but also which types of water use will enable the social economic and cultural well being of individuals in the community.

In paragraph 65 of my evidence, and again, in my evidence in reply. I reiterate my opinion in relation to other submissions that giving priority to domestic and municipal water supply in all instances should not be directed at a national level.

Now finally in paragraph 46 I just note the potential confusion that Mrs Vernon-mentioned about all the 'priority' in Policy 1(i)(2). This words is generally used to refer to priorities for considering competing resources consent applications in other words which consent application is first in the queue to be decided. And it has been used over time like that and so our caution is just to not use the same word in a different context even though

it might be clear to those that are writing it, it just can lead to confusion. Well, Meridian has used another forum for the word 'preference' I mean, there maybe another word that's perfectly adequate to express the same issue which is for the allocation of available water between the competing types of water use and the direction that a plan might give for that just to avoid confusion between the use of the same two terms.

I'll now move to Policies 2 and 3. I support the clear direction to Regional and District Councils contained in these two policies regarding the amendments they are to make to their plans. So Meridian's requested amendments to these policies that include alteration in relation to timeframes and priorities being address in the Regional Policy Statements rather than on the NPS which I discuss in paragraph 48. In paragraph 49 I talk about the good planning practice amendment to specify objectives and policies that go with the freshwater quality standards, the environmental flows and levels and water allocation levels. And not just specifying the standards themselves of course how important it is when considering something like a non-complying application. And there in paragraph 51 I just talk about various implications and clarifications of wording that Meridian has suggested. And in my paragraph 52 I've suggested consolidating references to industry best practice in policy 5.

I now turn to those Policies 4 and 5 which I cover in paragraphs 53 to 59 of my evidence. Again, I support the role of Policies 4 and 5 in setting out the nationally important matters relating to freshwater management to be considered when preparing Regional Policy Statements and Regional and District Plans. I've identified some amendments to be considered where needed as I've explained in paragraphs 54 and 55, similar amendments would be needed as for Policy 1 in order to replace the new confusing terms with the list of those aspects of freshwater resources that have values of sufficient importance to be recognised and provided for in terms of section 6.

In paragraph 54 I also note the term 'notable values' which from my reading of the definition really could mean any possible value of freshwater. And I've suggested that in Policy 4(b), that that term could really just be deleted but there may be a disability. (Inaudible) it talks about the sensitivity of freshwater resources to adverse effects, I think if the significant values are identified then the Policy 4(b) really just need to have that 'notable values' added in there for the amendment.

In paragraph 56 of my evidence I refer to the appropriateness of Policy 4 acquiring specific consideration of the needs for and benefits to be derived from the use and development of freshwater resources for renewable electricity generation. And we've suggested that be added into Policy 4. Again, in paragraph 57 I discuss why I consider focus Councils more directly on the consideration of needs of communities for future consumptive use and this is separated from the existing uses and so our suggestion is that the needs for existing uses be in one item and then the needs for reasonably foreseeable future consumptive use be highlighted as a matter of its own.

Turning to Policy 5, Policies 5(a), (b) and (c) are drafted in a somewhat convoluted manner which detracts from their meaning. In paragraph 59 of my evidence I explain how these policies could be simplified with a clearer focus on the matters to be considered by District Councils and I've suggested amalgamating these three policies into two or the sub-policies into two. One which addresses land use development and the other infrastructure rather than try to highlight that and break it up in a way that they have suggested on the Proposed Plan.

[11.23am]

Turning to Policy 6. This is the one that deals with consents and designations as I state in paragraph 60 of my evidence. I consider it unnecessarily cumbersome to have another separate policy addressing

conditions on resource consent and recommendations on designations. In the matters contained in the sub-policies for Policy 6 are already required by Policies 2 and 3 to be included in Regional and District Plans as conditions to be applied for consents. And these matters are also consistent with those specified in Policies 4 and 5. With the track changed amendments from Meridian show the deletion of Policy 6 and its amalgamation in Policies 4 and 5 with just one additional reference to technical efficiency in the case of freshwater resources in Policy 4, as I've explained in paragraph 59, that's one matter in the Policy 6 I think might need to be caught up in the other policies if it was just deleted.

In paragraph 61 to 63 of my evidence I've looked at the definitions and I've covered some consequential amendments needed to the definitions and such is the definition of water allocation levels for example and deleting the definitions of some of the terms that we find confusing. In addition in paragraph 62 I suggest some amendments to the definitions of freshwater quality standards and environmental flows and levels. I think these are rather poorly constructed, they confine a bit of policy direction with the technical definitions of the terms concerned and I consider the definitions sought by Meridian will focus more clearly on the particular matters that require a technical definition.

I'll just briefly - touching on a few other matters, particularly that I've covered in my in this last part of my main evidence and in my evidence in reply. Firstly relating to cumulative effects I cover this in paragraph 64 of my evidence and my main evidence and again in my evidence in reply, where I discuss some of the requests from others to include a specific policy on cumulative effects. I certainly consider that a very important matter and it's fundamental to freshwater management but as I explain I consider the NPS already includes provisions which would require cumulative effects to be addressed. And that it's not appropriate for direction of about the level of which cumulative effects are to be managed

to be specified for all freshwater resources. I think some of the submissions suggest there will be a matter that says cumulative effects should be no more than minor. I think that setting that direction about the level of cumulative effects is a matter for Regional Policy Statements and planning rather than at a national level.

I'm just touching on groundwater, one of the submitters, and in paragraph 38 of my evidence in reply, suggest that groundwater be excluded from the NPS and I do not support that I think that would not achieve the integrated management of freshwater resources. I also, in paragraph 66 of my main evidence, talk about transfer of consents but I think we've covered that. Again, over-allocation in paragraph 67 I outline my opposition to request that Councils be required to address over-allocation by emergency measures or measures that are outside normal plan preparation but I know from your conversation that I've heard with Ms Appleyard about that. In my evidence in reply in paragraphs 11 and 12 I talk about precautionary approach which, in Ms Pearson's evidence, refers to including a precautionary approach policy. And I again don't think this would be necessary under the freshwater planning framework and that's what this is all about is setting up a framework to analyse the resources to put the values of the information and set up a planning framework so I don't think its necessary that the overlaying by a precautionary approach in the NPS.

I haven't talked about Objective 4 earlier because Meridian has not sought any amendments to Objective 4 but in my reply in paragraphs 28 to 29 and 36 I just discuss some amendments sought by others to that objective. In that objective the word 'inappropriate' is used in the Proposed NPS and it's used in a similar way that it's used in section 6 in a way by talking about protection of inappropriate activities. And based on established understanding of the way this term is used I think that this would be able to be used in effective forward to focus Councils on the

To be read in conjunction with  
the tabled evidence/statement

necessity to come to an overall judgment about the appropriateness of activities involving freshwater allocation and use. And the associated level of protection to be provided to ecological values of freshwater resources. So I don't support some of the other submissions that ask for a changing or deleting or replacing that term. Again Ms Drury in her evidence she request that freshwater quality standards and environmental flows at levels be optional for Councils and in paragraph 37 in my evidence in reply I set up a court for including these standards, I think they're fundamental to what's required.

So turning back to my main evidence and my final paragraphs. I just outline the two (inaudible) in Meridian's submission that I think need to be included in the RPS to improve its clarity and expect that (inaudible) the important guidance I think it can give the policies undertaking freshwater management. Thank you very much.

**CHAIR:** Well thank you Ms Dawson for outlining the evidence thank you for that. I think we've reached the time and it would be helpful to us all if we took a break and when we return there will be some questions.

**MS DAWSON:** Thank you very much.

**ADJOURNED** [11.27am]

Audio file: dpm 0103

**RESUMED** [11.53am]

**CHAIR:** Thank you again Ms Dawson, we'd like to ask you some questions, if we may, please.

**MRS VERNON:** I'll probably work off - well, I will, it's the first document so from page - I'll tell you where I'm referring to, but most of them, you don't need to look at. I notice that with this term 'industry good' or 'industry best', and that there is some discussion amongst the submitters about which is the most appropriate and I think you've used 'industry good'.

**MS DAWSON:** Yes, I have but I haven't used that with any, I suppose determinative reason. No I haven't turned my mind, I'm afraid, to the term and whether legally Meridian has any preference. Because it was already in some of the policies, wasn't it?

**MRS VERNON:** Yes, it was. But some submitters are suggesting that the word 'best' is a preference rather than 'good' and I was just really seeking -

**MS DAWSON:** I have just repeated the words that were in the Proposed NPS, and moved them. So I haven't gone to address any one word specially I don't think.

**MS APPLEYARD:** Yeah, I think we'd have a preference for 'best'.

**MRS VERNON:** Right. Well, thank you for that.

**MS DAWSON:** And if I was to turn my mind to it I'd say the same.

**MRS VERNON:** I was just interested on your paragraph 17, page 78. In your, I think that's the original legal submission on, 78 is it?

**MS APPLEYARD:** The original?

**MRS VERNON:** Oh, sorry, page 17 para 78, of Ms Dawson's.

**MS DAWSON:** Of my evidence?

**MRS VERNON:** It will be your evidence. And it's just a question really, and I'm sure you'll be able to - you talk about successful transfers have been implemented and I was just interested in where those were and have they used a special tool in the toolbox to make those successful? It's in your original submission.

**MS APPLEYARD:** There are actually companies are set up basically that their role is to facilitate water transfers. And where it's being used, as in some of the Canterbury catchments, particularly one where there's over-allocation, where there are farmers that are simply sitting on consents that they don't need so they're able to transfer their neighbour. There's also quite often farms bought where the owner might own more than one farm and they're able to more efficiently rationalise between transfer between their own farms. There is quite a wee market in the sale and transfer of water as between irrigators. What I haven't seen however, is the transfer between different types of activities. It's more farmers getting together and using water more efficiently in times of low flow where they just have to get a bit more organised.

**MRS VERNON:** Thank you for that.

**MS APLEYARD:** Yeah, and Mr Turner has just said that the Waikato Regional Plan has got transfer mechanisms, whether they're being used or not, I don't know.

**MRS VERNON:** (Inaudible), to my knowledge.

**MR TURNER:** I'm aware of the Regional Plan has prior to Variation 6, there's transfer variations around the Pautakawa (ph) area and also Variation 6 itself has got permitted and controlled rules around transfers and there's obviously various standards around whether it's in a hydro catchment or whether it's going upstream or downstream at the dams, etc. Those are what I have considered to be good transfer mechanisms, simple and effective. Whether they've been successfully used yet, I'm not sure.

**MRS VERNON:** Well, Variation 6 is not operative.

**MS DAWSON:** I mean, certainly my experience is really more in what the plans provide for and that is a good example.

**MRS VERNON:** Right. In your paragraph 9, at page 33 you talk about concern about wanting a recognition in the NPS of existing activity. And I just wonder if you could point to me where in your strike through version, where you specifically covered that?

**MS DAWSON:** It's in Objective 5 there's H - sorry in the strike through version it's Objective 5, it was Objective 6, I mean, I just acknowledge that Meridian's amendments to objective 6 are quite a major shift in the use of that objective from just looking at managing demands to being a management mechanism and the list of matters to be had regard to in setting up management mechanisms. Number H is the entitlement of existing consents holders to live out their investment. And then again in

Policy 1, which is about Regional Policy Statements, there's the new version (f)(1), which is the entitlement of existing consent holders, and then again in Policy 4. Policy 4 already had an existing provision. Policy 4(d) talked about the entitlements of existing and potential users and that's where we've suggested maybe highlighting that there is this whole set about looking at reasonable foreseeable future consumptive use and maybe highlighting that as a separate item, rather than sort of losing it in those words and potential.

**MRS VERNON:** I think that's all, but can I just say, thank you, particularly for the strike through version, it makes it - when you get all of today and previously circulated information it makes it very helpful to follow through. So I appreciate it very much. Thank you.

[12.00pm]

**DR HARDING:** So in your strike through version, which was very helpful, you amalgamate to Objectives 3 and 5 and (inaudible) your views on that in regards to Objective 3 at the moment, it might be perceived as suggesting that progressively (inaudible) and freshwater and overall water quality is an objective there, whereas with your revised version, (inaudible) isn't really on paper and you're suggestion that the controlling effects of land use and contaminants, rather than enhancing system. Would you like to comment on that?

**MS DAWSON:** In our explanation for the changes we certainly haven't stressed that we don't think enhancement is a good idea, we're not suggesting that at all. Our focus really has been on setting a framework where decisions about what freshwater resources need to be enhanced, whether any further degradation in any way would be appropriate or not, comes from that overarching judgement that each Council needs to make and I'm

saying on a catchment-by-catchment or certainly subregional basis, where they have to weigh the benefits to people in communities of using resources for all manner of things that are appropriate to that area, versus the level of environmental policy to be sustained and in-river (inaudible) values to be sustained in those resources. My reaction is that those are decisions that need to be made by Councils at a catchment-by-catchment basis and that they need to focus on making those judgements and be guided to - that those other judgements that need to be made when they're setting their freshwater policy standards and environmental flows and levels. But we're not saying, "Oh, don't go near enhancement."

**DR HARDING:** I guess there's a sort of philosophical question here as well about the relative importance of trying to provide some sort of national directive versus what Regional Councils, etc, might do and certainly in your submission here you, on a number of occasions, mention the need for Regional Councils to make decisions at these levels, yet some submitters have suggested that Regional Councils (inaudible) have been unable to do that. So at what level do you think it's appropriate for national guidance (inaudible) this objective, passing the ball to Regional Councils?

**MS DAWSON:** Well, my approach has been that the guidance should be telling Regional Councils that they have to make those overall judgements. And they should do it through taking into account the following matters: that they need to investigate their resources to identify the significant values, that they need to set appropriate standards and objectives in policies that go with those and to be very definite in telling them what and how they should go about their planning. But not telling them what standards they should determine or what outcomes they should determine in any particular catchment, because from my observation that's not something that easy at all to nationally prescribe. And when you come down to look

at a particular catchment there are a great deal of value judgements that need to be made to find that intersection or integration of use and whether it's enhancement or protection, but do that they should.

**MS MOSS:** Just one further point on your question in relation to enhancement, Dr Harding. I think when we were discussing amendments to this objective, we've got the standard in there of contact recreation, and I think inherently we feel for some water resources to meet that standard would be an enhancement or an improvement. So therefore, a step forward, it's just that it's maybe a little bit more inherent, rather than specific.

**DR HARDING:** Yeah. So what's bothering you, you've put in contact (inaudible) means a lot more to us than 'swimmable'.

**MS DAWSON:** I don't even know if swimmable is a word.

**DR HARDING:** I guess I'm wondering whether they are the same thing. Whether 'swimmable' is the same as 'contact recreation' or not.

**MS DAWSON:** I think we had this debate because we weren't sure whether 'swimmable' was about a level of water or a quality standard.

**MS APPLEYARD:** I mean, it came under the quality of improving freshwater so we assumed there was a quality rather than being able to - because there are so many rivers that you'll never be able to actually swim in physically.

**MS DAWSON:** And they might have too much water. The Clutha, that's definitely not swimmable in parts.

**MS APPLEYARD:** Whereas the contact recreation standards are about the amount of ingestion of microbiological contaminants, particularly during

recreation that would mean that it wouldn't be wise to swim. So, they relate directly to water quality schemes.

**DR HARDING:** Right. And your new Objective 6 changes slightly. You've got a number of subheadings there and one of them, for example, B talks about guarding the life supporting capacity of freshwater resources and their ecosystems. We had a previous submitter who actually objected to the use of resources there and replaced it entirely by ecosystem. Do you - you've added ecosystems into it, do you have any view on this, resources versus ecosystems? Are they the same thing or?

**MS DAWSON:** Well, freshwater resources is defined in the NPS itself so I haven't looked to move away from the definition that it contains already. I think it's the term that's used throughout the document and it needs to be defined. And really it's just defined as water. It's the water in lakes, rivers, wetlands and ecosystems. So I think it needs - I mean in terms of that Objective B, where we're looking at safeguarding the life supporting capacity that's where I'm really looking to link it to the wording in section 5(b) of the Act, which uses the word 'water' and 'ecosystems' and so I think rather than saying 'water and ecosystems', I used the word, 'freshwater resources', because that's the term in this NPS. But then added 'the ecosystems', but I think rather than focusing just on - if you're looking at the life supporting capacity I think you need to look at the water itself and the ecosystem it supports.

[12.10pm]

**CHAIR:** Can I just follow that up (Inaudible) with the submitter in question, the use of the word 'resources' emphasises the advocacy (inaudible) economic use of the water, (inaudible) an unfortunate episode and he would prefer there was no such emphasis there.

**MS DAWSON:** That's fine. I mean if the term here just said freshwater means freshwater in those bodies, that would mean exactly the same thing.

**CHAIR:** And that wouldn't create a problem your mind?

**MS DAWSON:** No, not at all, because really it's just the word that happens to have been used in here. The way it's defined, they can link it to anthropogenic, but if that's the way people perceive it, and it can be remedied by cutting out that unnecessary word.

**CHAIR:** We can't really get away too far from the use of the word 'resource', that being the name of the -

**MS DAWSON:** Of the Act, exactly.

**CHAIR:** But we can (inaudible) but for all that, to some people with a particular viewpoint it's perhaps regrettable and in an NPS we're not necessarily meaning to give you any particular emphasis.

**MS DAWSON:** No, but I don't think the way that its used in here gives that emphasis literally and if the word was just 'freshwater means', and then that word was used throughout, that wouldn't actually change the initial meaning, but it may give a different impression.

**CHAIR:** I just wanted to follow up this suggestion. That new irrigation might, with its economic benefits be allowed to further degrade the quality of a body of water. As I was wondering whether there is an alternative to signalling a tolerance (inaudible).

**MS DAWSON:** This is an ongoing difficulty. For example, in the Hunter Downs irrigation scheme application that was heard a couple of years ago now, despite the emphasis on 'best industry practice' in terms of irrigation use, all the modelling work incorporating as much protection measures as possible, meant that at certain times of the year, of some years, in some parts of some rivers, where flows were low, there may be no shade, for example, there would inevitably be enough connection between groundwater and surface water, for example, that meant that there would be elevated nutrient levels in some parts of some waterways at some times of the year. And that wasn't an unusual catchment, for Canterbury anyway. And whether or not that led to nuisance, (inaudible), accumulation, I mean maybe that could be managed by maybe more shading of those parts of the river of the streams, but it seemed that there was no way that you could say, no matter what one did, that there would be no further degradation, if degradation meant no adverse change in the direction of any particular indicator. It really meant that there could be no more irrigation in that area and there would be many parts of Canterbury, that I know the best, where that would be the case. There may be some parts that's so distant from other waterways and the groundwater is so deep that that might not be the case, but in many cases it's not. And it's almost a temporal thing, like whether there's some wording around the level, that's temporal or -

**CHAIR:** I'm reluctant just to use something like (inaudible) hydro -

**MS DAWSON:** Exactly, I know, that's where we get caught as well.

**CHAIR:** These words tend to lose (inaudible), kind of, benchmarks that Meridian itself is quite rightly asking that the NPS should provide.

**MS DAWSON:** Yes. And I've been working with one of my colleagues at NIWA recently and I was helping him with a paper he was writing about the role of objectives in Regional Plans and setting the outcomes that are sort in the river that would be where you would focus the cumulative outcome of those land use and water abstraction, and it seems to me to be the case to focus that is either an objective or policy, but the importance of having those water quality standards that are supported by strong objectives about why one is looking for this particular standard in this water body.

**CHAIR:** Does it depend a bit on whether the water body is already degraded?

**MS DAWSON:** Yes, it is. And whether they are looking for an enhanced outcome or whether it really functions very well most of the time and could continue to function well with, at times, in certain parts, a slightly degraded quality in terms of a numerical indicator. But overall, the ecosystem functioning can be retained and that does seem to me the role of both the environmental flow, but particularly the water quality standards supported by clear objectives as to why that standard has been chosen in plans, because it will be a catchment-by-catchment, even within geographical parts of a catchment, determination.

**CHAIR:** Thank you for that, it leads me onto point 8.

**MS DAWSON:** In my own evidence?

**CHAIR:** In your evidence-in-chief. You're starting from as it were the principles of what should be achieved by the NPS, and you're saying it should clearly articulate judgements that resolve the conflicts. And of course that's what people are always looking for in an NPS or in a CPS (ph) for instance, and not always finding. But I'm wondering whether that's a counsel of perfection that we can't really expect to achieve in an RMA context?

**MS DAWSON:** In this paragraph my intention was to talk about Regional Policy Statements and Regional Plans rather than at the NPS level. And that's not clear, I accept.

**CHAIR:** Even if the NPS is telling the Regional Council that that's what's expected of them, can it be achieved in a context where individual applications have to be deliberated on in the process we all know so well and where sometimes there's what you can really almost call a trade-off required, whereby there may be some, hopefully, manageable degradation of the environment balanced against enabling for those section 5 purposes that are judged in the particular case to overwhelm that manageable degradation.

[12.20pm]

**MS DAWSON:** My feeling is that plans in particular, because I think they need to be focused at a - to make these judgments they have to be focused on a particular catchment or parts of catchments, I don't think you could make - it's very difficult to make these generalised judgements. I think plans can go at a hugely way further than many of them do at the moment in articulating what it is they seek to achieve in terms of the outcomes from that overall judgement. And I think in the Waitaki Plan, that you were involved with sir, that that has been done to a much greater degree than many other plans and that judgments were made. And maybe it was assisted by the fact that many of the things were in place already, but the judgment still had to be made about leaving the Pukaki River dry, for example, about a much lower minimum flow in the Lower Waitaki River than is currently the case or can be the case most of the time, within allocation. And that's clearly indicated for a new use. And the policies help to make that clear as to why those standards are set and what

combination of factors that come to bear on making that overall judgment. Whereas if you look at the (inaudible) Canterbury natural resources plan, I mean, they have got on the one hand water quality in one chapter and water quantity in another with no clear objective anyway linked between enabling people to use water and keeping good water quality in their rivers, and so there is this void where you think, "Okay, on the one hand they're saying we want people to be able to enable the well-being." But if you took it literally maybe no one can do any more irrigation.

**CHAIR:** That kind of thing seems to be endemic in RMA instruments.

**MS DAWSON:** Yes, but in land use planning, I don't think that's the case. I think there's a longer history of people making decisions to have an industrial zone or to actually make some concrete decisions about what things are going to happen where and they're huge trade-offs for the people affected but I haven't quite gotten to that level of sophistication, I think, in those Regional Plans.

**CHAIR:** Thank you for that. There was something I didn't quite grasp, just at first reading in your paragraph 50 and I think (inaudible) what my problem was reading that, but to give you an opportunity just to expand on what you had in mind, particularly in that little paragraph.

**MS DAWSON:** In paragraph 50?

**CHAIR:** The middle sentence in paragraph 50.

**MS DAWSON:** "Extent of the power to change the terms and conditions is a common area of misunderstanding by council officers." Well yes, what I've observed is that, and I'll turn to Ms Appleyard, to assist me with the law on this, because I know it's a fine line, but that council officers seem to

overlook, at times, the limitations of section 128 and its associated, I think it's 68, and the extent to which they can review conditions, and that there are limitations in terms of environmental levels, I think, or environmental limits, I can't remember the exact wording. Rather than looking for more efficient use or relocating water from one activity to another, because one activity is not able to get hold of that water and others are. And I know there's legal arguments around where that limit lies, but I think that the fact that there is a limit at all in that section is often overlooked.

**CHAIR:** Yes, and I think we did need to focus on that for a bit with the Waitaki Plan, didn't we.

**MS DAWSON:** Yes, I think so too. And that's much clearer in the Waitaki Plan.

**CHAIR:** Now the other thing was and (inaudible) that by asking the question of Ms Moss.

**MS DAWSON:** 38.

**CHAIR:** Just a question of the timing constraints. There's not going to be a lot of point in giving directions to Regional Councils if they can keep putting it out.

**MS DAWSON:** No, and I definitely don't think they should be allowed to just put it off until the next review, for example.

**CHAIR:** Somehow or other it's got to have bit more (inaudible) to that, doesn't it.

**MS DAWSON:** Yes, I just think 40 days is unrealistic. I think if a Regional Policy Statement, particularly if it's gone to an appeal, and we know that the number of parties that often get involved in these appeals, the outcome

may remain uncertain for awhile. Pre-empting what the regional policy might say, whilst it's going through an appeal processes might be a tricky or dangerous thing to do. I mean 40 days from that point, not much happens in 40 working days.

**CHAIR:** That's why I'm, thinking well, "Here's Ms Dawson, who, to my knowledge, has a lot of experience in these things." So what is your recommendation of a timeframe?

**MS DAWSON:** Well, it would have to be six months to a year or something like that, I think would be more realistic.

**CHAIR:** Somebody yesterday was saying 18 months to two years. Do you feel that that's too slack?

**MS DAWSON:** Well, I mean, I think at the outside it should be two years. But there is an importance to drive this to happen, otherwise it's going to be another lot of drifting on and we'll be in 20 something years. A year is more - I mean, there's a lot to do even in a year, but I think a year is more realistic.

**CHAIR:** So it would require a bit of determination to get it done in a year.

**MS DAWSON:** Yes, I think so, because it's not only a drafting exercise, there's a political exercise to go along with, because it's very much the councillors have got to make those overall judgements and that can take time itself as well as - I mean a lot of the technical work should be able to be done in the meantime. I mean, they should be doing it now. But yes, that seems more realistic.

To be read in conjunction with  
the tabled evidence/statement

**CHAIR:** Okay, thank you very much. I think the Board are all at one that (inaudible) to hear submissions from Meridian (inaudible), and we particularly value the constructive approach. Thank you.

**ADJOURNED** [12.26pm]

Audio file: dpm0104

**RESUMED [1.27pm]**

**CHAIR:** Please be seated. Now, thank you very much for coming. We are looking forward to having you present in support of the submissions that's been lodged.

**MR CURRY:** Thank you very much indeed. Good afternoon, my name is Ben Curry and I'm the Chief Executive of the Rangitata Diversion Race Management Ltd, based in mid-Canterbury. With me this afternoon is Bridgette Malcon, from Ryder Consulting, who is here to assist me on some of the finer points of planning in the RMA. I profess to being a bit of a (inaudible) when it comes to these measures.

It's poor form to start with an apology, but I have a plane to catch and so I'm going to be relatively brief, and if you will allow me I will go through this at a reasonable speed, and I'm hoping to try and get away from here at just after 2 o' clock if that's possible. So if you're content, I'll start.

**CHAIR:** Of course.

**MR CURRY:** Thank you very much indeed. Well I don't know how much you know about the Rangitata Diversion Race so I thought I'd start off with a little bit of scene setting and I have put up for your identification, a map. And just to orientate you, this is the Rangitata Race, it cuts across mid-Canterbury, 67 kilometres long. This is the Rangitata River. This is the Rakaia River. This is the south Ashburton River and this is State Highway 1. The town of Ashburton is here and that is Methven, and Mayfield is in this area.

The RDR as I mentioned 67 kilometres long. It extracts water from the Rangitata River where it can extract up to 30.7 cumecs and we are entitled to extract up to 70.1 cumecs from the south Ashburton River. The total must never exceed 35.4 so we have to balance between the 2 rivers. The RDR is a not-for-profit organisation but our shareholders are very much - well four out of five of them are very much for profit organisations. We have three irrigation schemes which total 64,000 hectares. This is Mayfield Hinds Irrigation Scheme which is roughly 32,000 hectares. This is the Valetta Irrigation Scheme, roughly 7,000 hectares, and this is the Ashburton Lyndhurst Irrigation Scheme which is, give or take, 25,000 hectares. As I said in total, it is approximately 64,000 hectares. We are the oldest and largest irrigation scheme in New Zealand, starting in approximately 1938-39.

We have two other shareholders. One is Ashburton District Council because I supply some, not all, of water for stock purposes into the district. It is approximately less than 1% of the total of the water that I deliver, but in terms of priority they are the number one priority. So if I can't deliver water for irrigation or for power generation I have to deliver water by fair means or foul for stock water for the district council.

The last shareholder is TrustPower. TrustPower own two hydroelectric power stations, one here at Montalto which produces approximately just under 2 megawatts and the other one is at Highbank, at the end of the Race, just on the banks of the Rakaia; and that produces peak loading of around about 28 megawatts. So in total, just around 30 megawatts, which if you want to put that into perspective, is enough to provide electricity for around about 12 and a half thousand homes.

So that is the RDR in a nutshell.

I don't think I need to go through too much more on that. We have five shareholders, as I said. They have an equal share within the company. We have 200,000 shares; each of the five shareholders has 30,000 shares. Your math is probably faster than mine. You realise I'm short of 50,000 shares. They are deferred for use for the Council if they would wish to enact them for a major transaction and the like.

A relatively small company that myself, and three race men and a part time executive assistant. As I have stated, we are a not-for-profit organisation but we guesstimate, and it is a guesstimate, that indirectly we contribute somewhere in the region of around about \$400 million into the local and national economy through agriculture and hydro generation.

So that is really the RDR. What I would propose to do is pick up I suggest paragraph 7, and with an overview of the RDR's position on the proposed NPS. And I have to start with another apology, I have got a rotten cold so I apologise if it sounds a bit funny on occasions.

**CHAIR:** I'm just a little bit confused about paragraph 7. Am I looking at the right document? I'm looking at a documented dated the 23<sup>rd</sup> of January. Is this the right document?

**MR CURRY:** All right. We've obviously got some version control issues.

**CHAIR:** That's not uncommon.

**MR CURRY:** Mine starts with the title, "Overview of the RDR's position on the Proposed NPS." Would you have - you don't have that at all? Okay, that's all mixed up.

**CHAIR:** Mr Rice, if you would like to show Mr Curry the document and he can say yes that's what it is or no it isn't.

**MR CURRY:** That looks like it, that's the submission. Yes. Hopefully you have copies of the evidence. Okay.

**CHAIR:** Thank you.

**MR CURRY:** Now we are all on the same page?

**CHAIR:** Paragraph 7, page 2.

**MR CURRY:** Excellent. RDR recognises the sustainable management of New Zealand's freshwater resources is crucial in order to achieve the purpose of the RMA. However RDR is concerned that the proposed NPS will significantly affect the development and enhancement of existing and new irrigation and hydroelectric power schemes in New Zealand. Should the RDR's concerns not be addressed in the final NPS, this document will cast a shadow over the RDR's existing assets and development proposals and potentially the future of irrigation and hydroelectric power generation as a whole. This would be contrary to the proposed NPS for renewable electricity generation and Part 2 of the RMA.

With regard to relief sought, the relief sought by RDR to address the following comments and concerns have been attached as an appendix and relief sought is the same as that specified in my original submission.

The RDR requests that the terminology utilised in many of the objectives and policies is amended in order to avoid ambiguity and uncertainty. The use of subjective or unqualified terms will hinder the successful implementation of the NPS and will add significant cost and indeed, time

delays to its implementation. These costs will be borne on submitters challenging and councils defending proposed changes to plans and policy statements as a result of NPS. Examples of the terms contained within the proposed NPS that will require clarification are set out in annex B.

[1.37pm]

RDRML is also concerned that insufficient timeframes have been set within the proposed NPS to allow local authorities to alter their policy statements and plans. It is without doubt that a significant amount of work will be required to implement the NPS. If inadequate time is allowed consultation feedback is likely to be limited and more conservative, or indeed poorly informed and provisions may be notified by regional and district council. Again, this is likely to add significant cost and time delays to the successful implementation of the NPS. RDRML considers that a five-year time frame would be a more realistic option.

With specific comments to the objectives and policies in the proposed NPS, turning to Objective 1, RDR supports the retention of Objective 1 as it is consistent with the definition of sustainable management provided within section 5 of the Act.

With regard to Objective 2, RDR believes that the focus of the objective should be on the quality, rather than on the quantity of water. As in the RDR's experience, this is the most tangible benefit of integrated land management. The three irrigation schemes that I have already described that receive water from RDR are continually faced with the issue of suspended solids, in particularly silts and sands, which affect the transport of water around each of the gravity-fed irrigation schemes and the quality of the water for irrigation purposes. And indeed, TrustPower also have a battle with silts and suspended sands. They act like a very fine grinding

paste in their turbines. The integrated management of land use activities and discharges in the catchment area upstream of RDR could assist in addressing this issue.

With regard to Objective 3, RDR believes that the requirement to exceed swimmable standards is inappropriate as this target could significantly and inappropriately constrain existing infrastructure which relies on the use of water to provide social and economic benefits. Rather, RDRML suggests that swimmable water quality standards should be achieved where appropriate.

Turning to Objective 4, RDR questions the need of the proposed NPS to emphasise that both the life supporting capacity and all ecological values are to be recognised and protected. The RDR considers that Objective 4 should be amended so it is more consistent with, and no more restricted than the wording provided within Part 2 of the Act.

Turning to Objective 5, RDR notes that this objective singles out land use activities and associated discharges and does not consider any other causes of degradation. RDR regularly dredges the Rangitata Diversion Race of silt and other debris and either contracts its removals or stockpiles such material adjacent to the Race. This activity occurs at the intakes of both the Rangitata River and the south Ashburton, and at the end of the Race, just before the hydroelectric power station called Highbank. The silts and debris can be stockpiled or located in the river beds including the Rakaia River, to be washed away during high flows. All of these maintenance activities are undertaken on a regular basis pursuant with company's resource consents and would not be consistent with the requirements of this objective.

Temporary environment effects or effects that are minor or less than minor should be recognised and provided for separately to those activities that significantly degrade a freshwater resource on a continued basis. RDRML also considers that degradation should be able to be avoided, remedied or indeed mitigated.

With regard to Objective 6, RDRML is uncertain of exactly what would need to be done and is intended to be done with regard to points b), “The need to provide for resilience against the biophysical effects of climate change such as through infrastructure for supply, storage and distribution of fresh water;” and c), the adverse effects that arise from those demands. These provisions are extremely vague and are open to interpretation. RDRML considers that this objective should be expanded to afford protection non-derogation to existing uses consistent with the High Court’s decision on the principle on non-derogation.

Objective 7, RDRML regards this provision as appropriate; in particular the statement, “to ensure that allocated water is used efficiently.” The relationship between stock water, irrigation and hydroelectricity at generation uses within the RDR is a very good example of this practice. The RDR considers that a minor amendment to Objective 7 is necessary to ensure that any transfer of allocated water does not affect existing allocations or existing users as this would defeat the intent of the objective.

RDRML considers, with regard to Objective 8, that it is beneficial for Tangata Whenua values and interests to be identified as suggested within Objective 8. The identification of areas of specific value to Tangata Whenua will provide a degree of certainty to those who wish to develop new projects in that they know where areas of constraint or particular value are located. RDRML is unclear as to what is intended by Iwi or

Hapu involvement in the management of freshwater resources and considers that such involvement should be consistent with, and not elevated above those matters listed in Part 2 of the Act. RDRML therefore suggests that the term “involvement” be deleted from Objective 8 of the proposed NPS, and that the objective instead references sections 6(c), 7(a) and 8 of the RMA.

Turning to Objective 9, RDRML considers that it is beneficial for regional councils and territorial authorities to undertake effective monitoring and reporting as suggested within the objective. However, RDRML is concerned to ensure that such monitoring and reporting is indeed effective and also necessary. RDR requests that an explanation is provided which sets out the thresholds that any monitoring undertaken shall meet, as RDR is concerned that consent holders are likely to bear the brunt of increases in monitoring pursuant with their resource consents. Where a considerable level of additional monitoring is required, this may mean that compliance charges are increased significantly, which would in turn affect the viability of an existing activity. Likewise, new proposals and the re-consenting of existing activities may have substantially more restrictive consent conditions imposed upon their resource consents.

RDRML already has a high degree of telemetry monitoring to ensure continued compliance with its resource consent conditions and regularly spends approximately 10% of its annual operational maintenance budget on consent compliance. The proposed ECan LTCCP for 2009-2019 did plan an additional levy, but it has indeed been postponed for 12 months. The council decided that recently.

Given the large sums of money already involved in monitoring, RDR considers that additional monitoring must be identified as being necessary before it is undertaken.

Turning now to the policies, Policies 1, 2 and 3. Policy 1 which further informs Policies 2 and 3 is extremely long and overly prescriptive. This policy would be more, simply put, easier to understand if it was broken down to discrete topics. For example, water quality, water quantity, environmental flows, notable values, Tangata Whenua values, and water use and efficiency. RDR considers it is appropriate for independent experts to be employed and freshwater resources to be assessed against appropriate criteria. Policy 1 should establish the applicable criteria for the various values, rather than leaving this to case law and the individual interpretation of the various local government authorities.

RDR believes that the environmental flows need to be identified in a case-by-case basis and that flow setting should not be restricted to a specific methodology or methodologies. RDR further considers that it is both important and appropriate to be able to adapt the methodologies as research is undertaken and technological advances occur.

RDR considers that the setting of upper allocation limits or levels is not something that is universally accepted by the scientific community. Therefore, RDR opposes the setting of allocation limits or levels. The setting of inappropriate environmental flows and limits or levels will potentially have an adverse effect on both new and existing activities and may result in existing activities losing water in over-allocated areas.

Any increase in environmental flows will have a significant impact on the operation of the RDR and the hydroelectric power generation associated with it. In this regard, an increase in the environmental flows will create a significant impact on the reliability of the scheme in dry years in terms of the water available for irrigation and generation. This in turn will affect the security of supply to the RDR scheme, and as a consequence, the

reliability, and ultimately the profitability of individual irrigators and farmers, and the Highbank Montalto hydroelectric power scheme.

[1.47pm]

And perhaps I can just step away from the evidence for a second, just to explain. The RDR is a run-off river system. We have no storage - no significant storage. I don't know if you are familiar with the Opuha scheme or indeed any of the Waitaki schemes? And I understand you had Meridian here beforehand, those schemes have a bank, have a dam, and can draw down on that dam, obviously depending on what Meridian is doing at the time. With the RDR we have no storage. So when the water is in the river, we are entitled to take it within our resource consents. But if the water isn't there, and currently, in the middle of winter, most of the Rangitata area is frozen. So we are actually at very low flows now. And we reach very low flows in the summer time as well. So although we are entitled to take approximately 30 cumecs, we actually are only as I sit here today, taking about two-thirds of that, about 20 cumecs. Because we don't have any large-scale storage, that is a real issue for us.

Therefore, without that certainty, that investment will decline and specifically, the reliability, and infrastructure may become run down. Any increase in environmental flows could also reduce the availability for on-farm storage exacerbating issues faced by farmers in dry years who utilise water from the Rangitata Division Race so much so that they must obtain water from other sources. The converse is perhaps more relevant. Certainty of supplies gives confidence to investors, be they farmers or generators, to drive maximum efficiency out of the resource they have a permit to use. The advent of centre pivots which have a high capital investment but increase crop growth with more efficient use of water would have been unlikely without the security of water supply. TrustPower

have recently installed an enhanced turbine in their Lake Coleridge hydroelectric power station that uses 12% less water. I imagine that the cost-benefit argument would have been heavily influenced by the certainty around the resource consents.

Run-off river schemes are highly dependent on the flows within the river, as I have already mentioned. Therefore, any increase in environmental flows will have a significant impact as these schemes generally have no or only buffer or management storage. This is of great concern to RDR and runs contrary to section 7(j) of the Act “benefits of renewable energy” and the National Policy Statement for Renewable Electricity Generation, and is thus inappropriate. It also fails to provide for the sustainable management of physical resources. The policies of the proposed NPS are likely to result in a objectives, policies and rules both district and regional levels, which impose additional restrictions to existing activities which have already have gone through rigorous RMA consenting processes when they come to be re-consented; thus must be implemented carefully.

When lawfully established activities have demonstrated a sustainable flow regime, then such flows should not be adjusted unless there is a robust reason to do so. RDRML considers that Policies 1 to 3 of the proposed NPS should be amended or re-drafted to reflect this.

The section 32 analysis states in the first served approach to allocation may not be sustainable and that such an approach does little to promote the efficient use of water or the effective management of cumulative effects. RDRML assumes that this is why the NPS appears to be heading towards a catchment-wide approach. The RDR is concerned that the time-tabling of priorities to determine when the freshwater quality standards and environmental flows and levels are set, may lead councils to granting consents for shorter terms. Together with catchment-wide

common expiry dates, this could lead to greater costs, more regular re-consenting, which is particularly onerous for large-scale projects and leads to greater level of uncertainty, particularly in over-allocated catchments when a number of resource consents are due to expire by the same time.

Common expiry dates will also cause problems for government authorities when a significant number of resource consents are due to be processed at the same time. RDR having recently gone through the re-consenting process, considers that the costs faced during the re-consenting process are already extremely onerous. Our recent resource consents cost in excess of \$5 million and took approximately nine years to complete, although this was slightly elongated by work done with the appeal process and indeed the Rangitata Conservation Order.

The “first in-first served” approach, when coupled with an effective system of consent transfer, is environmentally appropriate and efficient. It also recognises the value of existing investment and the principle of non-derogation. Policies 1 to 3 within the proposed NPS, and indeed all the policies under the proposed NPS need to be amended to recognise this. RDRML is particularly concerned with the wording of Policy 1(g) where, “existing takes are to be restricted in times of low flow”. RDRML is unclear of what exactly is intended by the term “restrict” and how this restriction will apply.

While there may be instances where restrictive water use may be appropriate, they need to be advanced with considerable care and to be thoroughly tested. To put it another way, they need to be the exception rather than the rule. RDRML considers that Policy 1(g) needs to be amended or re-drafted in order to reflect this.

RDR is also concerned that Policy 1(i) seeks to prioritise allocation of consumptive freshwater takes without understanding what is intended in terms of prioritisation of the proposed NPS. RDR seeks an amendment to this provision so that the prioritisation of consumptive freshwater takes can only occur on a “first in, first served” basis.

Ultimately, the purpose of the RMA is to promote the sustainable management of the natural and physical resources. And the Act does not identify a preference for natural over physical resources. The current thrust of the proposed NPS is likely to fail to provide for the sustainable management of the physical resources, as it’s largely focussed on natural resources. A more balanced approach is called for.

Turning to Policies 4 and 5, to give effect to Policies 1, 2 and 3m 4 and 5 list those matters that local authorities must consider when preparing a planned variation or indeed, change. RDR requests that those matters listed are adjusted so that they are consistent with and not elevated above the requirements listed within sections 5, 6, 7, and 8 of the Act. Some of the wording used in Policies 4 and 5 is not well defined or not defined at all. Therefore, RDR is seeking clarification on the terms contained within annex B.

With regards to Policy 6, RDR considers that conditions included on the consents and designations are entirely appropriate where they serve a purpose and are reasonably necessary. It is noted, however, that such conditions should not require developers to exceed industry standards, nor should they impose a greater restriction than those set out within the Act at a national level policy, as this would act as a further barrier to investment.

Policy 7 as it is currently worded, the RDR considers this policy as vague. It does not direct government to use non-regulatory methods, rather it states that local government may use such methods. RDR is particularly concerned with the reference to financial and development contributions within this policy, given that local authorities can require the payment of financial contributions or development contributions in specified circumstances. RDR does not believe that financial and development contributions are strictly non-regulatory methods, and considers that they should be deleted from this policy.

Further RDR considers that more guidance should be provided with regard to method of use and how these might be implemented, particularly those methods that impose a cost.

With regards to Policies 8 and 9, we support the retention of Policies 8 and 9 as it considers that these provisions are appropriate.

In a rather hurried conclusion, RDR recognises that the sustainable management of New Zealand's freshwater resources is crucial in order to achieve the purpose of the RMA 1991. However, RDR is concerned that the proposed NPS for Freshwater Management as currently drafted, will significantly affect both existing and indeed, new irrigation in the hydroelectric power schemes in New Zealand.

Amendment is necessary so as not to impose significant costs to existing or/and new proposals that rely on access to freshwater resources.

Thank you for your time.

**CHAIR:** Thank you for your presentation. If you have a moment or two we would like to see if you can answer one or two questions.

**MR CURRY:** I'd be delighted.

**MRS VERNON:** Just one very quick question. You talk a lot about catchment and I wonder in Objective 2, not that you actually put it in with your re-wording, but would you see that perhaps it could be "integrated catchment management" rather than just "integrated management"?

**MR CURRY:** I think the writing is on the wall to be honest with you. We are involved in the Canterbury water management strategy, which I think is leaning very heavily towards a catchment-based approach. Whether "catchment" is the right term, I know that Environment Canterbury have 10 if not 12 different catchment areas designated and that's the non-legal term, designated within Canterbury. With a little bit of reinventing the wheel I think there is very much a feeling that there are local solutions for local problems.

[1.57pm]

The South Ashburton River is an over-allocated river. We are involved in a voluntary organisation called the Ashburton Water Users Group and the main aim of that group is to keep us of total restrictions, so as the water level starts to drop, my senior race man phones up all the local farmers and everybody voluntarily cuts back. And that seems to work rather well rather than the sort of draconian measure coming down from Environment Canterbury, which has happened in the past where everybody has seen the river level drop and they've opened up their gates even more to get some more water in before it gets shut off. And I think yes, a) that is a very long winded answer, I think "catchment" in whatever form it is probably an inevitability. I'm not saying that is a bad thing either.

**CHAIR:** You say five years should be allowed for councils to implement a National Policy Statement, to me on first hearing it, sounds extraordinary slack, what's the point of having a National Policy Statement if it's going to take five years before it's even into these regional instruments. Some people say a year should be enough for a determined local authority, so I want to tell you what's in my mind and see what response you have to that?

**MR CURRY:** Well I may well defer to my learned colleague on my right who's got a much better understanding of the machinations of planning. All I can say in having sat in this chair as Chief Executive of the RDR for a relatively short period of time, we've been involved in Environment Canterbury's natural regional resources plan. And that's gone on for three years, and has cost a lot of money. We also involved in the NPSs, quite rightly so. We are also involved in the Canterbury water management strategy. There is recently a land and water forum - infrastructure forum that you're probably aware of. I just raise that because to me as a person sitting at the far end of the food chair there are a constant flow of new regulatory bodies and processes that we've gone through. We've also gone through, clearly, our re-consenting process and the Rangitata Conservation Order. So for the farmer in Mayfield Hinds, he just doesn't know when the process is going to end. And I think all I would seek from the NPS is an understanding of how all this fits together because as I say, having gone through three and a bit years of the NRRP it is conceivable that the findings and recommendations that you make may well affect that NRRP, so to a degree we have to go around the buoy again, perhaps that is a slight overstatement. That's a layman's term. Do you have some other points you wish to make?

**MS MALCON:** I think you're right, five years is a very long time and five years could possibly be a case where a council hasn't implemented environmental flows and needs to do the research behind implementing those flows for a start. The five years I think was put into the submission in evidence to give time to for councils to actually take some research, background research and a bit of preliminary consultation before they went in and put their policies forward. Sort of, what we've found in the past, or what I have found in the past anyway, is that policies are put forward rather hurriedly. There's a bit more of an "us against them" type of approach and things seem to kind of expand out in the other end. So the five years be wouldn't necessarily in all cases, but perhaps just to give a bit more time for some proper research to be undertaken in certain areas.

**CHAIR:** Would another sensible approach be that there's a time limit set of shall we say of 18 months and if the council really felt that they could demonstrate that they had a solid case for having more time, they should get the Minister's permission or the permission of some independent body for an extension of time?

**MR CURRY:** I think like anything there is probably a compromise there somewhere. Clearly you want to have a timeline that will drive a council so that they don't ease off. That's the point you're making obviously. And I fully accept that.

**CHAIR:** You got my message.

**MR CURRY:** Yes. No, message received and understood. All we are saying I suppose, from the other side of the argument, is that we would hate to see a time scale that is so short; that all the due diligence isn't done.

**CHAIR:** Thank you. So if you've got a moment for one simple, straightforward geographical knowledge, you explained to us your total project that you are working with and you explained two hydro stations, Montalto and Highbank; then you referred to one called Lake Coleridge and I just got lost there.

**MR CURRY:** Rakaia River, Lake Coleridge, because it is not actually in my area, and TrustPower own the power station, Lake Coleridge is about just off the map. And it is not within the RDR. But I just used that as an example that TrustPower had recently upgraded one of the turbines in there; spent quite a lot of money and it has driven more efficiencies. Coleridge is a relatively old power station, as indeed is Highbank. And I don't think that TrustPower would have made that investment unless they were damn sure that they had a degree of certainty in place around their resource consent. So Lake Coleridge, I beg your pardon, is just off the map, on the Selwyn side.

**CHAIR:** Well thank you very much both of you for your contributions. We've listened with a lot of interest and learned a lot and we'd like to leave you to catch your plane in time.

**MR CURRY:** Thank you very much indeed and if you are ever up in that neck of the woods, come and pay us a visit. There is also some very good salmon fishing just up there too.

**CHAIR:** Thank you.

**ADJOURNED** [2.05pm]