

To be read in conjunction with
the tabled evidence/statement



**HEARD BEFORE DR R SOMERVILLE QC (CHAIR), MRS G BAUMANN,
AND DR R CHAPMAN, MEMBERS OF THE BOARD**

FRIDAY 3 JULY 2009

**HELD AT THE WELLINGTON CONVENTION CENTRE, SQUARE AFFAIRS
ROOM, 111 WAKEFIELD STREET, WELLINGTON**

HEARING OPENED [10 am]

APPEARANCES

Mr P Majurey, Mr R Pierce, Ms A Marshall and Mr J Bowler, Genesis Energy

Audio file: 3July1

CHAIR: Welcome Mr Majurey and welcome to your team. We are very grateful to you for your submission which we've read and we look forward to anything you wish to add. Unfortunately, Mr Gardiner cannot be with us today for personal reasons but we are keeping a running transcript so he will see that. I need to warn you that it does mean your words will be on

the website eventually, so that record is being kept. I won't introduce the members, you know who they are, and we are very much in your hands so we look forward to hearing what you have to say.

MR MAJUREY: Thank you sir and good morning to the Board. We are very grateful that you have allowed the Genesis Energy team to have the time you have provided today. It's clear from the transcript that there have been some fairly fulsome engagements which is certainly beneficial to submitters to be able to fully engage in these matters and I appreciate the opportunity you have given us. We do have a team from Genesis Energy here and when I go through the submission I'll be talking about that.

The format for this morning, if it's appropriate sir, is that I have provided a written legal submission which I think you will have a copy of, which I will take you through. And at any point that you wish to engage on sections either by theme or what have you, we're happy to do that. And over and above myself, the members of the team here who I'll introduce shortly to be able to answer those questions.

So just before I begin reading from the submission, and I do make reference to the senior managers who are seated with me. To my immediate right, Andrea Marshall, Environmental Manager Strategy and Policy. Next along is Mr Richard Pierce, General Manager Generation Development. And at the far end Mr Jarrod Bowler, Environmental Manager Renewable Energy.

In terms of the written submission, just to assist the Board with its format, there are the principal submissions, there are some appendices behind the first blue page, and in the last there is a figure that I will come to shortly. That's the nature of the document and I will navigate our way through that.

Paragraph 1, the original Genesis Energy submission addressed the Proposed National Policy Statement on Renewable Electricity Generation, and this submission expands on that submission especially in light of recent case law and by that I make special reference to the Te Waka wind farm cases that you will be aware of.

The Genesis Energy renewable energy portfolio. Within its diverse electricity generation portfolio Genesis Energy owns and operates 509.6 gigawatts of renewable generation assets: the Tongariro Power Scheme, the Waikaremoana Power Scheme, Kawerau Hydro, and the Hau Nui Wind Farm. If I could refer the Board to Figure 1, the last page of the document, I know members are familiar with these operations. But just to orient ourselves, on the left side of the Te kau Maui (ph) we have the three components of the Tongariro Power Scheme, Tokaanu, Rangipo and Mangaio. And to the right of the island, the Waikaremoana Scheme, Kaitawa, Tuai and Piripaua. In the south we have the two components of Kawerau A and B, and the wind farm, Hau Nui, further south.

As to future generation, Genesis Energy has a target to build some 300 megawatts of renewable electricity generation comprising wind, hydro and geothermal developments. As I have noted, we have members of the Genesis Energy senior management team here to assist you.

As to the RMA framework I am aware that the Board has received many submissions and this is a very high level summary and really for the convenience of the Board, the Board might find some assistance with its task in the reports produced by previous Boards of Inquiry into the current New Zealand Coastal Policy Statement, the Waitaki Catchment Water Allocation Regional, and the National Policy Statement on Electricity

Transmission. Just pausing there, I have, in the footnotes, made reference to the relevant parts of those reports where those Boards have dealt with the statutory scheme as they have seen it.

The following statement from the report of the Board of Inquiry into the proposed, and that should read NPS on Electricity Transmission, that's my error there, it is salutary and there the Board said, "clarity is essential. National Policy Statements sit at the top of the Act's plan and policy instrument hierarchy. Section 55 requires local authorities to amend their planning documents to give effect to provisions of a National Policy Statement that affect those documents and section 55.2(b), allow such a statement to direct that specific provisions are to be included without notification for hearing". This underscores the importance of clarity and effectiveness.

Common denominators for decision makers under the RMA in relation to policy statements and plans and resource consents include section 5, the Part 2 principles and any National Policy Statement. It is the daily task of the Environment Court to evaluate plans and resource consent applications, etc. And one formulation of the evaluative framework for resource consents is found in the TPD case, in relation to plans and policy statements Algameos (ph) and Long Bay are also illustrative. And if I could just pause there I certainly won't take you through, it is well know, but in Appendices 1 and 2 I have set out extracts that the Board might find helpful in its inquiry.

Electricity and Government Policy: national importance of electricity. The importance of electricity has been recognised by the Courts. For example, the Environment Court has identified the critical role of electricity in providing for people's wellbeing. The first extract there is taken from the Awhitu case as per the footnote 12, the wind farm development by

Genesis Energy. In there the Environment Court said, “Electricity is a vital resource for New Zealand. There can be no sustainable management of natural and physical resources without energy of which electricity is a major component.” The next extract is taken from a geothermal case. There the Rotokawa joint venture and the Environment Court case said in that instance, “From a national level, electricity is an essential commodity to New Zealand households. Directly they spend in excess of 2 billion dollars on it, and industry. It provides the basis for our economic prosperity and way of life. Unlike in some other countries, electricity cannot be imported and for some purposes it has no practical alternatives.”

In light of increasing demand, the Environment Court has acknowledged the importance of maximising existing generation output from renewable sources. For example, and again this comes from the geothermal power case, the Court said, “Over recent years, New Zealand’s demand for electricity has been growing faster than new generation. We were told that for the year 2005 the growth rate was 2.5 percent. It was stressed that because of the potential for electricity shortages, combined with the uncertainty surrounding new generation, it is very important that existing generation is at least retained where possible, if not increased. Similarly the full utilisation of available renewable generation facilities is in the national interest.” For example, and this is an extract from the TPD case, just noting there, I am referring to TPD, in some cases TPS, they’re synonymous, TPD Tongariro Power Development, as it was formerly known and now TPS Tongariro Power Scheme. So I’m just using those terms interchangeably there.

[10.10am]

From the Environment Court TPD case, the Court there said, “We have found that the TPD makes a significant contribution to the hydroelectric production of New Zealand. Its infrastructure with its sunk costs and existing capacity to produce 360 megawatts, not to mention the reuse of the water down the Waikato River reflects its contributions to the New Zealand economy. Clearly it is in the national interests for the TPD structure to be as fully utilised as possible. Given increasing electricity demand projected to grow at around 2 percent per annum, and requiring 100 to 150 megawatts of newly generating capacity per annum, the High Court has also recognised the importance of increasing generation capacity. And the following extract comes from the High Court case involving the TrustPower Mahinerangi project in the South Island. And there the High Court said: “This Court recognises the notorious fact that there is an ongoing risk of the demand for electricity, not a natural supply. This past winter and previous winters there have been load levels of stored water in the hydroelectric systems. The Court also takes cognisance of the notorious fact that where supply cannot match demand in electrical systems, there has to be a partial shut down of the distribution networks. For these reasons, it is in the public interest for power supply companies to increase generating capacity. The question is not whether generating capacity should be increased, but rather by what means and where.” And just to interpolate there, in some ways, that really encapsulates the nub of what this Proposed NPS is about.

Government Policy. As the Board is well aware, the importance of electricity has also been recognised through Government Policy, the NZES and the NZEECS. Through the NZES the Government has set a target for 90 percent of New Zealand’s electricity to be generated from renewable sources by 2025 based on an average hydrological year. And both policies include provisions in support of renewable energy generation and diversity within the mix of renewable options.

And if I can just pause there, taking you first to footnote 20, and these provisions will probably be familiar to you. But just noting the first part of the extract in footnote 20, the extract from the NZES, “Achieving the target of generating 90 percent of electricity by renewable sources by 2025 will require market and regulatory structures to enable investment in a diverse range of renewable generation projects, including small scale and distributed generation.” And in a similar vein, if I can take you over the page to footnote 21, there an extract from the Conservation Strategy, the extract starts: “Meeting the target will require generating electricity from a diverse range of renewable sources such as wind, geothermal and hydro environments.”

So I am back at the top of page 6. These policies also include statements that achievement of the target will not result in an acceptable or adverse environmental effects, will require wind generation and I should of course add hydro and geothermal, and may include contributions from wave and tidal technologies.

Genesis Energy experience with resource consent application timeframes. It is understood the Board has sought advice from submitters as to their experience with consenting energy projects under the RMA and the following table reflects the experience of Genesis Energy. Just to help navigate the table, it starts on page 7 and goes on to page 8. We have split the table into the 3 parts of the portfolio, hydro, wind about halfway down on page 7 and thermal over the page. Just to complete the picture. The various details as per the titles at the top of page 7 and probably one column you are quite interested in is the 4th column, ‘Consent Timeline from Application Date’. So we just set out down there those different time frames, and if I could just quickly walk you through those in terms of the salient aspects.

So the first example for hydro is the TPS. As some members will know very well, that's been approached at some gestation. In terms of the key dates, one being applications, the other end of consenting. For the TPS that is still ongoing and it's been 9 years to date in terms of the application process. Of course there was a long lead time before that consultation and there are quite a number of people on this side of the table whose lives and the birth of their children have been marked along different milestones of their projects. And I still don't live down the fact that I missed my baby's birth while I was giving some closing submissions, but there you go! So there are some very long lived experiences with that project.

Mangaio, now part of TPS, a mini hydro as it is called, a bit quicker off the mark in terms of that experience, four months, Waikaremoana seven months. In terms of wind, the two parts of overall Hau Nui development, two months and five months, respectively. Awhitu and there will be some discussion on this, a longer timeframe, some 2.8 years.

Just going over the page, to complete the picture we have the thermal experience in terms of the two projects at the Huntley complex, e3p, as it has been known in project 40, four and seven months respectively. And the current project traversing the consenting process, Rodney being two years this month, and in terms of its current status there are some appeals but not on more matters.

And I should have said just for the latest information for the Board, in terms of the TPS case where, as I think you are aware, beyond the Environment Court decision there were appeals on the term of consent, the Environment Court granted a 10 year consent, whereas the first decision had been 35 years for the Horizons Region part of the consents.

The Environment Waikato consents weren't appealed, so for the Horizons consent, the Environment Court imposed a short term of 10 years and that went on appeal to the High Court, Court of Appeal, and it's just been sought to have leave to be taken to the Supreme Court, so as things currently stand, both the High Court, as confirmed by the Court of Appeal overturned the decision of the Environment Court of 10 years. Regardless of the outcome of the Supreme Court, the matter will be going back to the Environment Court, because there is one area of law that hasn't been challenged in terms of leave being granted and that's to scope of review powers. There are some other elements that are still up for grabs, as it were, but one way or other at some point, unless matters can be resolved, it will be proceeding back to the Environment Court.

It takes us through to page 8, section 6, the Proposed NPS, the first matter of national significance and objective. Genesis Energy supports the matter of national significance and objective in the Proposed NPS. However, given recent case law there is a serious question as to whether these and other provisions of the Proposed NPS will be effective in receiving the appropriate weight in decision making under the RMA. There are several findings from the Courts, Environment Court and High Court arising from the Unison's Te Waka wind farm project that are relevant in this context. An overview of those decisions is provided in Appendix 3 of these submissions. And that is at page 28. With the leave of the Board, I am happy to read this section out, unless the Board has received submissions on that case law. But I thought it might be of assistance if I take you through that just to give you an overview of what was behind that project and some of the determinations that came out from the decisions.

CHAIR: That would be very helpful.

MR MAJUREY: So, page 28, overview of Te Waka wind farm project. Introduction. The Te Waka project is stage 2 of Unison's overall wind farm development proposal for the Titiokura and Te Waka ranges located near the village of Te Pohue and some 35 kilometres northwest of Napier City. The stage 1 Unison project named Titiokura comprises fifteen 3 megawatt turbines and a substation on the north side of State Highway 5 in the Titiokura Range. Resource consent was granted for Titiokura by both the Hastings District Council and on appeal by the Environment Court.

Te Waka 37 turbine proposal first Environment Court decision. The stage 2 project, named Te Waka, originally involved thirty-seven 3 megawatt turbines on the south side of State Highway 5 in the Te Waka Range. Resource consent was granted for this proposal by the Council in 2006. However that position was overturned by the Environment Court Judge Thompson's decision on appeal in 2007. The Court's main reasons for the decline in consent were in relation to landscape and Māori issues.

By way of background to those findings, the public participation process leading to the promulgation of the operative Hastings District Plan expressly considered the location and extent of the areas classified as outstanding natural landscapes throughout the district. For the Te Waka and Titiokura ranges, the notified version of the plan proposed an extensive outstanding natural landscape area classified as ONF 7. This area encompassed part of the Te Waka Wind Farm application site. During the public submission process the extent of the ONF 7 classification was strongly opposed.

[10.20am]

After hearing expert and lay evidence and submissions on proposed ONF 7 including as to landscape and Māori issues, Council decided to

substantially reduce the extent of ONF 7 because Council firstly, did not accept that the Te Waka site and surrounding areas are outstanding natural landscapes within the purposes of section 6(b) of the RMA. And second, the Te Waka site and surrounding areas have very good potential for wind farms. As this decision was not appealed to the Environment Court despite the opportunity for submitters to do so, the operative District Plan contains no outstanding landscape classification over the Te Waka site.

In reliance of the operative plan and the various favourable assessments of the level of potential environmental effects, Unison made a resource consent application for the Te Waka 37 turbines project. There was common ground at the first Environment Court hearing that the Te Waka site is not identified in the operative District Plan or any other statutory instrument as an outstanding natural landscape. Nonetheless, Judge Thompson effectively overrode the operative plan by reinstating the full ONF 7 classification as follows. An extract from that case: “The area identified in the original (inaudible) report and in the Proposed District Plan as notified as ONF 7, is an outstanding natural feature of the landscape.” On that basis the Court decided that the Te Waka 37 turbine proposal was located in an outstanding natural landscape, and as such, would cause significant landscape effects. In other words, the appeal against the Council’s decision to grant consent for the wind farm was used by opponents as a collateral backdoor challenge to the operative plan, notwithstanding they did not appeal the Council’s original planned decision some several years before the Te Waka appeal.

While Unison appealed the decision of Judge Thompson’s division to the High Court, Her Honour Justice Potter upheld that decision and effectively determined that regardless of the provisions of an operative plan, the

Environment Court is entitled to make findings on Part 2 matters even if that effectively overrides the operative plan.

Call-in of Te Waka 34 turbine proposal and the second Environment Court decision. Unison subsequently decided to amend its Te Waka proposal by reducing the number of turbines from 37 to 34 in order to assuage concerns over landscape and Māori issues. With the consequent loss of enough renewable wind energy to generate the equivalent electricity of some 3,000 homes and seek that the amended proposal be called in by the Minister for the Environment of the RMA. On 22 January 2008 the then Minister for the Environment issued his direction to call-in the Te Waka Wind Farm application and directed that the application be heard by the Environment Court. The Ministerial direction to recognise the wind farm application as a matter of national significance relevant to New Zealand's international obligations so the global environment was not challenged in any court of competent jurisdiction. The second Environment Court hearing by Principal Environment Judge Bollard's division was held over two weeks in December 2008 and the Court's decision to decline resource consent was notified on 23 February 2009. There were several themes within the decision, some of which are addressed below.

Wind farm benefits. While there was a challenge to there being benefits from the proposed wind farm, the Court made positive findings for Unison in relation to national benefits including efficiency, security of supply, climate change, greenhouse gas emission reductions, and economic benefits, renewable energy benefits, the assessment of alternatives confirming the Te Waka site as a very good wind resource, minor traffic effects, minor geotechnical and earth work effects and minor ecological effects.

Climate change consideration only, a section 7 other matter. In undertaking a total evaluation of the Te Waka project under Part 2 of the RMA, the Environment Court stated: “The benefits to be derived from the use and level of renewable energy is a matter to which particular regard was to be paid under section 7(j), along with kaitiakitanga from the Māori perspective under section 7(a). However, we are required as well to recognise and provide for Māori values under section 6(e) as a matter of national importance against the fact that no provision is contained in section 6 in relation to the use and development of renewable energy in the country’s needs.” Thus, in effectively taking a remarkable approach to Part 2, the Environment Court effectively determined that any section 6 matter, for example, a local landscape such as the Te Waka site, not recognised as such in the operative plan, trumps climate change considerations.

Waiting for proposals of national significance under the RMA. In making its decision on the call-in application, the Court was directed under the RMA to have regard to the following substantive sets of consideration: The Minister’s reasons for calling in the Te Waka Wind Farm application under section 121(b) and the section 104 considerations. As noted, the Minister called-in the application because of its national significance. The Environment Court decided, and this extract comes from the case, “under section 150(a)(a)6(b) we are required to have regard to the Minister’s reasons for calling the matter in under section 141(b) and that we have anxiously done.” The legislative directive, however, is to have regard to as distinct from say, to take into account, etc. However, the Court did not, with respect, address the fact that under section 150(a)(a)6(c), the legislative directive in relation to section 104, and therefore Part 2 is exactly the same to have regard to.

Relationship between an operative plan and Part 2 of the RMA. The various court decisions on the Te Waka project confirm that the public cannot safely place reliance on the provisions of an operative plan. This is reinforced by the clear course taken by the Principal Environment Judge before effectively overriding the operative plan. And in the case he said, “We would add that we do not arrive at this conclusion without a measure of anxiety, having regard to the District Plan with its background of change as to the limits of ONF 7.” This position is to be contrasted with the following statement of the Chief Justice in the Supreme Court case of *Westfield New Zealand Ltd and North Shore City Council* where the Chief Justice said, “The District Plan is key to the Act’s purpose of enabling people and communities to provide for their social, economic and cultural wellbeing. It is arrived at through a participatory process, including through appeal to the Environment Court. The plan has legislative status. People and communities can order their lives under it with some assurance. A local authority is required by section 84 of the Act to observe and enforce the observance of the policy statement or plans adopted by it. A District Plan is a frame within which resource consent has to be assessed.”

Returning to paragraph 22, in the recent decision in the Environment Court in the call-in Te Waka Wind Farm project was effectively determined among other things that a), section 6 matters trump section 7(j) climate change benefits, and b), despite the wind farm being recognised in a Ministerial call-in as a matter of national significance, little real weight was placed in this consideration, the Court remarking that the legislative directive is only to have regard to as distinct from to say to take into account.

The concern with the experience from the Te Waka case is that despite the national significance of renewable energy being recognised and

provided for in National Policy Statement, the operation of Part 2 of the RMA would see such national significance only receiving second tier recognition. Given the latest Te Waka case postdates the original Genesis Energy submission on the Proposed NPS, the following additional amendments to the Proposed NPS are sought by Genesis Energy.

Let me just pause there to note in the usual way, the changes are sought in track changes, as shown there. If I can just take you through those. In terms of the matter of national significance and importance, the two key changes there, adding the words 'importance' and also the key phrase 'recognise and provide for', that's language that will be familiar to you and deriving from section 6. And if I can interpolate there, the point there being that in terms of as much weight as possible in the national sense that is being sought via this Proposed NPS, using as much language as possible that reinforces that weight, especially given that Te Waka experience is the rationale for that wording, so that if this type of wording were to be ultimately included in an effective NPS, that decision makers are given a clear steer in terms of the weight that should be placed on these types of instruments. And if that were to be the scenario, hopefully reduce the debate and ambiguity around what is the proper place of renewable energy, especially given the findings that we've had on the interplay between Part 2 and reasonable consent applications.

CHAIR: Mr Majurey, can I just check, they're the words used in the Transmission NPS?

MR MAJUREY: I hope you have that handy, sir. So, Clause 4, "The matter of national significance to which this National Policy Statement applies is the need to operate, maintain and develop and upgrade the electricity transmission network."

CHAIR: Policy 1 though?

[10.30 am]

MR MAJUREY: In terms of the policy, yes. And just on that, in terms of the use of language, while it may seem somewhat superfluous, there is a real sense behind the suggestion of using the word 'importance' to try and have the language get into synch with the way that Part 2 is operating. So given how forensic some of this analysis goes, I can easily see debate amongst counsel at least that reliance is placed on, let's say, the word 'significance' being used in the NPS rather than 'importance'. In section 6 it's 'importance', not 'significance', and so therefore it could be argued that it has a lesser weighting. That's the reason of trying to use language that attempts to get these matters into synch as much as possible and have a consistent approach under the auspices of such an NPS.

In paragraph 25, the question arises with this type of approach as to the appropriate parameters for such specificity within a policy document. In this context it is helpful to consider the Court of Appeal's analysis in Auckland Regional Council and North Shore City Council, and just before I read the extract from the Court of Appeal, just to recall that what was in issue there is the general (inaudible) there, was whether or not it was appropriate in a Regional Policy Statement to have very prescriptive language around the location of the metropolitan urban limits. That was the nub of that case, as to the appropriateness of that type of instrument being used to enforce that type - or seek to enforce that type of policy. In their decision, the Court of Appeal said: "Policy and polices must bear their natural and ordinary meaning in the context of the Act." As an appropriate definition Mr Salmon decided what is described in the Oxford English dictionary as the "chief, living sense". The course of action

adopted and pursued by a government, party and all the states, etc, any course of action adopted is advantageous or expedient. The definition, 'a course of action', is also given by another dictionary such as Chambers. It may be accepted as appropriate in the present context. The word 'policy' is very old. A familiar, modern usage in this country is New Zealand's anti-nuclear policy. Often, as in the Resource Management Act the word has government or administrative connotations. The name of our police comes from the same source. It is obvious that in ordinary present day speech, a policy maybe either flexible or inflexible, either broad or narrow. Honesty is said to be the best policy. Most people will prefer to take some discretion in implementing it. But if applied with remorselessly, it would cease to be a policy. Counsel for the defendants are on unsound ground in suggesting that in everyday New Zealand speech or in parliamentary drafting or in etymology, policy cannot include something highly specific. We can find nothing in the Resource Management Act adequate to remove the challenge provisions from the permissible scope of policies. In our opinion they all fall under that term and are intra vires the regional council. The conclusion therefore, is that there is some latitude as to the level of specificity appropriate within a National Policy Statement.

Turning then to Policy 1 benefits of renewable electricity generation. Just before I proceed to discuss the policies that follow, I note that in the opening you indicated that you have read the original submission. For the convenience of the Board we encapsulated the submission details as well in this legal submission, so that you're not having to go backwards and forward in your papers. I am conscious though that this will be traversing ground you have already covered. I am very happy to take you through that if that's helpful. But I will seek your guidance on that.

CHAIR: We'd be grateful for you to take us through it.

MR MAJUREY: Policy 1 of the Proposed National Policy Statement requires decision makers to have particular regard to the following national, regional, and local benefits relevant to renewable electricity generation. I'll take that second as read. While Policy 1 refers to national, regional and local benefits, it is also appropriate to recognise global benefits in light of the nature of greenhouse gas emissions. There are also a number of further benefits relevant to renewable electricity generation. For example, the Ministry of Economic Development's Electricity Generation Movements Group Report on the scoping of a National Policy Statement on Electricity Generation identified the following additional benefits, a), improved security of supply from adding to New Zealand's generating base; b), reducing transmission losses and dependence on the national grid through locating electricity generation close to the electricity demand centres; reliability of the generation and its fuel and installation from major external production cost variability; development benefits in the form of industry development including research, manufacturing, installation and distribution and maintenance of facilities. The Environment Court has also identified the following additional benefits in relation to wind farms and to interpolate, this set comes from one of those cases, the Mahinerangi case, from the Environment Court and the Board will be aware other cases are of very similar territory. In that case though, the Court found the following benefits of wind farms: a), it does not involve permanent, long term alteration of the environment; b), it does not utilise any finite resource other than the site itself; c), involves minimal displacement of the productive uses of the land; d), uses the wind resource without affecting that resource in any meaningful way.

While Policy 1 states benefits may include, but are not limited to those benefits specified, there is a risk that decision makers will fail to have particular regard, or give appropriate weight to such further benefits, if not provided for in the National Policy Statement. And this issue was raised in

the section 32 report for the Proposed NPS. In there the report said, “Policy 1 may set too narrow a list of benefits, and despite its non-exclusivity, this could be misinterpreted as sending a signal that other benefits recognised in the decisions of the Environment Court are somehow less important.” Also the absence of permanent long term operations in the environment have been identified as a benefit by the Environment Court, is currently addressed by Policy 3 of the Proposed NPS. It is appropriate to refer to this benefit of Policy 1, as opposed to a separate policy and I will discuss that subject shortly.

In paragraph 35 the relief Genesis Energy seeks is set out in Policy 1 on Appendix 4, it's at page 33 and again, it's to try and assist the Board, we've just out there in the one location the various changes being sought and those are shown in track change.

Policy 3, reversibility of effects. Policy 3 of the Proposed NPS requires decision makers to have particular regard to the relative degree of reversibility of the adverse environmental effects associated with proposed generation technologies. Policy 3 introduces an implicit hierarchy between types of renewable electricity generation through considerations of the relative degree of reversibility of adverse effects. This policy has the effect of favouring wind, marine, and biomass generation, for which adverse effects are generally reversible. In contrast, the policy effectively penalises hydro and geothermal generation, which tend to involve long term effects at different scales on freshwater ecosystems and geothermal systems respectively. Introducing an implicit hierarchy amounts to picking renewable energy winners, which would have substantial adverse economic effects when compared with the approach which allows participants to identify least cost generation options. Prescribing preferred forms of renewable energy through an NPS would ignore key factors which are relevant in identifying least cost generation options, including

a), cost escalation paths; b), access to technical expertise; c), supply logistics; d), system operation factors and e), portfolio effects associated with achieving an efficient mix of generation sources.

All of these factors can change over time, and unlike a dynamic approach, an NPS that picks renewable energy winners would be unable to respond to such changes in a timely fashion. As illustrated by a review of the background to the statutory framework for energy, government policy does not discriminate between different forms of renewable energy. Furthermore, all forms of renewable energy have benefits in terms of avoiding, remedying or mitigating adverse effects on climate change.

The former Minister of Energy stressed that commercial decisions outside the control of government will determine the contribution from various types of renewable energy. And the then Minister said, “Modelling done to support the energy strategy suggests that a mix of all renewable generation types will make up the renewables portion. The actual proportion of geothermal to wind to hydro and other sources will depend on commercial decisions outside the control of government and will themselves be subject to a range of factors.”

[10.40 am]

The potential for the policy to act as a barrier for relatively non-reversible renewable electricity generation technologies was raised in the section 32 report for the Proposed NPS. And there are three extracts there. The first, “Focusing decision makers’ attentions on the relative reversibility of effects associated with particular generation technologies could prove prejudicial against those technologies with functionally irreversible effects, such as hydro generation. This risks inconsistency with the objective of the Proposed NPS. It may establish a marginal preference for the

development of those forms of renewable electricity generation that have relatively more reversible effects, that is wind, marine and geothermal generation. So this policy could be argued to establish regulatory bias against new hydro generation development.” And the third extract, “Policy requiring decision makers to have regard to the relative reversibility of effects of different technology types could discourage investment in relatively non-reversible renewable generation technologies such as hydro generation.”

The objective of the Proposed NPS is to promote new and existing renewable electricity generation activities. While it is appropriate for the reversibility of adverse effects from renewable electricity generation technologies to be acknowledged as a relevant consideration, it is inconsistent with the objective of the Proposed NPS to include a policy which could effectively act as a barrier to some types of renewable electricity generation technologies on the basis of the irreversibility of adverse effects. Moreover, the irreversible components of a renewable energy development can and do include features agreed by way of mitigation, or have the effect of mitigating potential adverse effects. Genesis Energy’s experience with the Otamangakau trout fishing is a case in point. And just a note there that Mr Bowler there can assist the Board with its understanding of the context to that example. Genesis Energy seeks the deletion of Policy 3 from the Proposed NPS and the inclusion of an additional benefit in Policy 1, as set out in the track change version.

We now move to several additional policies that Genesis Energy has sought in reference to the new Policy 5 in the first instance. And that one involves identifying benefits of renewable electricity generation in policy statements and plans.

While Policy 1 of the Proposed NPS is useful in promoting recognition of the benefits of renewable electricity generation in RMA decision making, it is also appropriate for the Proposed NPS to require amendments to local authority policy statements and plans to identify the benefits of Policy 1. In particular, identifying the benefits of renewable electricity generation, objectives and policies will provide a firm foundation for rules which promote renewable electricity generation. Furthermore, reference to the benefits of renewable electricity generation in assessment criteria for any renewable electricity generation resource consent applications will ensure decision makers give effect to the Proposed NPS. That relief is also set out in Appendix 4. While this may seem an unduly conservative approach, the experience from the Otamangakau case is in relation to the decision makers having the jurisdiction under Part 2 to effectively override the provisions of the (inaudible) plan with such perceived conservatism is appropriate.

New Policy 6, protecting renewable electricity generation activities from reverse sensitivity effects. The Environment Court has expressly recognised that full utilisation of generation facilities is in the national interest. Similarly, the section 32 report for the Proposed NPS notes, "If existing generation capacity is not maintained, the new generation capacity required to make up for the resultant shortfall would be considerably more expensive to develop than the alternative of optimising the efficiency with which existing capacity is used. There are also economic benefits to optimising the potential returns from existing investment, and as such there is a logical desire amongst generators to enhance the use of existing infrastructure and resources for renewable electricity generation."

Protection from reverse sensitivity effects is a key aspect of ensuring full utilisation of existing renewable generation facilities, and will delay the

need for additional electricity generation plants to meet any corresponding shortfall of supply. Furthermore, a policy in the Proposed NPS addressing reverse sensitivity effects would serve to protect new renewable electricity generation activities, thereby maximising the benefits identified in Policy 1. And again, that relief is set out.

New Policy 7, with effect to the National Policy Statement. Section 67.3 in respect to Regional Plans and 75.3 in respect of District Plans requires plans to give an effect to any NPS. If I could interpolate there, and as the Board will be aware, that phrase 'give effect to' is a very high threshold and the strongest threshold in terms of plans in relation to their recognition of national instruments. At 55, any conflict as between the Proposed NPS and another NPS such as the NZCPS could create a situation where it would be practically impossible to give effect to prior instruments.

If I could pause there just to give one example, in footnotes 36 and 37, selected objectives in respect of the Proposed NPS, the subject of this Inquiry, there is the single objective, and at footnote 37, objective 3 from the Proposed NZCPS. In terms of the very high threshold of effect 2, if a region or a district in its plan is looking to give effect to both of those objectives on their face, they look inconsistent in the sense of, in the coastal area a very strong objective requirement in relation to renewable energy, for obvious reasons a very differently cast objective. So on the face of it, there is a real challenge to councils as to how they will in the future under this type of regime, could be affected to both of those. Ultimately, it will come back to, in my humble opinion, as to whether a decision maker takes an overall approach to the themes in those objectives or a more micro approach of, "Every objective must be given effect to." If it were the latter that would be a very hard test to meet. And as the Board may be aware, there is not a lot of case law on this, but there is a real concern around that very high threshold. How will decision

makers give effect to the very laudable provisions of the Proposed NPS in its final form?

Turning to paragraph 56. It is therefore important for the effective and efficient administration of the RMA for the Proposed NPS not to be rendered ineffective by another NPS. Inconsistencies between such instruments could lead to uncertainty and increased administration costs. Another source of potential tension is the Proposed National Policy Statement for Freshwater Management and the Proposed National Environmental Standard on Ecological Flows and Water Levels. And that is the discussion document that goes with that Proposed NES.

The following issues arise in relation to the Proposed NPS for Freshwater Management: The Proposed NPS for Freshwater Management fails to expressly recognise physical resources, section 5 of the RMA, and the value of investment is dependent on the use of freshwater section 104(2)(a). The NPS also requires mandatory consideration of, and consent conditions for, industry good practice and technology, but without express regard for the age of existing infrastructure. The section 32 report for the Proposed NPS recognises renewing consents for existing renewable electricity generation activities is problematic. For example, renewing consents for the Tongariro Power Scheme and that this frustrates the objective of the Proposed NPS. If existing generation capacity is not maintained, new generation capacity required to make up the consequential shortfall would be considerably more expensive than optimising existing capacity. There would also be increased consumption of resources and/or effects on the environment.

Objective 7 of the Proposed NPS for Freshwater Management seeks to increase benefits from the use of freshwater. However, the meaning of 'increase benefits' in that context is unclear, and there is a lack of certainty

that the benefits of renewable electricity generation identified in Policy 1 of the Proposed NPS will be recognised through the Proposed NPS for Freshwater Management. It is therefore important that increased benefits under the Proposed NPS for Freshwater Management accord with, and are not antagonistic to, the benefits of renewable electricity generation under the Proposed NPS. Policy 2(c).3(a) and Policy 3(b).1 of the Proposed NPS for Freshwater Management require consent conditions for protection against degradation of freshwater quality. In contrast, the underlying philosophy of the Proposed NPS is that some local adverse effects are appropriate if they are outweighed by the national, regional and local benefits of renewable electricity generation.

[10.50 am]

Issues also arise with the Proposed NES on Ecological Flows and Water Levels. For example, it sets interim limits on water bodies, and provides that any activity which breaches such limits would require resource consent as a non-compliant activity. This will act as a barrier for re-consenting existing renewable electricity generation activities in circumstances where thorough assessments using appropriate methods have been undertaken. Interim limits have also the potential to restrict existing renewable electricity generation activities in the context of a review of resource consent conditions under sections 128 to 132 of the RMA. The section 32 report for the Proposed NPS recognises that such re-consenting difficulties are inconsistent with the objective of the Proposed NPS. If existing generation capacity is not maintained, new generation capacity required to make up the resultant shortfall would be considerably more expensive than optimising existing capacity. And again, the suggestions sought in that context are set out in Appendix 4.

Turning to additional issues: National benefits versus local adverse effects. A common refrain in energy cases is the dichotomy between national benefits and local adverse effects. Also common and frustrating has been the lack of national guidance in resolving this tension. That is why Genesis Energy has actively participated with the promulgation of policies and plans at all levels, especially at the national level. Genesis Energy considers that an NPS for Renewable Electricity Generation is long overdue. Much unnecessary time and expense has been incurred in various hearings rehearsing the same arguments. Indeed, Genesis Energy had hoped that the Awhitu case, being the first wind farm development to be heard by the Environment Court, would have provided a clear enunciation on, for example, a), climate change benefits, detailed and agreed in a 13 page statement of agreed facts; b), the methodologies for assessing what is appropriate development under section 6(a) and (b) of the RMA in the costings of wind farms and c), the fact that all renewable energy developments have climate change benefits. Unfortunately, these issues have continued to play out in subsequent cases. Genesis Energy therefore strongly supports the Proposed NPS as improved by the proposed amendments, not because every proposal should automatically receive consent, but rather to avoid unnecessary time and expense on debating the same issues during the consenting process.

Threats to the implantation of consented projects: A related reason underpinning the need for national guidance and avoiding ad hoc rehearsals of the same arguments is the real effect delay in terms of actually implementing operative consents. For example, while Genesis Energy was obviously successful in securing consent for its Awhitu Wind Farm, the delay in reaching that point meant that the company missed critical international procurement windows.

Call-in a panacea: One solution to consenting delays is the potential use of the call-in mechanism. So too, would the direct referral regime as proposed in the Resource Management Simplifying and Streamlining Amendment Bill, if, of course, that finds its way into the Act. Genesis Energy supports call-ins being available in appropriate cases. Not all applications will necessarily be amenable to call-in. For example, such a consenting path was not available for the Rodney Power Project as a proposed plan variation was involved. And just to interpolate there, to make the point that that is sort of one species of proposal that is not provided for in terms of call-in, so that was one of the reasons that was given by government on the request by some folk for a call-in that it couldn't be the subject of call-in. There must be a very strong local community desire to have a local authority hearing in the first instance.

Existing infrastructure in a consenting regime: The question often arises as to whether there should be a different consenting path as between Greenfield and existing developments. At present, applications for consents to replace those which are about to expire are considered essentially as fresh applications. The experience of Genesis Energy is that section 104.2(a) makes little difference in this context. There is an opportunity for the Proposed NPS to address the differences between these types of developments. For example, it could include provisions which recognise that in circumstances where a new application is made to replace a consent that is due to expire, if such consent was considered and granted under the RMA, then a), the focus of the new application should be to determine the adequacy and effectiveness of the existing consent condition with avoiding, remedying, or mitigating adverse effects on the environment, and b), the activity status on the new application should be a controlled activity unless the proposed plan provides a less stringent activity status.

I will just pause there. It occurred to me in thinking of examples of that point as they have been recorded in some of the cases. There are several statements, and apologies for not including them in my written submission, and I can provide this in written form if it assists the Board. There were several comments in the cases for the TPD project. So for example, in the decision of His Honour Justice Wilde in the TPD case, this is the High Court case, His Honour stated at paragraph 41: “The TPD has been in operation for 34 years, western diversion, and 26 years, eastern diversion. During those periods the effects of its operation have been comprehensively studied. In particular, they were intensively assessed for the 1990 hearings that resulted in the minimum flow regime. The impact of the TPD on the environment is thus well understood. Given the nature of the operation, that impact can competently be expected to remain constant over the next 35 years. Subject to the change and evolution that may affect every culture and set of spiritual values, Māori culture and spiritual values will also remain constant over the next 35 years. The parties had some 12 years to consider what type and extent of practical mitigation is most appropriate for Māori affected by the TPD. Nothing constructive was proposed in that time and I cannot see what gives the Environment Court any rational or reasonable basis for its expectation that proposals as to mitigation options will be made, let alone agreed, over the next 10 years.”

Another extract from that same case that echoes that kind of theme was set out in paragraph 90 of Justice Wilde’s decision. At paragraph 90 His Honour stated: “I am not aware of the cost to Genesis on the one hand, and to affected Māori on the other hand, of the resource consent process through the Regional Councils’ joint hearing, and onto the Environment Court. I am very concerned that the Environment Court’s decision visits those costs on the parties all over again in a decade’s time.”

And the final extract comes from a separate decision of Justice Wilde, and that was in relation to the application for leave to appeal from his decision. And at paragraph 21 of his leave decision he said: “The physical effects of the TPD scheme’s diversion of flows are well understood and there is no reason to think relevant new information will emerge in the next 10 years. The adverse effect on Māori of the diversion of flows is also reasonably static. That is not to say that cultural practices and identities do not evolve over time. It is simply to note that there is no reason to expect that the adverse in 10 years will be any different from the present day effects.”

So those statements reinforce the dichotomy that you face with existing projects and those which are Greenfield in their nature where the effects haven’t been tested, hence the rationale for the suggestion that there can be a different approach taken to those different types of developments.

Go/no-go areas: Policy 4 is not expressed as clearly as it could be. To the extent that the policy is limited to having plans included in objectives and policy, etc, which are supportive of industry attempts to identify and assess potential sites or sources for generation of renewable energy. However to an extent, the policy effectively encourages local authorities to engage in planning for ‘go/no-go’ areas, Genesis Energy does not support such an approach. A clearer and more effective way in which to achieve the former approach would be, for example, to require local authorities to provide the following types of activities as permitted or controlled activities. a), wind anemometers at or below 800 metres in height; b), geothermal (inaudible) and or below 6 inches (inaudible) diameter to a depth to of that or below 3,000 metres for the purpose of sampling and improving the key perimeters of an inferred reservoir and c), water level and/or rain gauge monitoring equipment and associated telemetry equipment located within river beds or on land.

If I can interpolate there just to give you some of the thinking and rationale behind most of the suggestions as examples of the type of activities that can be provided for in the way. The suggested height for the anemometers reflects the fact that in terms of modern practice for testing the potential of wind sources, that a wind speed and wind data set that approximates the height of turbines is the most useful source of information. So just to apply the logic, wind tested at 10 metres is not telling you what is happening at 80 metres. In terms of the geothermal example, the best advice has been provided by independent experts. It has a type of low impact geothermal drilling activity that provides very useful inferred data for the identification of sources of geothermal energy. In terms of the hydro example, that will be well known to the Board, and river gauging with associative telemetry. That is a low level impact. And in terms of land based related components, in the more remote areas there would need to be staged, if you like, telemetry back to the main base. So there would be a requirement for low level equipment to be able to able to - on telemeter (inaudible) but to carry on the signals from the area that has been the source of testing for the hydro potential.

[11.00 am]

Paragraph 78, the actual location and nature of any renewable generation development is a decision appropriately made by an applicant, especially as credible applicants will invest the resources to undertake the necessary studies to prove the resource, configure an actual commercial proposal, and comprehensively assess the potential effects of the proposal and navigate the consenting process. By contrast, local authorities on behalf of their communities do not have the same incentives. Indeed, it is illustrative to compare the experience of local authorities with agricultural planning.

Water regime: As the Board is aware, there is Superior Court authority confirming the principles against irrigation of resource consents in the context of hydro generation and confirming the appropriateness of, “First in, first served” in the context of wind and hydro generation.

I have set out two extracts there that are reflective of those principles. The first from Aoraki and there the High Court said: “Where there are competing claims for the use of the same resource where the grant of consent to one applicant necessarily excluded the grant of consent to another applicant, the grant of the first consent confirmed an exclusive right to use the resource on the first person with the grant of consent. Also, the grant of consent created a right to use the resource, which could not subsequently be eroded by the grant of other consents, unless expressly allowed by statute and the consent holder could legitimately expect the consent authority to recognise that a substantive benefit had been conferred by the grant of consent. The principle of non-variegation of grant therefore apply to the public law context, where full allocation of resource had taken place”. And from the Court of Appeal decision in Central Plains: “the high policy of ensuring sustainable management is expressed in Part 2 of the RMA and must weigh heavily in assessing what priority regime accords with parliament’s policy.

There is an obvious public interest that the law should not frustrate a proposed development in the course of undergoing the statutory processes. At least with the whole resource being sought as the subject of an application, there should be no risk of a major development being trumped or significantly interfered with by a later smaller, simpler and consistent proposals that are able to be made comprehensively without needing to proceed in stages. Given the importance of these principles to the renewable electricity proposal, there is a real case for encapsulating

such principles in the Proposed NPS. Those are the submissions and I appreciate your time in allowing us to deliver those. And I am happy to answer questions.

DR CHAPMAN: I have a few questions to start with, not very well organised but perhaps if I could just take it from the top and it may be that as certain points come up, others might like to - just in your para 4, as to future generation, Genesis has a target to build 300 megawatts comprising wind, hydro and geothermal. Over what period is that?

MR MAJUREY: I'll pass that down the table.

MR PIERCE: We have plans to put in place, executable options for renewable development and it is our best estimate at this stage that they are medium term plans, so in the order of four to 10 years.

DR CHAPMAN: Four to 10 years, okay. And if you looked beyond that four to 10 year period are you able to say anything else about, perhaps not plans, but conjecture out to 2025, that sort of envelope of the likely development of Genesis has in mind out to 2025? Admittedly that's 15 years - 15-16 years.

MR PIERCE: Yes, it's difficult to cast with certainty that far out, but I'm more than happy to provide some insights as to where we strategically are placed, and that is that we are working very hard on, particularly, renewable developments in respect of wind, and now also geothermal and hydro to identify opportunities that will allow us to deliver continually to meet increasing demand and to align with our portfolio of assets and retail base. Of course the uncertainty that exists around that is around the challenges of economics of delivering certain technologies, has a big part to play in the decisions around when investment decisions can be made.

And also, of course the investment decisions that our competitors make during that time space and as the Board is well aware, the impact that those investment decisions have on the electricity price path and hence the long run margin costs of the new technologies to be deployed. And experience also suggests that some of the technologies we are looking at now require significant time to be put in place and so the resource consenting phase in order for companies like Genesis Energy to make those investment decisions.

DR CHAPMAN: I want to just to shed a little bit more light on your planning ahead, without venturing into unreasonable questioning on commercial matters. You might indicate what sort of carbon price path you're looking at as a sort of planning range and how that might affect your renewable investment planning?

MR PIERCE: Sure. On the basis of that, at this stage Genesis Energy has run analysis across a varying level of carbon pricing, in a range of 20 to 40 dollars per tonne.

MRS BAUMANN: Could I put the question slightly differently? In the strategic planning, what kind of balance are you aiming for in your portfolio of thermal renewable, including geothermal in your renewable definition?

MR PIERCE: Well based on our projected strategy of an increase in 300 megawatts of renewable that will provide us with a - upon existing generation assets that, will provide us with a split of approximately 1,500 of thermal assets and provide us with 800 watts of renewable assets, based on today's portfolio.

DR CHAPMAN: I wonder if you could just turn to paragraph 14 where there's reference to projections of electricity demand growth, around 2 percent

per annum. It's noted in the footnote that the section 32 report referred to a 1.3 percent per annum growth rate. Do you have any view on what percentage growth rate we should be taking into account or perhaps centering our thinking around when looking out to 2025?

MR PIERCE: Yes, we do and the approximation of 2 percent we are relatively comfortable with. But we recognise that variability around years such as this year where demand has been less based on the (inaudible) of considerably industrial loads serves to move the time/weight average and demand around. But in the work and analysis that Genesis Energy has undertaken, increasing demand of 1.5 percent to 3 percent would leave a suitable range for consideration.

[11.10 am]

DR CHAPMAN: So a central estimate of 1.5 percent per annum over that period of 15 years?

MR PIERCE: So somewhere as a central estimate of 2 percent is (inaudible) appropriate figure.

DR CHAPMAN: So 2 percent but ranging down to 1.5 percent. So it's in that ballpark.

MR MAJUREY: It is probably worth adding that in terms of the long run average, historically, at least, it's been around the 2 percent mark.

DR CHAPMAN: Yes, a little below I understand.

MR MAJUREY: At or about. And as Mr Pierce said, there are going to be, in the short term, fluctuations. But history has told us one thing and there's a

range of forecasts, as you're well aware, from different industry commentators, as well as the officials.

DR CHAPMAN: Yes. Contact talked about a low initial period and then picking up again. I would be interested in your comment on that. And then there is the longer term question, is there a point at which you see demand growth flattening out?

MR PIERCE: The simple answer to that is no.

DR CHAPMAN: On the latter question?

MR PIERCE: Yes, on the latter question. But we don't see demand growth flattening out in the market.

MRS BAUMANN: This maybe something - evidence you haven't given, it just occurred to me, on your retail base, perhaps you should just read into the record what your retail base is.

MR PIERCE: In respect of number of customers? Listen, I'm happy to provide exact figures on that, but it's somewhere - 520,000 electricity customers; 120,000 gas customers and some of those are of dual customers.

MRS BAUMANN: We've heard evidence from other generators about how they split the retail business vis-à-vis their generation aspirations.

MR PIERCE: We are more than happy to provide exact details on that for the purpose of the Board.

DR CHAPMAN: My next questions were around Policy 1.

MRS BAUMANN: I had a question about the Objective. We heard submissions about this 90%, inclusion of the actual amount of 90%. So I don't know whether it's a legal source that I'm asking for or a practical, but maybe it's more of a legal issue, we've heard the submission that by including 90% you may be requiring decision makers to therefore in each consent hearing to enquire where one was towards achieving 90% when they're considered an application. Do you have any submission on that, a), whether it's legally necessary and b), whether it would be appropriate?

MR MAJUREY: On the first question it's not legally necessary in looking at the range of objectives in other current and Proposed National Policy Statements, that level of specificity is not required. In terms of the potential effect, interpretation-wise, then my comment on that is, that is a very real point and it's a worthwhile point to consider. My response would be, within the context of that question, that on reflection it's better out than in. Anything in line with some of the matters I have said before in terms of interpretation and the interplay between an NPS like this and, say, the Part 2 regime, we think that is going to give rise to, within reason, because lawyers will argue about anything, we think it gives rise to serious debates about projects fulfilling the objective, renewable-wise on the one hand, versus does it somehow serve and produce the 90% figure is to be avoided. As I noted earlier on in terms of the important requirement for clarity and effectiveness as indicated by the Board for the Transmission NPS, that is the very nature of NPS. It should be simple. It should be clear. So, on reflection, you having raised that point, and it's a very good point, it's better out than in, in my submission.

DR CHAPMAN: Just to pursue that, I wonder if rather than taking it fully out of the NPS, an appropriate alternative is to put the 90% into the Preamble of the NPS so that there is a clear direction and intent articulated, but the

detail of the number, which of course might be subject to change should the New Zealand Energy Strategy be revised.

MR MAJUREY: That's certainly preferable. In that way it would signal where some of the policy background has come from. Of course, as we all know, that's well set out in the policy documentation, the NZES, etc. So if it's a choice between within the Objective or within the Preamble then the latter is certainly preferable. Whether there is still going to be argument, that remains to be seen, but if that were the choice, that is the clear preference for it to be in the Preamble rather than the Objective.

MRS BAUMANN: Mr Majurey it would really help if you would put your minds to some of words that you could insert into the Preamble to do that - sorry, look at the objective to take the 90 out but still get sufficient objective into it so it's - 90% is currently in the Preamble to a certain extent, but re-look at the objective and you don't have to do that now, just -

MR MAJUREY: Well I can assist this now, because I think it is a fairly simple drafting. If you put a full stop after activities. It sits well in that context on its own. And as you indicated, Mr Chairman, it is in the Preamble, so as I say, in the choice of it staying in there, in that sense, it's better left expressed in the Preamble and excising it from the Objective.

CHAIR: I think probably we will take a break now for the adjournment for morning tea and then we will reconvene in quarter of an hour.

ADJOURNED

[11.15am]

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RESUMED

[11.30am]

DR CHAPMAN: Yes I wonder if - we have been reflecting on, particularly as we have heard some evidence from Contact and others, one is the question of whether - if we did - if some participant in the system did build another significant thermal, whether we'll ever get to the 90% renewable, in other words, if someone bought in a base load thermal, rather than just a small peaker we would get to the 90% whether it would crowd it out effectively. And this second question is related to the expansion power for wind, I guess. If wind kept on growing, people kept on adding wind capacity to the system, at what point approximately would you need to ensure that there was more hydrotherming capacity or thermal therming capacity in there to ensure that the system's stability was retained and security of supply was maintained?

MR PIERCE: In response to your first question, if somebody developed and were successful in being a new base load thermal, it might impact on the ability to reach a 90% target by 2025, It comes down to a couple of things: one is what size the base load thermal is, of course that's with the assumption with the available of fuel to operate for an extended period of time, ie it's design life for 20 years. With that being the case, the integration of new base load thermal will provide flexibility for and actually encourage the development of integrated sources of generation, the likes of wind, particularly on a yield or gigawatt hour basis to meet demand, the base load capacity albeit thermal, hydro or geothermal is absolutely necessary in order to maintain elements of security of supply and the system operator and the Electricity Commission for that matter, played a significant role in help determine what that balance or what that mix in the portfolio for New Zealand Inc. ought to be in order to maintain those elements of security supply, in that respect around the voltage, and

frequency and quality and the ability to operate a robust power system. So I think in summary, that the increase in any base load generation albeit thermal or geothermal will help to encourage and support the growth towards a target a 90% renewable target.

DR CHAPMAN: Can I pursue that a little bit more. At some point presumably, a big addition of thermal would have a crowding out effect, there is no doubt about that. I mean, if a couple thousand megawatts were added. We would be unlikely to get to the 90% just because, you know, limited demand for extra electricity, so I mean that's a speculation of course, but at what point would you see that crowding out effect taking over as opposed to the encouragement effect that you are talking about?

MR PIERCE: There becomes a number of variable again, and that is that assuming that a new thermal is going to face the cost of carbon and those costs finding their way to the consumers ultimately, and therefore, the price path signalling, and opening up opportunities for renewable development is one point.

Secondly, demand and level of demand going forward has a component to play in that. But it is very difficult to pinpoint exactly where that threshold might be, and you start to see a real fall off in developer's interests in moving forward with new developments the likes of wind.

If for example - and a third point is that thermal assets have a design life and you need to take that into consideration as well as you head towards 2025 and the fact there will naturally be assets coming out of the market, ie, Huntly, by 2025, old Huntly, only the rack and units of unit 1 to 4, coming out of the market at that time

DR CHAPMAN: I'm sorry, at that time around 2025?

MR PIERCE: Well, by that time, it is getting near the end of its design life, well past it's design life. But of course, in support of that, Genesis Energy undertakes a considerable maintenance regime in order to make sure that the units are available and are reliable out to that time, it's not uncharacteristic to run a coal plant for 40 years.

DR CHAPMAN: Can I add one thought to that conjecture perhaps, we've got the prospect of New Zealand signing up to some sort of agreement in Copenhagen, or perhaps shortly thereafter, around some pretty steep emission reductions, which I guess, imply a pretty steep carbon price path. If we are talking, you know, perhaps something of the order of 20% carbon reductions below 1990 levels by 2020, that's within the 2025 envelope. 20% carbon reductions, perhaps, you know, I'm positing in a rather random number here, but would that, in your view, all lead to a pretty rapid fall off in thermal production within that period after 2025?

MR PIERCE: Yes it could, it could absolutely lead to a fall off in thermal production across all existing thermal assets depending on the cost of carbon and how new investments will compete in that space. Of course, from a purely market perspective, once those new renewables have been built, you must run plants essentially, where you have a zero cost, short run margin cost essentially, so you are competing directly with those new assets and therefore, they will serve to displace all thermal plants that has a greater run short margin cost in the short term.

DR CHAPMAN: It's conceivable that that sort of context could lead to perhaps an earlier retirement of old Huntly than otherwise and create a greater, if you like, market opportunity for new renewables.

MR PIERCE: Yes, that is conceivable.

MR MAJUREY: Could I just add to that. Obviously not from a technical point of view, but in terms of the premise of some of the questioning of additional thermal capacity, important to reflect on the operational component so far and using, say, ep3 as an example, when new thermal comes on, the net effect, if you like of the thermal capability, so all things being equal, you'll run a plant that is more efficient than your older plant. So the context of demand growth is very important here. So all things being equal, while demand stays static, then a newer plant will run in preference to an older plant; but as demand grows, that's the equation, that's the variable and so in terms of the hypothesis, that doesn't challenge the hypothesis, it is just to remember the introduction and use of the plant being it an ep3 or Rodney that were to come on stream as demand stays static, it will have an effect in terms of say, old Huntly. But as demand growth comes into play, that may influence that relationship between the renewable side and thermal side.

MR PIERCE: And I might add further that Genesis Energy believes that Huntly power station will play a role as long as the market values that role.

DR CHAPMAN: But by Huntly, there you mean old Huntly, I presume.

MR PIERCE: Yeah.

[11.40am]

DR CHAPMAN: I wonder if we could go on to policy 1. I just had a quick question here. Your para 29 talks of appropriate to recognise global benefits in light of the nature of greenhouse gas emissions, you say. Now, it's a question of how that's done, I guess. Policy 1.1, if I can call it that, does talk about maintaining capacity; increasing capacity while avoiding,

reducing or displacing greenhouse gas emissions. So your intent there is to make it more explicit, the nature of the benefit more explicit.

MR MAJUREY: Yes, exactly. And recognising the nature of what you are dealing with here. And it seems to us legitimate to make reference in the Preamble part of Policy 1 as we've suggested to include before the word "national" the word "global" to reflect that dynamic.

DR CHAPMAN: Yes. That would have the effect then of strengthening the -

MR MAJUREY: Exactly.

DR CHAPMAN: Perhaps not a much, a very strong effect but some effect in strengthening the intent of Policy 1. Is your logic then, the same around improving the security of supply or recognising those sort of words in your 31(a)?

MR MAJUREY: Yes it is. Remembering that those are benefits that are, it seems to us, fairly, widely acknowledged. And as alluded to in the section 32 report, there seems to be a legitimate place for a very fulsome expedition of those benefits to assist decision makers through national guidance. So it is a consistent approach across the board rather than these ad hoc decision making experiences that we have.

DR CHAPMAN: Yes, there's various possible formulations.

MR MAJUREY: Yes there is, and remembering that this is renewable across the board, not just one particular, so it is important to ensure that the expression of any additional benefits are able to reflect the different types of the renewable generation portfolio.

DR CHAPMAN: Yes, I was just going to come to that. In your 31(b) - sorry 32.

MR MAJUREY: 32. Obviously those are wind, but it was to give an example of those types of benefits.

DR CHAPMAN: Well I was going to ask you that. Would the NPS not have to be specific about the benefits of other forms of renewable electricity generation?

MR MAJUREY: That's the choice. You either keep them generic; and so therefore amenable to all forms, or you try and give a further distillation by type of renewable energy form. I am sure you heard different views on that. As reflected in our discussion around avoiding picking winners in terms of the reversibility point, Genesis Energy would prefer reference in the provisions of the NPS to be able to apply across the board. All we are trying to do was just to give the Board an opportunity to take other examples from other submitters' experiences where decision makers have made explicit reference to those types of benefits.

DR CHAPMAN: Well yes, to that end, I wonder if you could give some thought to ways in which we can avoid distorting the playing field, un-leveling the playing field, while encapsulating, if you like, the sort of recognition that the courts have given – or the court has given, to different forms of benefit, of different sorts of renewable energy.

MR MAJUREY: In terms of Genesis Energy, having just paid another four like these is always very keen to even beyond the hearing itself provide any extra assistance or support we can. So if there are matters like that which you would welcome receiving further submission or drafting on that, we are more than happy to help.

CHAIR: Perhaps I'll have a discussion with you following on that, because that's a helpful indication.

DR CHAPMAN: In your paragraph 34; I'm trying to refer to my notes and your previous submissions, you talk about it is appropriate to refer to this benefit of policy 1, are you really arguing that it's preferable, rather than just appropriate, or are you saying –

MR.MAJUREY: What we are essentially saying is it's appropriate to have reference to that benefit, so hence suggested it go into policy 1. What we're saying is not appropriate, in the view of Genesis Energy, in its separate policy formulation being expressed in terms of, as we have talked about, can effectively act as a barrier and a preferential guidance as to which forms are appropriate. So in one sense, expresses a benefit, it is appropriate, where it could be used as a negative against different types of applications we set it as inappropriate.

MRS BAUMANN: We have hear similar submissions, perhaps quite not as clearly put from other generators.

MR PIERCE: It's perhaps shades of the litigation that went on around the declaration for the climate change cases in terms of the benefits of renewable and the potential of dis-benefits of thermal applications. And there both the Court of Appeal and the Supreme Court, and this is reference to section 104(e) and the 2004 amendment where the courts gave guidance that in terms of the reference to benefits under section 7 as colloquially expressed (and this is not in the judgment), but my inelegant paraphrase, "renewable energy is permissible as a leg up, but it's not meant to be a leg down in terms of thermal applications. And that's what the exception in 104(e) was about. Shades of that in this instance.

DR CHAPMAN: You would apply the same logic then --

MR MAJUREY: It's the same -

DR CHAPMAN: -- to (inaudible) sorts of renewable, as opposed to hydro, for example or wind.

MR MAJUREY: That's what we're saying. Exactly. You shouldn't have a sort of "leg up, leg down" dichotomy as between renewable forms of energy. We should be, as has been said very much, a level playing field.

DR CHAPMAN: Yes, I am personally struggling with this level playing field idea in the sense, simply of if one points to certain advantages of certain sources of renewable energy, that's un-leveling the playing field. But you don't want to create a leg-down situation perhaps.

MR MAJUREY: It's very much like that renewable energy thermal declaration, where as we've suggested, in terms of a Policy 1 recognition as a benefit, that's the leg up issue; it's that type of a component of a development is contained within it, whereas, as we say in terms of Policy 3 it's presently addressed that raises real problems in terms of decision makers using that as a negative as part of their assessment of particular types of application. That's the very real problem of that policy.

DR CHAPMAN: Just turning to page 34 of your submission, the particular wording around your objection to Policy 1: the relative degree of reversibility of adverse environmental effects associated with proposed generation technologies. We've heard some submissions on the word "relative" partly because some submitters have said, "Well, it creates a requirement to consider for any particular proposal other possible proposals which might be relatively more reversible and to that end -- well,

having regard to that, is the word “relative” helpful in that context or is it something you might -

MR MAJUREY: It’s a worthwhile point to consider in terms of the drafting here.

That wasn’t the intention here to somehow have some enquiry as to the best type of renewable, that goes against the thrust of the submission. It was more the relativity within the context of the case, and this might be the appropriate time for Mr Bowler to talk about that Otamangakau trout fishery example. The relativity we had in mind was say, for example, mitigation. The mitigation being there or not being there, what’s the relative difference between how an indivisible element can be configured.

[11.50am]

MR BOWLER: I suppose in terms of background, Otamangakau is a – Lake Otamangakau, it was formed by the damming of Otamangakau, it’s been in place now for the best part of 35 years. Certainly it’s modified for the natural environment in terms of a (inaudible) structure but in doing so it’s created both significant wetland habitat, particularly in terms of wild trout and also created a world class trophy trout fishery.

DR CHAPMAN: Where is this one?

MR BOWLER: It’s on Tongariro, so it’s on the western division and the headwaters of the Whanganui. And I suppose in terms of the effects we’re talking about is that the local effects there can be offset or mitigated. They may not necessarily be the same environment but they certainly can be offset. And that is a good example.

DR CHAPMAN: So it’s an advantage?

MR MAJUREY: It is, exactly. So that was the relativity what was in mind. I take your point that in the context it could be seen and perhaps used to drive that sort of analysis, and that would not be favoured by Genesis Energy.

MRS BAUMANN: Because it may, as drafted, could suggest there's sort of a competitive element.

MR MAJUREY: Exactly. So it would on reflection, it would be a case of just considering whether that is the best way to draft that type of concept we had in mind.

MRS BAUMANN: I think we understand what you're trying to – if you want to have a think about that. Are you finished with the policy?

DR CHAPMAN: Sorry, I'm just working through the various points that I had. That's about all actually.

MRS BAUMANN: I just have a more sort of general point and it flows you're your discussion about national significance and then a re-draft of Policy 1, I think I understand your submission, but the only point I would like to clarified is, are you really inviting us to try and to put section 7 matters sort of on a part with section 6?"

MR MAJUREY: Well the whole rationale for this National Policy Statement is to do that; to give recognition of the national significance of this type of proposal. And the danger, as we see it, is arising say for example, from the Te Waka case, is that the RMA operates in a certain way. It's legitimate for this Board in its recommendations to provide in its policy formulation, provisions that reflect that level of national significance. In other words, the weight that should be placed on this type of proposal is

important. And the words we have suggested is to give the maximum provision recognition for renewable energy.

MRS BAUMANN: Even to the extent of outweighing section 6 consideration?

MR MAJUREY: Not outweighing section 6. Section 6, as we know is all about matters of national importance and that's what parliament has expressed to be the case. Parliament has also given a jurisdiction for there to be National Policy Statements to recognise other matters as having national significance. And so, that's why we say it is permissible for this Board to recommend to the Minister, ultimately, to accept the National Policy Statement and that gives the very highest recognition, not to trump section 6, but to give it that national weight.

MRS BAUMANN: We have heard submission that if it was (inaudible) to the government they would put both to— matters about the climate change and the renewable one into section 6 rather than 7.

MR MAJUREY: Equally , if it was the intention of parliament not to allow National Policy Statements to give national recognition. And by way of national significance that power wouldn't be there. It is there, and the reason I especially gave reference to the MUL case from Auckland was just to assist the Board with its thinking about what are the permissible parameters for what can be contained in such a policy document.

MRS BAUMANN: I think that was my little extra history about overriding Policy 1 and objective -

DR CHAPMAN: If I might just add one or two more questions, which I found further on as I flicked through the submission. In your paragraph 61 you seek, in the conclusion of new policies there, policy 7, Appendix 4 and I

refer to page 35 now. Your Policy 7 talks about in decisions involving renewable sources of energy, decision makers must give effect to the provisions of this National Policy Statement, despite the provisions of any other National Policy Statement. So you are really proposing that this would prevail over other policy statements.

MR MAJUREY: The approach that's been taken here, and it comes up in some of the case law is and in fact the Chairman is well aware of the principles of statutory interpretation, the Act allows for the ability to promulgate National Policy Statements, this is well known. There are beginning to emerge now a number of areas in which these policy statements at the national level are being promulgated, as is very tangibly shown by the fact that we have got contemporaneous hearings going on at the moment. In the areas that tend to overlap what drives this submission is that in this context there is a very specific subject matter, renewable energy. Other National Policy Statements cover different themes and different areas, some wider, some narrower. And where matters of renewable electricity arise, we say there should be an ability for that statement to have full and effective force, which we say, must have been attended by parliament. The key to that approach is to give that level of recognition that we see should be provided for that subject matter.

DR CHAPMAN: Forgive me if I am rather crudely foraying into this area, it's not my area of special knowledge. Why would one not attempt to balance two applicable NPSs? For example, if one was discussing or considering a wind farm on the coast, why would one not balance the benefits of each?

MR MAJUREY: And therein lies the challenge. And I made some discussion about the requirement of regions and districts to give effect to, and how challenging, if not in some cases, impossible that is going to be, at least at a practical level. And so one could take an approach and try and balance

everything, but in so doing you actually render everything ineffective. In trying to give force to that approach, you actually achieve very little. So that's as an available approach as possible. But coming back to a statement which has clarity and is effective, we're trying to assist the Board with the ways in which in this subject matter there can be an effective outcome. Remember it's applicants and councils especially at the local hearings and the Environment Court, that have to try and make this Act work. And this is one suggestion, and it may not find favour with yourselves, but one suggestion for there to be a clear enunciation of the policy and a mechanism which produces an effective outcome.

DR CHAPMAN: To the extent that we are trying to formulate a policy statement that allows decision makers, including consent authorities, to take into account or recognise and provide for various section 6 matters, for example, outstanding natural features, and so on. Surely, those decision makers have to balance various considerations in any case, so why would they not balance this NPS to extrapolate against the sort of considerations that another NPS might articulate?

MR MAJUREY: Yes, they do balance. That's, in many cases, how decision makers frame their decision making under section 104. Of course that's subject to Part 2, as we know. In terms of the position with NPSs the argument is often made, why would you need an NPS, you have the wide raft of provisions in 104 for resource consent so you can take into account all sorts of matter, well parliament has required for an NPS provision and for the process that we are currently engaged in. Again I come back at the same point, and probably just reiterate, but insofar as there has been a recognition, both in government policy and also partly in the Act itself for this particular thing, in terms of renewable electricity. Where a matter falls within the four corners of this particular statement, then due weight should

be given to it, the fact that it is nationally significant. So it is going to go into the mix of – for resource content applications, the 104 matters.

[12pm]

And so it's quite open for decision makers to balance anything they want. But if we're trying to via this process, give national guidance to decision makers and approve a lot of councils applicants' submitters with what the guidance should be in a particular type of activity, here renewable electricity, then mechanisms that help achieve that is what is important. That is why we try to provide that guidance. Otherwise you just have this blancmange of things that just go into a shopping list and who knows what the outcome is going to be. At the end of the day, of course, these matters tend to be the judgments as decision makers undertake that weighing exercise and Mr Chairman will remember well under the old water law with Keam, you know similar sort of approach. But if this Act in this Act and this NPS is going to have a tangible outcome, in my respectful submission, it's to provide that guidance that is so badly needed.

DR CHAPMAN: Guidance and priority really for the renewable energy information.

MR. MAJUREY: Absolutely.

DR CHAPMAN: Just an easy one. Paragraph 64(a), climate change benefits detailed and agreed in a 13 page statement of agreed facts. I haven't seen that, would it be possible for you to provide that for us?

MR MAJUERY: Yes.

DR CHAPMAN: And 64(b) as well?

MR MAJUREY: We can certainly provide that. What I'm referring to there is that, in my respectful submission, a very helpful analysis by the Environment Court, Judge Whiting's division. There, the court said, in terms of determining what is appropriate, as set out in section 6(a) and 6(b), what is very useful in the Court's determination as what is appropriate, is very much informed by what are the relevant considerations applied under other section 6 and 7 matters. The court went through the list of the application of each of those matters. And so it said, "Applying those other 6 and 7 matters, of which renewable energy was one, it better informs us, in informs the Environment Court, as to what parliament has given by way of indicia as to what's appropriate." And unfortunately, not every other case has taken that type of approach. But we can certainly provide the Court's analysis in that respect.

MRS BAUMANN: We have been asking other submitters to speculate about this whole business of delivering security of supply by a mix of small and large generation - renewable generation. And this is in respect of Policy 5 in our numbering; Policy 4 in yours. Do you have any comments about the extent to which security of supply in the period we're talking about will be satisfied by small generation? And the second part of that question is, how small? Currently it is 4 megawatts. What's your submission on that?

MR PIERCE: My comments from a technical perspective, particularly in relation to smaller distributor generation, so less than 4 megawatts embedded generation is no doubt of concern to our many colleagues who operate lines companies. Distributor generation offers up additional challenges to them in respect of operation of their networks, control volumes and those types of things. But there's no doubt that if those things are well managed and devices are operated and maintained, that any additional generation from embedded technologies can and will be beneficial in the long run. Of

a slightly larger scale of 4 megawatts plus in the embedded network or (inaudible), on the basis that they are again economic and vital then (inaudible) discount the fact that they will also play a part going forward in the mix.

MRS BAUMANN: Have you got any idea how much of a part? We've heard submission that we should not in anyway smooth the playing field vis-à-vis large renewables, but just help the small because that's how we solve security of supply.

MR PIERCE: I think arguably the total solution is absolutely not to have a proliferation of distributed generation of that small scale. That would not get you anywhere near your 90% target. And it will not offer up solutions for security of supply. There will be huge challenges, I would suggest, for the system operator in coordinating essentially many of those technologies simply cannot be coordinated, they will just be must run and they would have no control and therefore cannot be dispatched under a system operation because we can't (inaudible).

MRS BAUMANN: And the management too the whole system in respect of intermittency and all that?

MR PIERCE: Absolutely. So if every mum and dad had a small scale wind turbine in their back yard, it is inconceivable that the system could be operated to the extent it is today.

MRS BAUMANN: Without blackouts?

MR PIERCE: Yeah, without blackouts.

DR CHAPMAN: Would that not though diversify the supply in a pretty major way and diversification lends a degree of stability doesn't it?

MR PIERCE: Diversification plays its part, but if you want to keep a – and I'd caution, a system operator is far better placed than I to make these comments, but if you want to have a well-managed, secure national grid, true national grid, then the answer is probably not to diversify so far away, because you would simply end up with islanded operating modes where certain regions will be operating on their own rights, perhaps becoming disconnected from the national grid and then consumers facing and experiencing a quality of supply which is far lower than they do today in terms of voltage and frequency. But the matter of intermittency even in large scale generation is of concern. And we take guidance, of course, from Transpower and from the Electricity Commission in respect of what the acceptable level of penetration of particularly wind generation, ought to be going forward. How that might be best geographically displaced; whether there's correlation in fact of – correlation in respect of wind resource being present or not, across that North to South Island and whether that plays a major part in their recommendations as to the total installed capacity which they would recommend be integrated into the New Zealand system and how that might be balanced off with other base load, geothermal, hydro and the like.

MRS BAUMANN: Yes, that's something we're exploring with them. We've heard a lot of submission on it, but I don't know whether it -

MR MAJUREY: So I just say again that they are better placed than anybody to make a recommendation on that and it is probably time that they did, to allow this guidance.

MRS BAUMANN: Just going back again to Policy 5, and we have heard submission that we should amend our Policy 5 to increase it to 10 megawatts because that's the cut off in respect of the market. Do you have any view on that? And on the upside we're having environmentalists say 10 megawatts would mean an awful lot of wind turbines and therefore it could have the same route as any other wind farm..

MR MAJUREY: I'm sorry, are you suggesting the cut off is 4 megawatts?

MRS BAUMANN: It is 4 megawatts in the draft statement to the definition of renewable, but we've heard submission it should be more, or even it should be smaller, so I wonder if Genesis has a position on that. If you want to think about it and get back to us.

MR MAJUREY: It's something that I'm willing to give consideration to but I would suggest that the integration of any technology of any scale has to be done carefully and has to be considered.

[12.10pm]

MRS BAUMANN: It's just that whether - no doubt the drafters of this thought there may be an easier route for the small, mum and dad or community based and that's what we're grappling with.

MR MAJUREY: We are therefore talking tens to hundreds of kilowatts at a maximum. But in any case, I am wanting to give that some consideration.

MRS BAUMANN: You haven't really made any submission on Policy 2. We want to know from you how useful would it be? We've heard lots of submissions about Policy 2, and I'm interested in how efficacious it would be as far as a developer in Genesis' view, or an advocate as far as – you

know, local authorities as to what they should do in their plans to provide more -

MR MAJUREY: There's a couple of points here. The first is, in a related sense we've given you submissions in terms of existing developments versus new developments and some of the differences that arise there. Insofar as there being practical constraints, it's a common feature of developments that each type of development has its own social associated challenges and issues. And so the experience of Genesis Energy is it's been involved with the consenting of all forms of electricity and in terms of the base case forwards its portfolio of hydro, wind and thermal and with targets in terms of geothermal as well. Genesis has run the gamut of what those issues are. In terms of the policy recognition for those types of measures, the reason that Genesis Energy has been silent is there's a big question mark as to how policy-wise you're best able to reflect that and for Genesis Energy the jury's still out a bit on that. If there is particular, practical experiences that the Board has in mind then of course, Genesis Energy is happy to help, give experience and indications of different approaches if that is going to assist with your thinking.

MR PIERCE: And perhaps further from me, on the constructs around location particularly for renewable technologies, the Board would well know that it's easier and more common for the likes of thermal development to be placed closer to a load circuit and transfer fuel; the challenge with renewable, as you know, is that the renewable fuel resource is essentially well-defined – well, to be determined as well-defined and it necessitates that you erect turbines where the wind resources is, you don't have the luxury of putting your wind turbines close to the load resource and hoping that the wind resource will follow. So that offers up – that runs across the course of hydro and geothermal developments. We need to be

developing renewables where that resource is. Unfortunately, with out power system of course, where that resource is often, and sometimes in respect of wind, other structure is not and in particular, transmission, some roading. Certainly transmission is a key consideration for most of the developers in New Zealand.

MRS BAUMANN: It's just how we provide in this National Policy Statement that best - one would almost say obvious constraints are recognised and what we say to the decision makers they then should do with those constraints.

MR MAJUREY: It's partly a matter of philosophy if you like, in so far as you express the provision in the statement in a positive way in some form as these provisions also contain and we've given you some suggestions on that or in a - it's not a negative way but in a different type of way and Policy 2 is expressed in a very different type of way, and that's why we've left that one alone for now. Not to avoid the issue, but where we've put our effort in terms of trying to provide guidance to this Board is the things we think are best expressed in a positive manner.

MRS BAUMANN: Reflecting on your experience with TPD in my terminology, is there anything in this policy statement that would have helped?

MR MAJUREY: It must have helped, for example, if you have the recognition of national significance, and the objectives, etc. In a practical sense the courts had got there anyway. So one can say it's superfluous. But remembering that the decision making involves an accumulation of considerations, so too by analogy, accumulative effects, effects being positive and negative, the arrangement of a number of different provisions, be they the objectives and the policies, etc. If the different aspects of a TPD-type development are reflected in different ways, then as you

accumulate the different considerations, then they must, by definition, help.

So for example, we would like to think in hindsight that a positive reframe of the NPS would have helped in the Court's consideration over the appropriate term. Whether you go on to even expressly deal term with this NPS is another question that can be properly raised, as one example that came out of that litigation. So in a somewhat long-winded way, the short answer to your question is yes.

MRS BAUMANN: So it's your submission that whiles the Court got there in the end, it may have had an easier route if they'd had that NPS at their elbow?

MR MAJUREY: It would have been a more direct way for them to recognise that level of national significance importance and also hopefully would have been an important influence on how it made all parts of its decision. By that I mean the reference back to the issue that arose there especially in terms of the term of the consent.

MS MARSHALL: I think I would add there that it would certainly have helped with the Awhitu case in terms of the time delays that were experienced when it came to negotiate that agreed statement of fact.

MRS BAUMANN: Perhaps you should read your name into the record?

MS MARSHALL: Andrea Marshall. So that considerable time in negotiations meant that we missed that opportunity to place orders and then the economic window moved and now has left us with a consented site that is not economic to build, yet it was at the time we embarked off on that consenting process. And that was some 18 months delay we experienced by going through the Environment Court hearings where at first hearing

instance at the councils when we were only considering like local effects there was no weight to given to the national benefits of the proposal.

MRS BAUMANN: Picking up from Mr Pierce's point, that you have locate renewables where they are, we've heard submission that there is a gap in the policy statement in respect – we've got one on transmission, we've got this one on renewables, but actually physically to get from maybe a renewable side to transmission, which does support it, there is no policy. Do you have a submission on that? You may want to think about. We've heard from other generators that they'd like us to somehow or other, again I'd invite you to think about how the some other would be done in moving, to actually provide for the connection where the transmission system – you know, the spur line, or the distribution line, however you're going determine that it's provided for...

MR MAJUREY: We would welcome the opportunity to consider that.

MRS BAUMANN: Yeah, I think it's a feature of renewable generation.

CHAIR: Have a look at the Meridian.

DR CHPAMAN: Before the Chair moves on, I have one further question relating to section 7(b)(a) which provides for the efficiency in the use of energy resources, words to that effect. I just wonder if there's a case for recognising that provision explicitly in the NPS, which as you know, is focused on renewable electricity, but there are boundary issues around renewable electricity, not least with the sort of co-gen opportunities available in many places in the country; with geothermal, for example, or with other forms of generation. Heat is often provided and the overall efficiency of a development maybe very much improved if recognition is

given to, not just to the electricity, but the heat and a broader view, if you like, of the energy.

[12.20pm]

Now we heard a strong submission from Mr Cox from the Bioenergy Association of New Zealand, that – well, his preference was for the objective to be expanded to include energy. But short of that, there is a number of options. One for example, is to allude to section 7(ba) in the Preamble and ensure that decision makers consider if you like, the co-benefits of renewable electricity generation and energy generation which is valuable.

Another option is to put in place a specific policy within the NPS relating to the efficient use of energy. So an additional policy. Do you have any thoughts on the merits of either of those options?

MR PIERCE: I will say briefly that from a perspective of I would encourage that to be considered, I think all forms of energy that are, be it electricity or heat, that are derived from a resource, ought to be considered in the mix.

MR MAJUREY: I'd add to that the concept of co-benefits is a positive one so far as recognising those multiple components of energy. Perhaps a warning note to bear in mind so far as how force maybe given perception to 7(ba) and thinking of a couple of examples, and it's to be acknowledged at this point, arise anyway in that interplay of that provision being there, but for example, the location of renewable activities, say wind in the South Island, both from a geography point of view to load center and also linked to transmission, that could be taken in a negative light. In other words, locating in Mahinerangi or a haze in the location is not an efficient use. And the Courts have assuaged over the decades arguments over the best

site and best form of development. And it would be a retrograde step that if any policy were used in a negative way to be leveled against a real activity because in terms of energy output, locating here is better than locating there and those sorts of enquiries, so that will just be something to bear in mind as to how you might frame such a policy.

DR CHAPMAN: Could a policy nevertheless be drafted in a way which gave special recognition perhaps to developments which both were efficient in the sense of generating electricity but also in the sense of generating heat? In other words, there was a confluence of benefits.

MR MAJUREY: Sort of like a leg-up, leg-down sort of thing analogy?

CHAIR: Exactly.

MR MAJUREY: It's similar in my submission to the approach taken in Policy 1 which is laudable with the reference in Policy 1 to "at any scale" that has a specific intention behind it. And as I understand it the intention is to avoid the arguments that have plagued some of the renewable project hearings where arguments over, "Yes, but only 15 megawatts isn't very much so why should we have to suffer these local effects when you're having a trifling benefit in a world sense?" And the courts have, in any case rejected that argument. So using the phraseology "any scale" is a very positive approach in my submission so too, you indicated Professor Chapman, there could be wording that recognised the efficiency upside. I am just very mindful though of how that could be turned around unless that drafting was quite carefully expressed.

DR CHAPMAN: I wonder if you would be so good as to offer us your thoughts on that?

MR MAJUREY: Of course, of course.

MRS BAUMANN: Policy 4. I hear your submissions on Policy 4. Other submitters have read it more widely than you are, in a sense that they see it more as the direction for regional policy statements, regional plans, district plans and a total plan sense, rather than just in respect of an investigative (inaudible) that you've mentioned. Do you have any comment on that?

MR MAJUREY: Again, it comes back to this policy isn't that clearly drafted, in my respectful submission. So there has been a question mark on our part as to what's actually being driven at here. And so we tried to think about some of the scenarios hence, the nature of the submission that's been given. Clearly direction on what is properly encompassed in planning and the outcome as to what the plan or policy statement might say is beneficial. That begs the question though of what is going to be the content of that? And I'm still unsure as to what is the intention behind Policy 4 in terms of the national guidance that's been sought to be affected by that particular policy.

MRS BAUMANN: So are we and we've heard all of the submissions. But the overriding one from local authorities is saying well help, please, please help, apart from a couple who think they've got it sorted. Do you have any comments about how you think local or regional authorities are dealing with planning for renewables? We're aware of the Waikato approach to generation – at geothermal, pardon me. We're aware that the Manawatu and Horizons, they're trying to deal with it. Do you have any overall comments one way – whether in district plans or regional plans?

MS MARSHALL: Our best experience is with the Horizons and their dealing with the wind farms. As where they have looked at identifying areas of

outstanding landscape in their area, it's given us an opportunity to participate in those areas where we think there is a wind resource and we maybe don't agree with the classification of outstanding landscapes. But what we've also found is they've balanced that identification of the outstanding landscapes with an objective and policy framework that still enables development to occur within those areas. So while we understand the threshold of us achieving consents for wind farm in an outstanding landscape is obviously tougher, we've still got that ability to apply for an application and what we have worked hard at Horizons is to ensure that by identifying areas of outstanding landscape that they don't foreclose the opportunity for us to tap into the wind resource that's there. And so that has sort of been the main thrust and equally, with Environment Waikato with taking that same sort of approach. So while we are not opposed - our preferred option is not to have "Go" and "No Go" areas, we do recognise that to provide certainty to communities, in these areas of outstanding landscape, they should be identified. But then that's left to us as the developers with the opportunity to participate in that planning process around landscapes, where we don't necessarily agree with that framework.

MRS BAUMANN: Would Genesis then be attracted to a policy in a statement that directs authorities to go down that route?

MR PIERCE: You mean in terms of outstanding natural landscapes?

MRS BAUMANN: Yes – well, that they use that as a planning framework, that they go and identify through section 6 matters?

MS MARSHALL: That's certainly our preference, over and above.

MRS BAUMANN: Would you see it as part of this policy for them to be directed to do so?

MR MAJUREY: Remembering that the landscape's context is particularly relevant to wind farms as one form of renewable generation. The reference has been made to geothermal. A difference approach is taken there in terms of the nature of the resource and its sustainability. It partly comes back to, in terms of the local authorisation position, that they need help or are seeking guidance and the question arises as to exactly, what? Is it to provide certainty to the community as to probably where these things should go and where they don't? And I drew an analogy to the aquaculture context and I think the short position there and everyone will have a view on this, councils have no vested interest in going out and expending money on behalf of their ratepayers to undertake the necessary constraints, mapping work and various technical assessments that go with that.

[12.30pm]

And that is partly the reason why there's been a pre-commencement space treaty settlement, because in the time that that particular legislation has been in place there has been a big zero in terms of space, and there's a lot of reasons that go with that. So what are the drivers that go behind councils taking the time and resource to plan in that way? And there are overlays and similarities in terms of renewable energy. There's a reason why councils would go down the track of planning in relation to outstanding natural landscapes, which are wider than just renewable energy. So there is a happy coincidence there between a driver, that's a fairly common one around the country with wind farms. That doesn't apply in all cases though. There is no natural driver, for example, in terms of the council finding the best hydro resources. And, in our submission, the

framework is best left for, in that context, for those who have that interest in undertaking the necessary work, ie, those who would seek to bring applications before authorities.

MRS BAUMANN: So one could argue there are other mechanisms that do sort out hydro in a sense, and water conservation orders and the like.

MR MAJUREY: So from a process of elimination if you like, the optimum scenario if you like, in terms of renewable electricity energy generation is, other than those area where there is a coincidence of overlap, if you like, say natural landscapes, is for there to be an ability on a site specific basis for applicants to come along and bring to bear the resources that are required to prove up that resource, assess the effects, and then bring the application before them. In terms of what the appropriate nature and level of national guidance is, there are different ways that that can be expressed. The concentration of the Genesis Energy submission has been on those things that when there is a proposal before a decision maker, the sorts of things that should come into play in how they make their decision.

MRS BAUMANN: My last question, is your new Policy 6, and I want to challenge where we can actually have that as a policy statement? If we're not careful, we'll all be fighting it out the (inaudible) National Policy Statements, who equally want to have their privacy.

DR CHAPMAN: Policy 7?

MRS BAUMANN: 7 I meant, sorry, yes.

MR MAJUREY: Having raised 6, can I just take the opportunity. I didn't mention it expressly, but I think as the Board knows, in terms of the reverse

sensibility, that's not a new area. The National Policy Statement on Transmission covered the same territory.

MRS BAUMANN: We've have heard many submissions on that. Sorry, it's more I meant Policy 7

MR MAJUREY: Yes, I thought I'd just take the opportunity while – so in 7 the determination of the Board maybe that that crosses the line in terms of what is appropriate in a policy statement. And that will be for the Board to determine. I simply say what I said before, in terms of this opportunity for there to be national guidance in these matters, we've tried to provide mechanisms as to how they can be given weight in a working sense and in a practical sense.

CHAIR: Could I just follow-up and maybe Ms Marshall could help here. With the Freshwater Policy Statement, have you made submissions on the policies to do with dams? And particularly, Policy 1(g) which deals with damming.

MS MARSHALL: I'll just have a quick look at it.

CHAIR: Certainly, 1(g), under policy – regional policy statement, “guide and direct regional plans”? Sorry, page 5. What we have been asking other submitters, is to let us have a copy of your submissions which may be a way of addressing that rather than getting into detail

MR MAJUREY: I can just read that part of the submission and we can provide copies. So in terms of paragraph g of Policy 1 “restricting of existing activities”, the submission says: “Paragraph g of Policy 1 provides for restricting of existing activities, in order to ‘sustain notable values and non-consumptive Tangata Whenua values in interests in times of low flow.’ There is a risk that the requirement to sustain values could be

interpreted as empowering a decision maker to restrict activities undertaken pursuant to an existing resource consent. It is important that paragraph g of Policy 1 is consistent with the law in relation to non-derogation for existing resources consents.”

CHAIR: Yes, that’s helpful.

MR MAJUREY: We will leave you with copies of that..

CHAIR: Yes, thank you. Now with the Transmission Policy, we have had submissions about the level of detail, the prescriptive nature of policies and whether or not the policies in the draft we are dealing with should become as prescriptive as Policies 7 and 8 for instance, where there is a requirement that outstanding natural landscapes or adverse affects put on them be avoided which is not mitigate or anything else, it’s “avoided”. We would be grateful for your comments on that.

MR MAJUREY: At the risk of being a broken record. I again, refer back to the helpful statement in the Board of Inquiry on that particular NPS in terms of clarity and effectiveness. Again, also a sort of philosophical point, in my submission, there is little point in a National Policy Statement rehearsing every Part of Part 2. In other words, if you recognise, for example, benefits that you have to then go and do a mini-assessment of effects, where you’ve got to do the negatives. If you have to go through that exercise in each and every case or variations of the theme of the type you’ve given Mr Chairman, then there’s little utility in having a National Policy Statement. The Act has provided for National Policy Statements to provide the policy to recognise certain things. Of course, with resource consent applications the fact that an NPS deals with one aspect of an activity such as a recognition of benefits, does not mean there is not going to be an assessment of effects. That is mandated and required by virtue

of section 104. So in terms of the level and degree of prescriptiveness, one of the real benefits of this proposed NPS other than the words, I think, if you like, is the fact that it's not replete with provisions that try to cover every contingency. It's simple, it's relatively clear, it can be approved and serves the purpose that it seems to us to be intended to achieve.

CHAIR: The reason I raise it is that we've had some submissions, just following on from what Mrs Baumann said, that there should be a direction that outstanding natural landscapes be avoided for wind farms. And Policy 8 appears to be a very prescriptive and strong policy.

MR MAJUREY: It is and it was the subject of submissions by many folk including Genesis Energy, that in the end was the result. In this context we would say that that would be highly inappropriate. For one example, it makes a determination over and above what section 6 provides for. It doesn't allow for an assessment of what's appropriate, ā la the Awhitu case.

CHAIR: Well I put to Mr Hassan yesterday, is it your submission then that that would not be a suitable policy in respect of wind farms and district plans in a national policy?

MR MAJUREY: Yes, and the position of Genesis Energy is that it would be highly inappropriate to have such a statement in the National Policy Statement.

CHAIR: That's helpful. Now turning to the local authority instruments for a moment, your submissions on the Horizon Plan, would you also have a copy of those?

MS MARSHALL: I don't have them here, but I can make them available.

CHAIR: That would be helpful. In the case of the project, the Te Waka one, were there any policies in the district plan there in respect of energy? You mentioned that the (inaudible) had been taken out, but -

[12.40pm]

MR MAJUREY: My recollection sir and I can have this confirmed is, that unlike some policy documents, there wasn't a lot of reference to energy, which may be reflective of say unlike Waikato, where there is a prevalence of energy matters..reflect the nature of the resource in that district and region. So my recollection is no, there wasn't a lot of provision in there.

MS MARSHALL: I think it also reflects the timing of when that plan was prepared, whereas (inaudible).

CHAIR: Where we're getting a lot of submissions is in the area of district councils the assistance they need with wind farms. When it has come to regional councils in respect of hydro the submissions haven't been - the local authorities seems to believe they have that under control, that's the general trend in the submissions, have you – when it comes - we're got the Waitaki plan for instance, but on the Tongariro Power Scheme, would it have been of assistance to you if there'd been provisions required through a national policy statement in a water plan, for that river. when it come to re-consenting?

MR BOWLER: Well, that's kind of hard to say because it's been evolving over so long and the policy's evolved so long, but I think in general, it would have been and I suppose what's happened over time is that the operation of the Tongariro has largely become enshrined within the planning documents, so when you start to see things like the Horizons One Plan,

the Horizons One Plan in terms of the water allocation framework actually embeds the Tongariro Power Scheme within it...

CHAIR: So Horizons' submission was that they didn't believe the NPS was needed in respect of – that there was sufficient controls there and policies and so forth. Would that be your submission? What if Genesis were coming back to promote a new development on that system?

MR MAJUREY: I think that's reality, Mr Chairman, and that is – TPD's one example and also the Waikato hydros in terms of its recognition of the plans. For existing developments, especially long standing ones, like those hydros, there doesn't seem to be much issue in terms of there being appropriate recognition. Where the issue really arises is for new resources and new projects.

MRS BAUMANN: Or enhancements?

MR MAJUREY: Or enhancements. Although Mr Bowler could talk about (inaudible) being within the TPD scheme a new development. But for Greenfield, Bluewater, whatever you call them, brand new developments, that's where the challenge is, and we say in those types of developments, there is a definite need for guidance to councils from a National Policy Statement type document, of the type that is currently in here as can be improved.

MRS BAUMANN: Perhaps you could you talk about the enhancement, the 2 megawatt?

MR BOWLER: Okay, in terms of the scheme itself, there's a couple of locations where it was always identified that there was opportunities for developments. One is where the water comes from the southern slopes of

Mount Ruapehu across the (inaudible) and that is where we are developing Mangaio mini many hydros, it's 2 megawatts. And the other potential site is for where water's moved in from the western diversion side of the scheme, from the head waters of the Whanganui, across into Lake (inaudible) and there's is a potential for a small hydro development as well. That development has been held up because of the obviously the consent term issues. With only a 10 year consent term on that site, certainly the economics wouldn't stack up to do that development. There's other particular challenges with that site as well, but Mangaio is deemed to be economic so we progressed with that and its development.

CHAIR: Mr Majurey, you mentioned some of these minor projects, putting in wind. Would you have a submission on the appropriateness of using section 55, if you have got the Act there, section 55 (2)A(b), in other words, that the direction is that they're inserted immediately into plans without the need to go through the First Schedule process?

MR MAJUREY: It's a very good point sir and before coming directly to address it, it's reminiscent of the discussions that have arisen under the Amendment Bill. For example, in relation to the provision in the Bill as it's currently framed for the removal of non-complying activities. Whether if in the fullness of time that remains in the Act is to be seen. But one of the components of the Bill in its current form is that to avoid the cost and time of the amendment of plans, that there is an ability to do a very similar thing without the formality that goes with it. So that is certainly an available route to take. An off the cuff answer is that I'm sure there would be those folk who have various views on 1), the appropriateness of that type of suggestion in the first place, and 2), what's the process that should be gone through?. So, for example, in a general way, those types of activities and that type of classification activity, controlled or permitted, going straight in without any local assessment. I'm sure there would be

local authorities and folk who'd want to have some involvement in the process. So at this stage it's a hard question to answer, but certainly in terms of that being an available path, that is there and Genesis Energy has given those example because it's taken advice that those are matters that on the one hand are very important ways to assess the potential source and ability to progress these sorts of developments and at the same time, the level of effect is of a nature that are appropriate for those sorts of activities. So, what I am not wanting to do is to resile from the underpinning for those suggestions ie, that they would be appropriate to be a part of the activities; whether you go to the next step and in that way, see those translated into every plan in the country as a mandatory requirement would require a bit more discussion in terms of a transparent process.

CHAIR: Yes, thank you. If one were looking at purely investigative techniques, equipment and so forth, even as a controlled activity, so there can still be controls, but one doesn't need to necessarily go through and notify.

MR MAJUREY: Yes, exactly. And that can be a good halfway house in terms of their retaining some discretion. So that is one way that would be seen to be an appropriate path to follow.

CHAIR: It would be helpful actually if you could let us have a submission on that. And while we've got the level of expertise in the room, under Policy 4, in the second line, the last two words says: "where appropriate", see that, Policy 4, "policies and where appropriate". This is Policy 4 of the National Policy Statement we are dealing with. It's got second line, "objectives, policies, and where appropriate". We have had some submissions, mainly from the planning profession, that there is real concern about having words like that in a policy statement, when the policy statement is trying to

give guidance and direction to local authorities. What would your submission be on that?

MR MAJUREY: As a starting point, that is a fair submission, where you're introducing discretion doesn't necessarily sit well with clarity and effectiveness and in this particular example, clearly for the framers of the proposed NPS, they have drawn a distinction between the first part of that sentence in terms of plan change and opposed plan or variation, to introduce objectives, policies and then drawn the distinction with methods. My speculation in terms of why such a distinction has been drawn is that in the planning sense, it may not be helpful or worthwhile to go to the next step in terms of methods. However, the way, I guess, in my experience councils have approached the task when they have either changed plans or set plans, I can't think of any examples actually where the councils haven't brought the full panoply of mechanisms into play, in other words, the whole raft objectives, policies, rules. In many cases, it can be said unkindly, they go too far. So I don't know why a distinction would be drawn between those initial components as opposed to methods.

[12.50pm]

MRS BAUMANN: Can I put it to you if you took "where appropriate methods out" wouldn't it change the outcome as far as the local authorities?

MR MAJUREY: Clearly in terms of what the important part of these documents are for assessments, say for 104, it is the objectives and policies, and obviously rules and district plans. Whether methods actually help these sorts of assessments, there will be different views on that. By keeping the methods in at least you have an ability to have that part played out in plans and certainly if you took the "where appropriate out", I think it enhances what is trying to be achieved in that policy.

CHAIR: I wonder the words “where appropriate” were put in because one wouldn’t be talking about methods in terms of policy statements. So it’s got there “objectives, policies and where appropriate, methods into policy statements and plans” the methods would be in the plan, so it maybe that rather than leaving a judgment issue, it’s just a – but however, thank you for that.

Now as far as hydro is concerned, we had a submission this week. I think it is the Wind Energy Association which you are no doubt a member of. And we have asked from Meridian for a response to this as well. And that is if the full capacity for thermal is taken up, in other words, over the period to 2025 and wind is progressed in the planned way with - that the wind itself, with geothermal as a base, wind itself would be enough, without actually increasing hydro for peaking and whatever, therming, because there’s enough hydro now. Would you look at that please and let us have your submission, your views on that? We haven’t seen your demand graphs or anything like, so we’d be interested in that.

MRS BAUMANN: And it’s also a matter, we put to officials on a technical side, so we would be very interested in your views.

MR MAJUREY: And can I just clarify, in respect of the instilled capacity of wind at that time, is there any figures bantered about?

MRS BAUMANN: Just sufficient to get to the 90%.

CHAIR: We can get to the 90% with wind -

MRS BAUMANN: With wind and no more hydro.

CHAIR: We don't need any more hydro to back up the wind basically.

MR MAJUREY: And of course they also had some assumptions based on the total instilled capacity geothermal at that time?

MRS BAUMANN: Ah, yeah we would -

DR CHAPMAN: If that's a reasonable assumption.

CHAIR: That's in the - if you have a look at the transcript, which will be out shortly on that.

MR MAJUREY: Sure, listen I'm more than happy to take a look at that based on some assumptions around instilled capacity of geothermal and hydro at the time.

CHAIR: Now we are also getting - we've had a range of forecasts, as it were, or predictions, when it comes from the generators, the large generators. And what we'd be interested in is whether Genesis believes, by 2025, we would need the level of plant that is there now again, in other words, that we're going to double the need and ergo double the development requirement. Now, we realise that depends on growth and all sorts of things but that's - it's - we're talking ranges here, that would be one (inaudible) and the other would be perhaps I think it might have been Meridian -

MRS BAUMANN: And Mighty River Power, both of those have given quite detailed submissions on that.

CHAIR: Yes, but I think it was Meridian that said we might only need half again so it's that range.

MR MAJUREY: So you're asking us to contemplate whether we're moving from an 8 gigawatt system to a 16 gigawatt system plus by 2025?

CHAIR: That's right. And bearing in mind your evidence Mr Pierce that the graph's going to keep going up so do we need three times by 2050? Did you put in, Ms Marshall, put in a submission on the Coastal Policy?

MS MARSHALL: Yes we did.

CHAIR: Could we have that too please?

MR MARSHALL: We've got that here.

MR MAJUREY: We've got the NES on ecological flow submission as, if that's a help. The discussion document on the NES of ecological flows.

CHAIR: I think Judge Sheppard might be interested in that. Let me see - no, we don't. And yes, you mentioned the Waitaki allocation plan, is that a mechanism that you could see would work with the Waikato River, or do you believe there's enough, as you said earlier, in the Waikato plans without that?

MR MAJUREY: So, for example, it's a good comparison, there's variation six in the Waikato regional plan and that is an allocation variation. That's been through the first instances of making their independent commissioners and that's now before appeal, and features of that region are you have an over-allocated – sorry, demand versus supply in terms of water, there's an over-allocated catchment, in that sense. There is demand in terms of use of water by key stakeholders in terms of the dairy interests and land conversions in terms of the needs for irrigation, versus the fact that you

have an existing hydro scheme and also a requirement for cooling water for Huntly. You also have needs for potable water from councils in terms of a growing population. Those are some of the features of that particular region, and so there is a variation dealing with, in its own way, as did with Waitaki, how you allocate water to those different areas of demand.

CHAIR: We put to, again, to Meridian whether or not this proposed policy statement could help in terms of sections 31 (fa). Again if you'd like to give that some thought, and perhaps have a note on that. Well thank you very much Mr Majurey and members of the Genesis team. We are very grateful to you and for taking the extra time today, you're actually the last non-government submitter now and so and that has its advantages.

MRS BAUMANN: I've got one very, very, very, very small question sorry. It's just occurred to me, about transmission, we've been approached to as in Policy 9 of Transmission to require that any national standards applied, particularly for wind and noise, have you got any submission on that? Wind Energy Association is saying that they would like us to put in a Policy Statement that NES, whatever it is, 6806 or whatever - sorry what am I saying, New Zealand Standard be mandated, and they have the transmission and I wondered if it was any use for wind development?

CHAIR: Basically rather than re-litigating noise each time, a requirement that goes -

MR MAJUREY: Well, as a matter of interest it was at the Awhiti Wind Farm case and the wind standard was accepted by the court – I think it's been either in review or reviewed of late.

To be read in conjunction with
the tabled evidence/statement

MRS BAUMANN: Well it's not been uniformly - we have submissions it's not been uniformly applied. Would that be a submission of yours that we should -

MR MAJUREY: We will address that in the responses that we come back to you on.

MRS BAUMANN: Sorry to interrupt, it's just that I know noise is an issue for Genesis.

MR MAJUREY: And can we say too that we appreciate again the time you've given us and the ability to engage on some very important issues, thank you.

ADJOURNED

[1pm]