

To be read in conjunction with  
the tabled evidence/statement



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

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**FRIDAY 19 JUNE 2009**

**HELD AT THE TANGOIO MARAE, 1 TANGOIO SETTLEMENT ROAD,  
NAPIER.**

**HEARING OPENED [10.20 am]**

**APPEARANCES**

Mr M Williams, Resource Management Law Association.

Ms T Hopmans, Mr B Taylor, Mr F Reti and Ms J Taurima,

Maungaharuru-Tangitu Incorporated & Ngati Hineuru Iwi Incorporated.

Ms K Hamilton, Ngati Kahungunu Iwi Incorporated.

Audio file: 19June1

**CHAIR:** Ladies and Gentleman welcome to this Board of Inquiry hearing and on behalf of the Board I'd like to thank the people for the welcome and for the opportunity of sitting in this wonderful meeting house at this Marae. This is the only Marae that the Board of Inquiry's sitting at, and we're very honoured and privileged to do that and that will be on the record. I need to say to all the speakers that we are recording everything, and it will be transcribed and your words will find their way on to the website. Now I won't introduce the panel because that's already been done by Mr Gardiner, and I'll ask Mr Williams to present his submission on behalf of the association, thank you.

**MR WILLIAMS:** Thank you Mr Chairman. Good morning. Just firstly a couple of caveats, you will have had the opportunity to read the submission prepared by the Resource Management Law Association. Now can I say that as a practitioner I don't have a great deal of background or experience in renewable electricity generation, my practice so far in electricity sector having been confined to the transmission or distribution side rather than generation. But you would have heard no doubt, in fact I know you have, from some of the generation sector who would have been much more qualified and experienced to speak than I on some of the technical issues that are raised by this proposal. The second caveat is that the association I'm here to represent, and this is a point also made in the submission, has something over 1,200 members I think at last count and as such has no one viewpoint on the issues. It has a diverse range of perspectives within it and interested and as such we have no and nor can we have any particular barrows to push.

This leads me to my primary procedural point if you like the RMLA necessarily confines its submissions in this type of situation where you have a high level policy framework for a reform measure upon which the association wishes to submit. Really the association seeks to promote a

broader objective of best practice in implementation in line with the associations fundamental objective which is set out in the submission at Paragraph 3.4 and which is to promote best practice and the achievement of sustainable management outcomes and in this case with respect to the generation of renewable energy. So the objective of the planning initiative in each case that we submit on is taken as a given, the question is how to best achieve it and the association seeks to assist, in this case, the Board of Inquiry in answering that question.

Now here we have a particularly ambitious objective, and a laudable one, that of 90 percent of electricity generated from renewable sources by 2025. If I have any one overriding message I'd like to leave with you it is that I do not think and nor does the association that, as written in its notified form for comment, the policy statement has any realistic hope of achieving or securing that objective. Can I take as a case in point the outstanding natural landscapes case involving the wind farm here in Hawkes Bay and involving TeWapa and Tapa Tura (ph) and where, as is so often the case or has so often been the case with wind farms that have been considered by reference to first generation resource management act plans which didn't really foresee or contemplate this technology rolling out in such a significant way.

The application in question falls to be considered as a non-complying activity. And so in addressing the crucial gateway questions that the court or the council at first instance is asked to grapple with in determining whether the proposal is contrary to or in line with, for example, the objectives and policies of the plan. One is faced with provisions which just don't speak to the issue and I was just looking at it again this morning, the case, I mean we have objectives and policies that a wind farm on a hugely significant cultural landscape resource is assessed against policies regarding the life supporting capacity of soils and which must speak to farm implement sheds and all manner of things in a very generalised way.

And which really leaves a lacuna or a vacuum in a policy sense when that critical evaluation task is being undertaken.

Now as I say, I can't from personal experience and as a practitioner, speak for other forms of renewable generation such as hydro or geothermal and there have been more advanced policy frameworks promulgated in the regional settings regarding, for example, geothermal energy in the Waikato region. But certainly there is, I would submit, a complete policy vacuum that the National Policy Statement at issue here crucially must fill and assist local authorities in filling.

And in short, as I see it, you're not going to get 90 percent renewable electricity generation off the back of non-complying activity applications. And so that really is the task at hand for the benefit of securing that objective and for the industry, for the public, for the people here today, Tangatawhenua, for the economy generally, a much stronger, clearer, certain and more robust policy platform is required and I think that's one of the messages inherent in the written submission as filed.

And I guess ultimately the ideal world as has been floated, and I'll return to this later, you might even end up as envisaged in the review of the New Zealand Coastal Policy Statement, with the situation where local or regional authorities, territorial regional authorities being local authorities are directed to actually stipulate within the plans where this type of technology is allowed and where it would not be appropriate. But even if that's too ambitious for all forms of renewable electricity generation, and as I say I'll get back to that point soon. It would be open, I submit, in the National Policy Statement to at least steer regional and district plans in that direction and require that more robust frameworks, whether objectives and policies or more detailed rule and map restrictions, be applied. And as it stands with respect to the statement, I submit it misses this

opportunity as the submission states to bridge the gap between the high level objective of 90 percent and more specific implementation.

Now undoubtedly, as Policy 2 acknowledges, location of renewables is constrained by a range of factors that are fundamental including relativity to the transmission network the national grid and obvious questions as to where is the resource in question found, wind, water, geothermal and where is the infrastructure to support the technology that would harness that resource. So these are some fairly serious, hard edged constraints that Policy 2 of the NPS speaks to in seeking to promote the overall objective or achieve it. But what about the other resources in question and no doubt that you will hear something of today, cultural resources, cultural landscapes, land and other resources of significance to Māori. What of landscapes themselves in a more visual or apparent sense, what of heritage and what of sectors of the economy and society that rely on those resources.

The NPS provides no guidance as to how local authorities might reconcile these competing constraints and considerations in setting the necessary regionally or locally adapted, as it would need to be, robust planning frameworks to implement the policy statement. Indeed it leaves local authorities to grapple with an equation requiring that the benefits of renewable electricity generation at any scale be seen as having national importance. Well how does that get assessed against matters of national importance in Section 6 terms and as may be at stake. Does a landscape or a cultural resource have to be truly remarkable before it trumps even the smallest renewable electricity generation benefit? If not what is it that Policy 2, or Policy 1, I should say, is seeking to express. I think that fundamental equation that must be resolved by local authorities in implementing the policy of the NPS as it stands is most unhelpfully open and lacking in guidance and in that sense is not policy.

So in leading all of these questions unanswered, all that is directed under Policy 4 and 5, for example, is that local authorities make planning provisions for identification of possibilities and small scale generation. And as the submission file suggests, the policy statement really needs to be more ambitious than that.

[10.30 am]

So where does this leave the Board of Inquiry, well I have no major squanders, as I said, you would have heard a lot more from the generating sector and from sectors of the community about some of the specific issues that would be triggered by any particular wording or policy framework. But what I do wish to leave you with are some possible precedents that have been applied relative to other issues of national importance and which you may be able to draw upon as models within which to build some of the concepts and some of the technical and some of the social and cultural concerns that you've heard about in developing a more robust policy framework.

The first is the NPS on electricity generation. Now just for convenience I've produced a few copies of that but you may have it already. Now as an example, this NPS, which as you know has already enforced, it, like the proposed NPS on renewables, acknowledges, and there is a degree of equivalence between Policy 2 of the proposal before you as a Board and Policy 3, that there are constraints, for example, on avoiding, remedying or mitigating affects associated with the transmission network. But then it goes on in Policies 6 to 8, in the sense with more teeth that anything in the NPS upon renewables, to require that upgrades of infrastructure be used as an opportunity to reduce affects.

And also, and this is where speaking to the future development of the transmission network, and I think in a similar way as could be achieved here with renewables, the planning and development should minimise

affects on the sensitive areas and in rural environments should seek to avoid adverse affects on outstanding natural landscapes, areas of high natural character, and areas of high recreation value. Now you can't always apply that as a simple, as I say, trump card in every case but this policy framework doesn't even build these factors in to the equation or to the type of assessment that local authorities have to make in rolling out planning provision for this type of activity. And so that's just a precedent and perhaps a step along the road for some of the greater prescription that could be applied.

If you're going to take that a step further you might adopt the framework, I think I've only got three copies, I mistakenly handed you out too many, of the proposed New Zealand Coastal Policy Statement review in which requires at a policy level that policy statements and plans shall identify where subdivision and development is appropriate and where it is not. And in doing so and in identifying what is appropriate or what is not there is guidance given as to the factors one might take in to account, where is existing activity. For example, what should be avoided? What should be protected? And so these are the type of frameworks and only in a very loosely applicable sense I offer them as a potentially helpful precedent.

And then final one that I would offer is the existing New Zealand Coastal Policy Statement and I have brought copies of it with me if it's of assistance but yet I'm sure you'll be thoroughly familiar with it that the idea that, in terms of the New Zealand Coastal Policy Statement as it is, it sets a number of national priorities of encouraging subdivision where natural character has been compromised and requires that effects on certain types of resources, indigenous vegetation, etc, be avoided. And so it contains that high level guidance which you see coming out with all the places when you're dealing with coastal subdivision that really gives one a steer as to whether an activity is likely to be appropriate or whether a rural

framework is likely to achieve the top of the policy prescription of the document that is at the top of the planning pyramid.

And so I guess where I'm getting to is that if the policy statement is to achieve and enable renewable electricity generation to achieve that 90 percent goal it is going to have to contain much greater prescription about what values should be considered in determining whether proposals proceed and where they locate. And also guidance in how the conflicting considerations in any case might best be reconciled and at the moment, as I say, there is no guidance of that type within the NPS itself as notified and that's where I think its major policy weakness lies. And that really is the essence of the RMLA's submission.

There are also points made about the critical need to ensure a linkage with the transmission network and suggesting that the reference to the transmission network and for connections with it be strengthened within the policy framework. That really is, in essence, all I wanted to say in the sense that a National Policy Statement should have that, exactly that, policy, at the moment it doesn't and I think that's really the broader issue with National Policy Statements as are being promoted, the water management one is another case in point. Where it's effectively kicking for touch and leading that policies prescription back at the level where it hasn't successfully been applied already and in that respect is not taking us any further forward.

**CHAIR:** Thank you very much Mr Williams and I should have said at the outset that we're very grateful to the association for the work that's gone into this submission, and we've got a number of questions, if we could get some assistance on them that would be helpful. Let's get started.

**DR CHAPMAN:** Just one question there, you're aware aren't you that this NPS in itself is not expected to achieve the 90 percent target, that it sits within a context of other policy measures if you like, beyond the RMA and it goes

beyond any particular instrument within the RMA. Do you have any comments on that, how this NPS might work with other complimentary instruments?

**MR WILLIAMS:** Well I'm certainly aware that the policy statement is but one part of the broader energy strategy that emerged in 2007 and is one initiative but its objective is really one of putting renewable electricity generation right at the top of the list of priorities that one must consider in making decisions under RMA and that's what the objective states. In raising that to the level of national significance as one mechanism, yes sure, of achieving 90 percent renewables it would obviously need to do that alongside, for example, the NPS on electricity transmission with those linkages. The policy statement itself isn't going to provide any kind of economic or capital impetus for investment. There are other aspects of the landscape here that need to be considered in terms of the price of carbon, for example, or what's happening with our rainfall patterns but it does need to enable and facilitate those people making decisions, those bodies, consent authorities making decisions to do so in a manner that, I think, better enables the achievement of those objectives. So yes, it's when all those other drivers are placed this policy statement needs to be there to steer the course and I don't think it does successful, at the moment.

[10.40 am]

**MRS BAUMANN:** Thank you, first of all I'd like to put on record that I'm a member of the RMLA but I don't think that many in the industry are. We've heard submissions from regional government and the like that echoed the points that your association are making. And as much as I understand what they say is that they want guidance but then they want then the flexibility for the detail be worked out through the normal regional planning processes does that accord with what the association is saying?

**MR WILLIAMS:** Yes, I think exactly, and that's why I put the topic tentatively the model of the New Zealand Coastal Policy Statement in saying it really provides a check list of those matters that in applying the broader policy at the local level needs to be taken into account and those values which need to have significant weight placed on them and those areas which should have a hard edge. Namely where impacts really, unless there are exceptional circumstances for example, affects should be avoided.

**MRS BAUMANN:** The other area I wanted to just ask whether you had any submission on and that's in respect of existing facilities and colloquially, of course, consenting whether you - does the association have any views on that, vis-a-vie Greenfields?

**MR WILLIAMS:** It hasn't expressed any such in the submission and so I'd only be able to float my own thoughts around.

**MRS BAUMANN:** Well feel free.

**MR WILLIAMS:** The only thing I would say on that is the NPS on electricity transmission does provide a precedent there in saying that where there are upgrades or substantial modification that should be seen as an opportunity to reduce existing affects under the extent appropriate, and that's just embedded within Section 5(2)(c) anyway to the affect that there is now the avoid, remedy or mitigate rule to apply over anything that might have been put forward under previous regimes.

**MRS BAUMANN:** That could be argued it's slightly different with transmission lines as to a hydro dam for example where (inaudible). Yes I'll leave it there, thank you.

**MR GARDINER:** My question and my focus on many of the submission is NPS 5, and the impact of the NPS on rural communities, particularly that many Māori communities will be affected by these kinds of policies and more Northland, Eastern Bay of Plenty, Ngati Porou and other areas and

you noted the transmission issue and how that was. What I'd like to know is whether your association has an opinion about the serving of rural communities and whether it is possible to take some of the learning's from the transmission project and translate them to be more prescriptive in this, given that I heard what you said, that you don't think it's possible to achieve the objectives. But putting that aside what I want to know is whether, from your experience and your associations experience, are there things that we could do to be perhaps more prescriptive in ensuring that rural communities and isolated communities are not going to be left out in this kind of exercise?

**MR WILLIAMS:** I'm just not sure that I'm competently interpreting the question correctly. Policy 5, I heard you mention in putting the question is that from the?

**MR GARDINER:** That's NPS. Basically NPS Policy 5 is looking at how do you look at serving small scale community servicing in whatever form and we've heard various arguments around that and I'm just wondering whether your association has a view about that. Given that it seems that we're hearing many of the larger generators, for example, saying big is beautiful, small is irrelevant and that's not comfortable with me given that I'm dealing with a lot of communities which get left out on these kinds of policy developments.

**MR WILLIAMS:** My difficulty is one of divorcing my own personal perspectives on things from an association with 1,200 members, you can't push the barrow for the small rural community, but just wearing a pure pragmatic hat if you like, there is always strength in diversity and resilience in diversity. You would need to take careful advice from a generation sector whether that diversity applies in a renewable electricity generations scenario. But centralising any form of resource and its supply, its harnessing, its capture is always fraught with risk if we do it in the wrong

place, isn't it, and we heard from Joseph Sacks last year talking about water and the experiments in the United States of trying to have these macro water supply proposals and they go wrong and every one suffers. So I would have thought at the personal level there is a benefit in having resilient diverse localised sources of renewable generation, and that seems to be some sense of where the European experience is heading as well, than macro. But then there are a lot of economic and other factors that others are much better qualified to speak on - displace my personal views.

**CHAIR:** Just if I may follow up on that the Paragraph 3.12 of the submission refers to the fact that the NPS on electricity transmission is limited as it were in respect of the isolated communities Mr Gardiner was speaking of where there may have to be a degree of self sufficiency. Do you have a view on whether or not it would be possible to transfer the provisions in the NPS on electricity transmission into this NPS to pick up that lacuna that you've identified?

**MR WILLIAMS:** I'm just trying to recall my conversations with Jenny Chetwin (ph) who wrote that paragraph.

**CHAIR:** It would certainly make sense if you could mesh it in so that's covered here.

**MR WILLIAMS:** To be honest I'm struggling to define the point from the paragraph.

**CHAIR:** Yes well I'll see if I can -

**MR WILLIAMS:** It causes some embarrassment for me I must admit.

**CHAIR:** No, no well I'll see if I can I'll give you my understanding of it and see what you think. My understanding is that the National Policy Statement on electricity transmission is really focussed on the national grid. This panels

is also dealing with I think it was up to 4 megawatt but as we've had a lot of submissions it should be up to 10 megawatts of supply which one is not obliged to under the regulation to hook into the grid on. So you have communities that developed a little bit of hydro, some wind, some solar whatever, without going through all the rigorous resource management procedures. And the NPS on electricity transmission doesn't cover that scenario and our interest is whether or not the provisions in the NPS on electricity generation could be tailored to cover that gap in that policy by introducing them into the policy statement we address. And it may be something you want to think about and discuss with Ms Chetwin (ph) is it? and get back to us which is perfectly understandable.

**MR WILLIAMS:** She's now obviously wearing a different capacity but she may be able to assist in answering that question.

**CHAIR:** We'd be very grateful if that was possible, it's a very good point and we need to address it so thank you for that. The other matters which you've raised, which we are struggling with because of the number of submission we've had on some of these points. The issue of activity status, we've had submissions, Mr Williams, from a number of submitters saying that the activity status should be actually imbedded in the National Policy Statement. In other words there should be direction saying that when it comes to renewable electricity it should either be restricted discretionary, controlled or in cases (inaudible) on the renewal it should be perhaps controlled or even permitted and do you have a view on the role of a policy statement for directing rules to be included in theory instruments as far as activity status is concerned?

[10.50 am]

**MR WILLIAMS:** Well I mean it could go that far, I don't see it as necessarily having a need to. As I say, I think that what is lacking is more guidance on the nature of the considerations that should be taken into account and

the relative weight that should be afforded to them in making evaluations. Now national environmental standards tend to be the thing or the creature that describes status in particular activities. And has done so for telecommunications facilities, for example, and the national environmental standard on electricity transmission will do the same thing in saying that upgrades are permitted, new creatures, if you like, require discretionary activity consent. I think every district plan is likely to have a slightly different consent category cascading structure so prescribing at the outset that certain things should be permitted and certain things shouldn't be may be taking it too far, in my submission anyway.

**CHAIR:** Turning to Policy 3 and Policy 4, there's some wording there in Policy 3 the words in the second line 'relative degree of reversibility' and in Policy 4 the end of the second line that says 'where appropriate'. Do you have view of how useful that sort of language is when it comes to directing a local authority of what should be included in a local authority instrument?

**MR WILLIAMS:** So we've got 'relative degree of reversibility' and I'm sorry the other example was?

**CHAIR:** Second line of Policy 4, last two words, 'where appropriate'. As an experienced council do you have a view on that?

**MR WILLIAMS:** Well it's not going to provide a heck of a lot of guidance where it just says - I mean, that's almost a case in point of the exact difficulty that this document creates or leads rather in the sense that the New Zealand Coastal Policy Statement examples I gave you set out with some prescription what type of factors would inform an assessment as to what is appropriate. And what are national priorities in terms of the relativities of any particular set of considerations and what are perhaps less important in any given set of circumstances, so I think. I guess in the Policy 3 context 'relative degree of reversibility' is reasonably easily answered because you're probably comparing two or three forms of

generation where the answer can be reasonably objectively determined although there has been academic contrary on the exact point as to whether hydro is as reversible or less reversible than wind farms, for example. So in that particular context I would have less difficulty with 'relative degree of reversibility' but where I would not like to see 'relative' I guess is in saying as Policy 1 does, for example, "Shall have regard to the relative significance of landscapes versus the benefits of generation." Well actually I kind of figured that might have been the case anyway, but that doesn't take me any further down the track. I mean, I have it in my head a sort of checklist where there are maybe five or six absolutely fundamental constraints surrounding the determination of where renewables should go. And they are things like location, infrastructure, the transmission grid but then they are also equally things like are there any acknowledge outstanding landscapes or cultural landscapes affected. And that you need to work your way through in a set of priorities to arrive at an answer in planning for these things. People need to know where they're going to happen, they need to plan their lives around it.

**CHAIR:** Or where they shouldn't happen?

**MR WILLIAMS:** Yes, and conversely where - in fact that's probably the better way to do it.

**CHAIR:** Yes.

**MR WILLIAMS:** Yes. Of course the trouble, as you say, they shouldn't happen, in all of the places which are the only ones they could you end up with a problem.

**CHAIR:** Right. Your submission, which appears to stress the need for some guidance on these value judgment issues you've got for balancing all these values with these projects. In Section 6 where it, say, for instance, of the Resource Management Act Section 6(a) and (b) and so forth, do the

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words 'inappropriate subdivision use and development of use', do you see that that would be another good reason to have greater degree of guidance in this policy statement when it comes to making a decision about what is appropriate in those areas of national importance?

**MR WILLIAMS:** Precisely and again that's exactly why I roll out the New Zealand Coastal Policy Statement as an attempt to do that.

**CHAIR:** Well that's very helpful thank you so much, and please, if you get back to Josie Beruldsen on that other matter that we raised.

**MR WILLIAMS:** No problem at all. Thank you very much for your time.

[11.00 am]

**CHAIR:** Well welcome Ms Hopmans, and thank you very much for the material we have received from you. It's been very helpful. We've read through some of it, although I see you have some more and we look forward to hearing what you have to say. I don't know whether you heard at the outset, everything's being recorded, so what you say will find its way onto the website.

**MS HOPMANS:** Understood.

**CHAIR:** Yes. So thank you and if you could just proceed in the way you feel -

**MS HOPMANS:** Great. Thank you. Tena Koutou, tena koutou, tena koutou katoa. "My name is Tania Hopmans, and I have been asked to speak today on behalf of Maungaharuru-Tangitu Incorporated and Ngati Hineuru Iwi Incorporated. My Ngai Tataara, Ngati Kurumokihi and Marangatuhetaua are my hapu and Tangoio is our marae. So welcome to Tangoio. We have close whakapapa links with Ngati Hineuru, some of whom are here today. And I will refer to the hapu from Tangoio and Ngati Hineuru as the 'Tangata Whenua'."

"In this korero, I propose to provide some background about who we are, provide a brief overview of the litigation that we have recently been involved in and highlight two lessons that were learnt as a result. And explain how they relate to two issues identified by Ngati Kahungunu Iwi Incorporated about the proposed National Policy Statement. Namely, the need for active protection of Tangata Whenua values and the need for developers to engage with Tangata Whenua early on in the process and suggest what action can be taken to resolve those issues. And lastly, but not least, we'd like to share some of our stories about the Maunga, since

you are going on a field trip later today, to give you a bit of a feel for the evidence that was given in the Unison hearings.”

So to the background. “The Tangata Whenua and Maunga. Maungaharuru-Tangitu Incorporated represents the hapu of Tangoio marae, Ngai Tatara, Ngati Kurumokihi and Ngati Tu. They are hapu of the iwi Ngati Kahungunu, has been explained this morning. Maungaharuru is the maunga tapu of these hapu. Their traditional area lies to the east of the maunga.” So this side of the maunga to the coast.

“Ngati Hineuru Iwi Incorporated represents the iwi of Ngati Hineuru. Their marae is at Te Haroto on the Napier-Taupo Road, which hopefully you will see today. Ngati Hineuru refer to the same maunga but by the name of Titiokura.” So, on this side of the maunga we refer to it as Maungaharuru. On that side, same maunga, but Titiokura. And between us the maunga is the natural boundary.

“In terms of the maunga various sections of it are sometimes referred to by different names,” and I might just - if we can have the previous slide, I can show you. It’s actually pretty hard to see on there. You would have got a better view flying in yesterday. So this is looking from the Napier City wharf area and this here is this (inaudible) section of Maungaharuru.

**CHAIR:** Now, sorry if I just pause you. Because we’ve got this on the record, and it’s important that we do actually, I wonder if you could do something for me and that is describe in words what you’re pointing to. So you’re referring at the moment to View Point 3.

**MS HOPMANS:** Yes.

**CHAIR:** And you are referring to the ridge, or the hills.

**MS HOPMANS:** Yes. And what you can see here is this image has been taken from the Unison (inaudible) so it's a simulation vision image of the - this way you can see actually, the turbines on top of the mountain. So this section here, where you can see the turbines on the left hand side of the picture, up into - it's not very steep, but it is when you see it with the naked eye - so just on the left hand side of the picture where you can see this group of turbines, where it's sort of a flat part of the mountain, up until the Waka here, which is feature in here. There's this big - and then there's the hull of the Waka here, up to here, this section from the southern end of the maunga, right up to the end of the Waka is referred to as Te Waka.

**CHAIR:** Thank you. Can everyone see that? Yes - thank you.

**MS HOPMANS:** And then there is a bite or a dip in here which is the saddle, after the Waka, comes down here. That is where the State Highway 5 goes over the maunga to Taupo, and that section there is referred to as Titiokura. Specifically. So Ngati Hineuru refer to Titiokura on the other side as being the whole of the mountain, but it's also used to refer to that particular section of the mountain and then on this other side, on the northern side if you like of the saddle, you then follow the Maungaharuru range, which then extends off the rest of the photo, towards the end.

So Maungaharuru and Titiokura, but several sections have some independent names as well.

I just want to turn now to the litigation we've been involved in over the last three years. Attached is Schedule 1, to your papers there, is the chronology of the toing and froing in the Unison litigation. And that's the detail of it, but just to summarise, "In July 2006 Unison, which is the local power lines company, applied for consent for wind farm comprising 37

turbines on a site 2 kilometres south of the Te Waka feature. The total height of the turbines was about 130 metres with the blade vertical. The Tangata Whenua opposed the wind farm, however the Hastings District Council granted the consent for all 37 turbines.” So that was the wind farm that you can see spiking along on the Te Waka part of the range to the left there.

“The Tangata Whenua and others successfully appealed that decision to the Environment Court. Unison then appealed to the High Court and were unsuccessful. Unison then appealed to the Court of Appeal but later abandoned that appeal.”

[11.10 am]

“During that litigation, while that was going on, Unison filed a modified application for a wind farm of 34 turbines.” So we were in the Courts dealing with a 37 turbine wind farm and at the same time, this is after the Environment Court had delivered its decision and it was being appealed to the High Court, Unison then made an application for modified wind farm of 34 turbines. So three less than the original application. It was in all other respects identical. The three turbines that had been deleted in the second proposal were the ones that were closest to the Waka feature.

“That second application for 34 turbines was ‘called in’ by the Minister for the Environment at the time, Trevor Mallard, and referred to the Environment Court for decision. In February of this year, 2009, the Environment Court declined the application and the time for the appeal has lapsed, so there’s no appeal from that decision.”

So in summary, “For two and half years, the Tangata Whenua have objected to the proposed wind farms on the maunga. After three Court cases, what lessons have we learnt?”

“To summarise our first lesson, was that meaningful engagement with the Tangata Whenua came too late in the process, after an appeal to the Environment Court had already been filed. Early effective consultation between Unison and the Tangata Whenua could have actually flushed out the Tangata Whenua concerns about the project before significant resources had been sunk into that project. Unison could then have invested its previous resources elsewhere.”

“And the second lesson. Throughout the entire process, we as a Tangata Whenua felt very much on the ‘back foot’, constantly reacting to each step of the process. We were under resourced, people and in terms of finances and stressed throughout. We don’t make a habit of going to Court. Equally I’m sure Unison were no doubt frustrated at our unwavering opposition.”

“We believe the above lessons need to be addressed in the context of the proposed National Policy Statement.”

“The objective of the proposed NPS is to recognise the national significance of renewable electricity generation by promoting the development, upgrading, maintenance and operation of new and existing renewable electricity generation activities.”

“The preamble of the proposed NPS recognises that the benefits of renewable electricity generation can compete with matters of national importance as set out in Section 6 of the RMA and matters to which decision makers are required to have particular regard to under Section 7

of the RMA. It also notes that the natural resources from which electricity is generated can coincide with areas of significant natural character, significant amenity values, historic heritage, outstanding natural features and landscapes, significant indigenous vegetation and significant habitats of indigenous fauna. We note that the preamble fails to observe that such projects can also impact upon ancestral lands, water, sites wahi tapu and other taonga of Māori. But we think that must have been an oversight.”

“The objective of promoting renewable electricity generation is a worthy one. However, our concern remains that Māori groups like ourselves, and there are many of those, will not be in any better place than we were to address to development projects which impact on the maunga tapu or other significant sites.”

“So what needs to change?” We’d like to offer two suggestions and these are really practical from our perspective. We are not RMA experts and this has been as a result of as I say our experience over the last few years. The submission I refer to is the submission that we’re sort of piggybacking on which is the Ngati Kahungunu Iwi Incorporated submission, which one of our whanau will speak to after me.”

“In that submission, NKII asks at Paragraph 4(f) of its submission, that an additional objective be added to the NPS with reference to the principles of the Treaty of Waitangi, the protection of Tangata Whenua values and customary practices, and for new policies relevant to achieving this new objective.”

“In our view, in order for the Crown to satisfy its Treaty obligations to Māori under the RMA, it must, in written form, and more importantly in practice, meet the requirements and standards of the principles of the Treaty of Waitangi. One of those key principles is ‘active protection’ and

includes active protection of lands, estates and taonga, with duties and analogous to fiduciary duties.”

“We propose that local authorities amend their plans to provide appropriate protection to significant sites of Māori, some may require higher protection than others. These may be wahi tapu which may already be covered by the plan, but also other sites which are not wahi tapu and may include things like lakes and rivers. Most plans will already provide protection for wahi tapu to some degree, however there will be many which do not have many wahi tapu sites listed, and in our particular case my understanding when I last looked is that the Hastings District Plan doesn’t cover wahi tapu areas within our rohi, within our tribal boundary. It is our view it is not enough for Councils to make the protections available. They must actively help Tangata Whenua to use them.”

“What action would be required? First of all identifying sites and incorporating them in the plan may need a two tiered approach. First let’s deal with those sites which are readily identifiable and obviously in need of protection. From Tangata Whenua perspective, up and down the Motu, up and down the country, they would be maunga tapu for each of those hapu or iwi. Key lakes perhaps. Key rivers. The second tier would be to establish a process for other sites which may take some time to identify and incorporate in the plan.”

“In each case, the local council will need to engage and agree a process for identifying such sites and discuss how best they may be protected in the plan.”

“Also, Councils will need to prioritise this work. Councils and Tangata Whenua will need to be resourced to complete this work. Government funding or other assistance may be required.”

“What are the benefits though? The Government and local councils will be acting in accordance with the principle of active protection and the obligation under Section 6(e) of the RMA to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wahi tapu and other taonga.”

“Another added benefit is that councils will increase their understanding of Māori within their area and their significant sites. Also Māori will have a better understanding of the RMA and how it applies to them. As a result the Council and Māori relationship will be improved.”

“The next benefit might be that Māori are engaged in protecting their significant sites and exercising something that is really important to use, our kaitiakitanga and the Government and local councils are assisting in accordance with Section 7 of the RMA. Māori are involved in a proactive way, versus a reactive way.”

“What’s the benefit for developers? Well developers will be aware of the areas significant to Māori from the local plan, including areas that may be unavailable for development. Hopefully this mechanism will avoid the situation of developers being unaware or unclear of the significance of a site to Māori. It may also encourage developers to engage early with Māori when a project is first being developed.” And that leads to the next point. We need to encourage early and effective consultation.

“In its submission Ngati Kahungunu Iwi Incorporated comments that delays due to Environment Court action, is not a failing of the system, but

a justifying of the need for electricity generators to do more due diligence and to provide for better engagement with Māori and community groups to ensure desirable outcomes for all. Where the current system is failing is a lack of communication between parties at an early enough stage in the process.”

[11.20 am]

“We wholeheartedly agree with this comment. Developers need to be encouraged to identify who they need to consult with and engage early on in the development, ideally before considerable resources have been committed to the project. To be effective, meaningful consultation must be genuine and not a box ticking exercise with a predetermined outcome, because we can smell that. We know that one. Developers must come to the consultation with an open mind and be prepared to discuss concerns with the Tangata Whenua, their objections and perhaps some other options.”

And I just want to give an example here if I may. We certainly had issues with consultation, and the way in which it was done with Unison. As I said, effective consultation really only got into action after we made an appeal to the Environment Court, and while the litigation was ongoing I think it was after we had had our success in the Environment Court, we were approached by another power company, who had a proposal or who were looking at building another wind farm further on the maunga, further north. They came to see us and had a korero with ourselves, and Ngati Hineuru, so Ngati Tu and Ngati Hineuru, and they basically said to us they had no firm view on whether to go ahead with this proposal. They hadn't leased the land yet. They had an option to lease. They hadn't even tested the wind capacity, but they expected that it would be very good. And they came to us and said, “Do you have a problem, because we know you've

got a problem further south in terms of the current litigation.” And we had a really good korero with them, and as a result of the korero, we basically had to say to them that the maunga is the maunga in its entirety, we’re not in favour of a wind farm to the south, in the middle or to the north. We’re against wind farms on our maunga tapu. They appreciated the directness. It was a very good and robust korero, and some weeks later we were notified by them that, thank you but we’ve decided to look elsewhere, we actually want to go to places where we can see that there is a chance of us working it out, but we can see that you are very clear in your views and we don’t want to buy a fight. And for us that was a really refreshing change. Consultation is often complained about. I think in the decision we had from Justice Thompson on the first decision, he lamented the fact that there’s always two sides to the consultation process. People will see it differently, how it happened, how effective it is, and I acknowledge that that can be the case sometimes. But I think the situation we found ourselves in was dealing with a developer who had already committed substantial resources to this project. That was the big difference.

So what needs to happen if we are to encourage early effective consultation? “What action would be required? We suggest that Government or local council could provide opportunities for advice or training for developers about consultation with Māori. Ensuring that developers understand the limited resources that some Māori groups have, which may affect their ability to engage. Exploring ways that this obstacle can be overcome.”

I suspect a complaint of many developers might be that they are willing to consult, but the other side of the table doesn’t have the wherewithal resources to engage. But this is something that needs to be overcome.

“The second action point might be making clear information available to developers on who to consult with, perhaps through the local council if they happen to know, it’s not always the case, or through Te Puni Kokiri.”  
The Government agency on the ground and in touch with Māori.

“Thirdly, if developers do not have the capability, encouraging them to engage a consultant familiar and experienced in dealing with and understanding Māori issues is really important.” I think one of our frustrations is having to go back to Māori 101, and explain what our relationship is with a maunga tapu, why we even refer to it. And I know that we can’t expect that all cultures in New Zealand understand Māori, but I think it’s really important that there are some basic things about Māori culture which are fairly widespread across the country, and if you went and learned Māori 101, as my husband’s doing this year, you can’t be there more than two weeks before learning that when you greet someone, in Māori, you recite your mountain, immediately you know how important that maunga tapu is to those people, and some of my uncles are going to speak a little bit more about that. So we know that developers spend a lot of money on engineers and all sorts of consultants to advise them on their projects. They need to do the same as Māori if they don’t have that base knowledge. So that Māori aren’t spending a lot of time starting from scratch.

“What are the benefits? Well better communication between parties is always a good one. Secondly, the issues are identified early. The opportunity to resolve issues without the pressure of impending council hearings or court proceedings is also helpful.”

“Thirdly, the developer is less likely to be in an entrenched position of proceeding with the project regardless of the issues.” And incidentally hoping that the Tangata Whenua don’t have the wherewithal to contest it.

“D, improved consultation may help to avoid litigation.”

“In summary, although many of these issues are not new and certainly some of the solutions may be obvious, and have been spoken about many times in many forum around the country, our experience is that the Government, local councils and developers alike, do not consistently or effectively address these matters. The result is our experience of being constantly being in reactive mode and ending up in Court and subject to much stress and pressure.”

“If these matters can be effectively addressed, we believe the Government’s objective of promoting renewable electricity generation will have a smoother road in the future.”

So that really concludes, for me, my contribution to this korero about our views on the National Policy Statement, without actually referring to any of the policies itself, I might add. When we put our initial submission in we simply supported the submission of Ngati Kahungunu Iwi incorporated, who went through and analysed some of the policies that were being proposed, but from our perspective, we were really only wanting, or felt we had the knowledge to talk about the practical effects from our perspective and certainly if renewable energy generation is going to be encouraged, then we are expecting more people wanting to build more wind farms. That’s obviously the objective. So the potential then for conflict or paths crossing between Māori and developers is going to be increased, and I think unless Māori are helped to address these things in a better and a more proactive way, we are always going to have problems with Māori objecting to these kinds of developments, or indeed people being in an entrenched position that cannot be changed, and we end up in litigation.

And that is something that we don't want for ourselves every again or for our neighbours or for any other hapu or iwi up and down the country.

Certainly some iwi, some hapu, are more sophisticated. Have better infrastructure, have better resources. Have the smarts to deal more effectively with some of these things, but there are a huge number of Māori groups out there, hapu and iwi alike, who actually need a helping hand to address these issues. They do care about their significant sites. They do want to protect them. They are also not 'anti-wind farms'. Some of them are developing them in the South, but it's making sure that there are protections for those key sites for Māori so they are not reactive, making sure that there's good consultation so that there is good dialogue happening. Those are all really important, and that's really what we've learnt. I'm not sure if you want to ask me anything. But following me I'd like to, after we've completed, I'd like to introduce some people you've already met today who would like to share some of their views about the maunga.

[11.30 am]

**CHAIR:** Thank you so much for that. In fact are you the person then that we should discuss with the implications of what happened with the Unison case, rather than the local -

**MS HOPMANS:** Yes.

**CHAIR:** Thank you.

**MR GARDINER:** Kia ora (inaudible). I'm just trying to contemplate whether the suggestion of incorporating some strengthening clauses into the objective, you don't think that the current RMA 6, 7, and 8 meets those

requirements, like with the Treaty, you don't think that's sufficiently strong enough which is why you might want it more explicitly stated inside the objective of the NPS. Can you comment on that?

**MS HOPMANS:** Well certainly, 6, 7 and 8 looked after us in terms of our litigation, and the Draft National Policy Statement was argued as being applicable in those cases, and we argued that it wasn't because it was a draft. I guess the concern here is not knowing for us especially what this National Policy Statement will result in, in future judgements. It's from our perspective again, that a lawyer practised in RMA might have a better idea. My understanding is that the weighing up would still happen, this is not saying that renewable electricity generation projects will always succeed. That's my understanding. Where they're going through the detail of it, there needs to be some fine tuning to ensure that that is the case, that's another thing. I have seen through the cases we've been involved in the weighing up of the interests, and we had two courts say the Māori interests in these cases, despite a very persuasive arguments in favour of renewable electricity generation did not succeed.

**MR GARDINER:** My point is that you succeeded using the RMA.

**MS HOPMANS:** Yes.

**MR GARDINER:** And therefore why would you want to derogate to a lower - if the RMA is the superior being, why would you want to bother at a lower level being more explicit than in fact the power of 6, 7 and 8 in the RMA, is sufficient for you to exercise your rights in these matters?

**MS HOPMANS:** I think the court's have said that it's not a, "How many cards have you got in this hand versus how many cards in that hand," in terms of how many references are there to Māori values under the RMA. But you

do worry that cumulatively, the more that these sorts of policies come in, that cumulatively you end up talking more about them when you're arguing your case, and they just seem to get bigger with more emphasis. I really can't say. The theory is there.

**MR GARDINER:** You just want to be more explicit all the way through the process, all the way through these documents, to remind people of the kinds of things that have happened to you people.

**MS HOPMANS:** Well I think an RMA lawyer would be a better person to ask, because, I can see from what little I know about statutory interpretation that this is not the objective of this National Policy Statement, that there is a hierarchy in the RMA which does give a full protection to Māori interest. Again, it's just - until it's tested -

**MR GARDINER:** Can I just move then to a hypothetical situation, which really comes back to the issue that I keep talking about, National Policy Statement 5 which is around about communities kind of looking after themselves. The communities at the end of the transmission line, communities that might actually be better served by having smaller generation capacity in their valleys, around their marae's and those sorts of issues, is it possible and in the future and really this is - if you don't want to answer that's fine, where you may need as a hapu, for example, let's say this hapu needs - you're isolated, you need to serve your own purposes and the only way you can do it is to stick a windmill up on your maunga. Is it possible for you to kind of contemplate in the future where you may have to ask the (inaudible) to assist you because at the moment you are saying that they the Te Waka, Titiokura and Maungaharuru are just no-go's. I'm just contemplating a future scenario that might - given the pressure that's coming on, as I've indicated to you separately in the dining

hall there, where there may be a change, an evolving of tekunga to meet practicalities of our communities.

**MS HOPMANS:** Well I do understand that tekunga can involve over time, but not in relation to this maunga according to what I've been told.

**MR GARDINER:** Okay.

**DR CHAPMAN:** Yes. Thank you very much for that extremely useful and to the point presentation. My question really is about the pressures that will come on over time, for the attainment or the progression towards the 90 percent target and in that context, the pressures that will come in relation to setting aside areas that are, if you like, unavailable for development and I'm thinking of wind farms here in particular. You refer to in your Paragraph 17(d), making it clear for developers essentially that there are areas that may be unavailable for development as a benefit. Now one of the suggestions that's been made to us as a Board is that specific areas be defined or criteria be defined which enable areas to be identified by the District Council say, or the Regional Council.

Do you see a problem if consultation with iwi and hapu leads to large areas of land being identified where development may not proceed because of the concerns of iwi and hapu, so that the - and I believe Martin Williams referred to something like this, that the zone in which development might proceed becomes very small, very limited. Do you see that as a problem? Or is that a likelihood perhaps first and then a problem if that were to occur?

**MS HOPMANS:** Just want to make sure I understand the question. Are you saying that in the future there may be limited - if we're zoning places as no-go's, we may end up with less space for development.

**DR CHAPMAN:** To take this area, for example, this rohi, I don't know how many maunga there are other than those which you have identified as maunga tapu, but say there are very limited sites and they were a long way from transmission lines and centres of population, demand and so on, so effectively excluding maunga tapu, may exclude all commercially useable areas. I don't know if that is the case, but were it the case, do you think that would be a problem?

**MS HOPMANS:** I think it's a challenge.

**DR CHAPMAN:** Is there any way we can address that?

**MS HOPMANS:** Well I think one thing needs to be made clear, and I think that if there was wananga or proper meetings, proper consultations where we actually started to talk about what areas are Māori really concerned about, you may find that it's not the whole of New Zealand actually. Because when a place is a wahi tapu, we're restricted in respect of that place as well. So we're not going to be pulling wahi tapu out, and also I don't think we've created too many wahi tapu in the last 150 years. This is something that has been around for a long time. We've often kept it to ourselves to protect it, or we've been alienated from it, in terms of acts of the Crown, for example. So I think when we talk in the hypothetical we have to sort of be careful that it is the hypothetical and I'm not sure if we sat down and we got a map out and said, "Okay, Ngati Tu, where are your no-go zones." That would be all about rohi. Certainly our maunga and our maunga's quite a long one and that's an issue, but maunga tapu can be a pimple for some iwi on the landscape.

[11.40 am]

**DR CHAPMAN:** Sure.

**MR GARDINER:** But that's the problem, in my mind it's - I suppose the point you're making very clearly is the current generation, the maunga's a no-go, and I suppose what I'm hearing without you explicitly stating is if that tekunga has to change, then it can only change through wananga and contemplation and review and consideration and circumstance and situation, and I think it is clear that we're going to have to wananga these things in the next decade, given the kind of - if the demand of electricity generation continues, if there are seeking for a 90 percent regeneration and renewable sources by 2025, then there will be damming of more rivers. If you take the river system, you might have to contemplate damming Huka Falls. Now imagine what Tuwharetoa is going to say about that. They'd haka across the road all the way to Rotorua. Right now, that's the current theme and I suppose what we are sort of opening up is the possibility that given what we're looking at here, that we may need to contemplate it, and what you're saying is you're not adverse to having open discussions, and you may still come up with the same thing, (inaudible), and you might still come up with that, and what seems to me from the Unison case you're indicating very clearly is that wananga didn't take place either sufficiently early enough or long enough, or serious enough for you to be persuaded.

**MS HOPMANS:** No. Well that's like a micro example of what we're talking about in a bigger picture. We didn't know what they were talking about. It was as simple as that. And it's a little like this, we don't have the facts to be able to have a debate with you about it. A lot of the facts perhaps come from power companies. This is the issue I think many of us worry about in terms of Resource Management Act is that the framework is there to balance these values. These competing interests. But who's doing the arguing for the things like the amenity values, Māori cultural values.

Landscape values? We've got some people here today who are part of the landscape group. They are Jo Blow and Rangi from down the road. They are not people who are paid to come up with these arguments or have the resources to argue these things. And that's concerning. That's really concerning to us. We can't get legal aid like you do if you need legal aid if you do something naughty yourself. Legal aid is just not available for people who have, not a frivolous factitious concern, but a real interest in protecting something like a Māori cultural value or an outstanding landscape. There is a huge issue in resourcing and I think we could engage with your question in your debate had I or had we had access to obviously the information you have, because I think you can focus on solutions if you are presented with the facts and the reality, if it's real. Talking in the hypothetical is very dangerous, for us at least, very dangerous. I don't know if that answers your question.

**DR CHAPMAN:** Yes. I note there is an environment legal aid fund, but it's got criteria which one has to meet -

**MS HOPMANS:** Yes, that's how we funded our cases.

**DR CHAPMAN:** Okay right. Yeah.

**MS HOPMANS:** But they are - they have to be a public interest case. So unless you can argue public interest for everything that comes up in your rohi, you have to do your meat raffles.

**DR CHAPMAN:** Yes, may I just add that I think there is likely to be pretty intense pressure in the future for development of renewable electricity. We have certainly heard from some submitters of the very strong need, in their view, for steady year by year development of new resources, be they geothermal or hydro or wind or even new technologies but I think, I mean

my own perspective on this perhaps that I can add is that the effects of the climate change problem will lend even more immediacy to the pressures to develop renewable electricity and so there is likely to be considerable pressure in the future.

**MS HOPMANS:** Can I just ask, sorry to ask you a question actually, is it that the increasing need for electricity year after year, what's driving that? Is that just, "Well we want a heat pump, we all want a spa pool." What is that? Because if I understood what that is then we can be -

**MRS BAUMANN:** We can't answer it.

**MS HOPMANS:** Should we be giving up our maunga so someone can put on their heat pump?

**DR CHAPMAN:** It's not really our position to answer that, but it's a variety of factors. I guess that in a sense is encapsulated in the projection for the objective of the 90 percent target by 2025.

**MS HOPMANS:** Well I think all I can say is, and Wira Gardiner will know this, is presented with a problem Māori can come up with solutions, we just need to know the facts.

**CHAIR:** Yes okay. I wonder if you could help me because you've obviously had a very arduous time with this case and I congratulate you on your tenacity and the way you stuck with it. My recollection of the late Judge Bollards division's decision was that at end of today the deciding factor was the Section 6(e) value which is really what your evidence is about. I wondered whether or not, during that case, can you remember whether Section 6(f) was discussed? Now Section 6(f) is the protection of historic heritage from inappropriate subdivision use and development and within the definition of historic heritage we have matters such as sites of significance to Māori including tapu and surroundings associated with the

natural and physical resources. Do you recall whether the court discussed that section during that hearing?

**MS HOPMANS:** I'm certain our council made submissions on it. Arguing that obviously anywhere where there was a Māori component to the outstanding landscape argument 6(e) and I recall people who are here who were at that hearing, I'm sure heritage was covered as well in the discussions.

**CHAIR:** Yes, the reason I ask the question is because the Environment Court has been looking at Section 6 which is the matters of national importance which cover Tangata Whenua issues and so forth. But there seems to be some difficulty as far as the court is concerned, I'm not saying it's a difficulty of ours, but as far as the courts concerned with heritage landscapes, in other words landscapes that contain values of significance to Māori and significance for amenity values and various other things. The courts raised the issue about the fact that landscape is only referred to in Section 6(b) and sorry this is getting a bit legalistic but it is important because it embraces the very things that you've been talking about and you are addressed in the case you were involved in. Do you remember whether your lawyer -

**MS HOPMANS:** I've got his submissions here.

**CHAIR:** Could you leave those with us? That would be very helpful and that saves me working through this with you.

**MS HOPMANS:** I can do that and I can get to you the submission from the other side too if you wanted to then see what we were advocating and what Unison were saying and then you can see the judgement if that helps.

**CHAIR:** It would be very helpful because the points you make about identifying what's appropriate and what's not appropriate for local authorities and courts from your perspective, identifying it earlier on after discussion and

then reflecting that in local authority documents is really the end point you were trying to get to.

[11.50 am]

**MS HOPMANS:** I guess we're trying to be proactive. And use the tools that are available to do that. There was talk of hapu management plans or iwi management plans but I think in a lot of cases they never really got off the ground because of the work that was felt was needed to be done to make something comprehensive and then deliver it to a council for them to analyse and I suspect some of those plans themselves weren't in planner speak. So they got this world view beautiful world view from a Māori perspective but then how do you relate it to a planning document. So I do think that we need to look harder at those tools. As I say I expect that there are some mechanisms there, like there were wahi tapu provisions available to us but it's actually pulling together the resources, sitting down with the council and working through how do you make that effective and what's the best protection you can get for these sites of value.

**CHAIR:** There is a matter that's come up with this idea of mapping areas saying, "No-go." And that's understandable and we've had a lot of submissions saying that that's what should happen. Not just with wind, but also hydro and various others and that is the issue about whether the people of the area necessarily want to disclose some of the issues involving their relationship with their resources and their lands in that area in a document that way. Rather than addressing that with the people who are making the decisions, maybe in confidence. Have you confronted that issue at all?

**MS HOPMANS:** Well (inaudible) we talk about having given evidence before the council. And one of the things he said before the council hearing is, "This is uncomfortable to be sharing korero about our wahi tapu and places that we've long held information about very closely." So your question is?

**CHAIR:** My question is putting lines around no-go areas for whatever reason and in your case because of the values of the people, the Tangata Whenua. Sometimes brings into the public arena matters for decision makers that aren't necessarily the right decision making. Now I'm not saying that you have confronted that but with the landscape issues its easier we're dealing with the relationship of Māori and their culture and traditions with ancestral lands, water sites, wahi tapu and other taonga its just, there's another aspect. So, just something you might like to think about and if you wanted to discuss that further by all means just contact Josie and let her know. The reason I raise it is this idea of lines on maps and plans and so forth can be straight forward for somethings, but for other things its not as straightforward and that discussion needs to go on for sometime and I'm really grateful to you for highlighting what happened in the Unison case in that respect. Now, I just have a few other questions I realise that we've got to watch our time.

**MS HOPMANS:** No, no that's all right.

**CHAIR:** The map case under Resource Management Act in the assessment of environmental affects the applicant has to put up alternative sites, did that happen in that case?

**MS HOPMANS:** Yes.

**CHAIR:** And were there any sites away from this area?

**MS HOPMANS:** Yes. Out of our rohi yes.

**CHAIR:** And were they addressed by the court?

**MS HOPMANS:** Yes they were addressed by - evidence was given about that by the CEO if I remember rightly, Ken Sutherland, talked about looking at alternative sites and that was done, I remember that evidence in relation to the hearing that Justice Thompson presided over. Yes but the proximity

to the grid which is what Te Waka provided was seen to be way more preferable than some of the other sites which didn't have that feature didn't offer that. So yes there were some other sites discussed but again not with us or not with someone who could actually contest that evidence the other thing we find is to be able to challenge the evidence put forward by a developer like Unison you can only rely on in our case when you've got limited resources you rely on the cross-examination of your lawyer to do that work for you. But you don't have the benefit of putting up other experts or other people who could contest that. So there was mention of sites and other people who gave evidence contested that these sites, having been discounted, should have actually been looked at more closely. But Unison did say they spent time looking at their sites and found that Te Waka was the best site.

**CHAIR:** And finally what would your views be about dealing with these larger wind farm areas, large areas like the one you showed me. What would you view be about using a plan change process rather than the resource consent in other words you go through - perhaps if I put it this way. You know how long it takes to do a plan change in these communities, it's really involved and there's a comprehensive assessment done under Section 32 of the Resource Management Act and it can go on for some time to try and get the rules right for the area and the policies and so forth. Have you been involved in plan change consultation at all for this area?

**MS HOPMANS:** No but there was much debate around, I can't remember if it was a plan change, but there is an ONF designation on part of the maunga and part of the case revolved around the fact that after it had been notified there were some hearings and then the area was changed specifically because they were contemplating that there might be perspective wind farm developers looking at the maunga. But what happened was, from memory, there was a mistake in the plan, well this is what was argued, there was a mistake in the plan whereby the description

remained the same but the map was altered. So the description referred to the whole of the maunga and all of its paths where as the actual map was only part of the maunga and didn't include Te Waka incidentally. So we weren't involved in that, we're really newbie's to this since we've got involved in our case, that happened before we got involved.

**CHAIR:** I see so you don't know whether that was appealed or not?

**MS HOPMANS:** No I don't recall hearing that it was but other people here might know.

**CHAIR:** So it's very much a resourcing issue with plan changes too then the same way as with resource consent?

**MS HOPMANS:** I guess with resource consents, they pop out of nowhere and then you have to react to it. And maybe it ends up being six of one half a dozen or the other. Certainly just addressing resource consents, having resources to go to court is a real showstopper for, I think, many Māori. It may not be in the future as Māori get resources they may have the wherewithal to do that and certainly some Māori groups do and are able to but there are many who can't.

**CHAIR:** Well thank you very much.

**MS HOPMANS:** My pleasure.

**CHAIR:** Now how do you want to drive your case?

**MS HOPMANS:** Well we'd like to take the opportunity, if we might, to perhaps briefly just give you a little bit more information about the maunga you're going to visit today.

**CHAIR:** Yes thank you.

**MS HOPMANS:** If that would be okay?

**CHAIR:** Yes and if your people wish to add anything to what's - that will be fine.

**MS HOPMANS:** Okay what we attached was just some of the briefs of evidence that were given before the two Environment Court hearings, so they do talk about stuff that was happening in the hearings and things. We've got very knowledgeable speakers here who can just, not follow the letter of that, but actually talk to you about the meaning of the maunga to us as Tangata Whenua, how important it is to us that's Uncle Bevin and also Uncle Fred here could be able could explain to you some of the sites on the maunga which were very much looked at by the court which we believe led a lot of weight to the court deciding that this was indeed a significant feature or significant place for our the Tangata Whenua. And there was really lovely comments made by the late Justice Bollard and Justice Thompson about the sincerity of the evidence that was given and we had I think between 9 and 11 witnesses from Hineuru from Ngati Tu and we have two of them here today we actually have three including Pat Parson's who may be able to share a little bit with you about the maunga.

**CHAIR:** We're very grateful.

**MS HOPMANS:** Okay.

[12.00 pm]

**MR TAYLOR:** (inaudible) Ionui Iroa Io Te Mataho Io Te Matua Io Taketake Io wananga Io tikitiki I Te Rangi Papatuanuku Ranginui Tanenuirangi Hineahuone Hineahuarangi Hineitama. Murirangawhenua Hina Taranga Tangaroa I Te Rupetu Maui Mua Maui Roto Maui Pae Maui Taha Maui Tikitiki A Taranga Paptirau Maewa Tiwakawaka Taranui Tararoa Ranginui Raniroa Ngai Wharekiki Ngai Wharekaka Ngai Roki Ngai Reka Ngai Peah Ngai Taketake Ngai Te Hurumanu Toi Kairakau Raura Whatonga Hotuwaipara, Tahatiti Uenuku Ruatapu Rakeiora. Tama ki Te Hau Tama ki Te ra Tama ki Te Matangi Tama ki Rei Reia Ma Hawaiki Te Kahu Arero Pito Rere Tangi Mika Toto. Toto ka moe ia Tamatea Arikinui o Te Waka Takitimu ka puta Rongokako, ka moe ia Muriwhenua ka puta Tamatea Urehaea Pokai Whenua Pokai Moana, ka moe ia Iwipupu Te kura ka puta Kahungunu, ka moe ia a Rongomaiwahine. (Inaudible). Now this ratau was given to me for the very reasons I think for some of the questions that was asked of Tania by the panel here.

Now this morning when I opened up my whaikorero maunga tihi tapa o Maungaharuru and I always referred to the maunga. Now (inaudible). So we are very proud of our maunga, we acknowledge our maunga all the time, I overheard the questions by the panel (inaudible) with this chasing the evolution of time perhaps in that evolution of time we may see a way of probably, not setting aside our Tikanga, but a way through it. Now as I said and Fred would have said earlier on, mentioned the korero on the popo (ph) here, on the carvings, and I mention that (inaudible) was the last one that came out of the wananga. But when he came out, he came out with all the korero and so fortunately for us today, today our parents will think to agree to do some tanga and the reason for that is to instil our korero in the (inaudible) and in everything in this house. So that Fred and I and the rest of the family here will never forget (inaudible). So it is important for us to maintain. If we weren't to maintain that, then what is

the use of this carving anywhere in Aotearoa, what is the use of that? We refer to the carvings here by Te Waka National Library all the libraries in the country hold all the korero that one could gather. We refer to these carvings as much the same, we give them the highest respect. To not acknowledge the korero on these carvings would be the end of day for Māori I would say. So we don't want to go there, we want our korero to live forever and a day.

[12.10 pm]

Unfortunately enough for us today (inaudible) Aranui Arangi (inaudible) provides us for platform to continue to teach our younger ones, our kohangareo. And Fred and I (inaudible) for Fred and I we've been given that magic, we have, Fred and I both have Tuakanga several (inaudible). so we hold these wananga frequently to make sure that our whanau knows what we do and that's our job and in that wananga stays with our younger ones, cousins, brothers and sisters we must hold on to it. The time will come when you will hold the wananga to test the elements that are coming. So that we can stand tall among our wananga so I don't want to (inaudible) seek the teeming treasures of your tupana but if you should stoop duty for your lofty mountain, in this case, Maungaharuru (inaudible).

**MR RETI:** (Inaudible). My name is Frederick Reti and I'm here on behalf of my hapu and I also represent my society, the Maungaharuru-Tangitu Society so Kioura. These whakatauki show how central Maungaharuru was it remains to us the Tangata Whenua. Maungaharuru marks our boundaries with neighbouring tribes the ngahere on Maungaharuru was our source of food in winter, tangitu the area of the sea adjacent. Tangitu is the name of our coastline from Mohaka right around to the Matoman(ph). It's the coastline that denotes our mana moana. So in a way our boundaries define us as our Tangata Whenua or mana whenua and our mana moana we have authority over the land and authority over the sea.

Who am I, I am a descendent of Ngati hineuru, Marangagtuhetaua, Ngai Tatara, Ngati Kurumokihi. My parents are Te Otane Reti and Hine te Aomarama. However I was brought up by my great-grand aunt Hineunukua ote Rangi and my great-grandfather Te Raroa ote Raumati Matuahu Sullivan. They were both born in the late 1870's, so they're pretty old (inaudible). I was kept in the company of elders and I travelled from marae to marae. On their travels, my nannies would stop and show me the important places to our people. They would teach me about our history. I know now that they were preparing me to receive and hold this knowledge for the benefit of our people. And I was privileged to have received this information from people who had lived or who were born in that century and understood deeply the world view of our people and they tried to pass that on. I don't know whether they did it successfully, but they did pass it on. The importance of Maungaharuru is recognised as the name given to our society which represents the hapu of (inaudible). As I said the resources of Maungaharuru where our source of food in the winter and tangitu was our source of food in the summer. The tangata whenua the kaitiaki of these lands we have looked after these lands for generations and we continue to do so today to the extent we are

legally able. One aspect of Kaitiakitanga has been the management of claims before the Waitangi Tribunal. Both societies have been involved in protecting the interest of the tangata whenua in their lands as against the Crown for well over 10 years and in particular have been managing the joint claim against the Crown in the Waitangi Tribunal since 1992 when their (inaudible) claim was filed. Since then the Waitangi Tribunal has inquired into these claims during the Mohaka ki Ahuriri Inquiry and reported in 2004. The Tribunal has recognised the claims of the tangata whenua and found them all proved. Following the Mohaka ki Ahuriri Inquiry, Ngati Hineruru pursued their further claims (inaudible) in the Central North Island and Urewera Inquiries which were completed last year.

Oh I just go on and I just pass over to (inaudible) this is my presentation before the Hastings District Council and so I just want you just emphasising the importance and spirituality of the mountains that we are speaking of. This is on Page 6, 7.1, "When we speak of Maungaharuru we refer to the whole of the range. That is those parts referred to in the application as Maungaharuru, Titiokura and Te Waka. We cannot separate one part of the maunga from another. For us Maungaharuru must be considered in its entirety."

"I speak about Maungaharuru its origins, its history, the bounty that it provided the tangata whenua that lived and died there, and the Turehu that still dwell there." The Turehu are the local fairy people, they live in the mountains, very mystical people and we have a close association with those people. "Parts of this korero may be strange to some people. I will speak of Turehu and some of our ancestors who did not take a human form. Please understand this is our history, our belief system, our world view. I do not expect anyone to believe the things we do however we did ask the Council to respect our beliefs and give them proper due in making their decision to the application we presented."

I explained to the Hastings District Council it was very unusual for us to send this information in a public forum, because after all this information was given to us to certain people and it we had to be careful how we gave that information out because our people are like that, they kept information tight and it wasn't for anybody else's business in regards to that information. But we felt we had to tell that korero, that history, in order to stop desecration as we saw it of our maunga.

[12.20 pm]

So we will talk about Maungaharuru, 'The Mountain that Rumbles'. "When the Takitimu canoe travelled or waka travelled southwards down the coast, the high priest of the Takitimu, Tupai cast the staff Papaumu which embodies the life force of birdlife high into the air. It took flight and landed on the maunga. The maunga rumbled and roared on receiving this most sacred of taonga and the maunga was proliferated with birdlife. The mountain that rumbled and roared hence the name Maungaharuru." And our history also says that it used to roar in the morning and it used to roar at night because so sick were the birds there on that mountain and over that mountain when they took flight in the morning the Maungaharuru and Te Waka range is like a funnel, and it echoes really loud and they said sometimes the clouds of birds were so thick that it blocked out the sun. So when the when they took flight in the morning and when they alighted in the evening, the roaring would happen and so Maungaharuru, 'The Mountain that Roars'.

Te Waka a Ngarangikataka. The waka the canoe of Ngarangikataka. "My great-grandfather relayed this korero to my mother. You will be familiar with the story of how Maui caught this great fish the North Island. When he pulled up the fish the waka they were on which was called the Waka of Ngarangikataka became stranded on top of the mighty fish. At this time Maui warned his uncle Ngarangikataka and others not to touch or cut up

the fish, but they didn't not listen and they began to cut up the fish crating the peaks and valleys that we see today. Maui was angry and turned his uncle and the waka to stone. Some of them tried to escape to sea towards Tangoio, but they too were turned to stone. You can see them there today in the form of Panepaua, also referred to as the 'Pimple' seen just before the bridge over the Pakuratahi Stream when heading north and Ngamoerangi known as the Mussel Rock located just out to sea." So when you come into the entrances of that end and come over the bridge you see a little rock there, and we call it the 'Pimple' and that's what we're referring to here. And of course the waka was turned into stone that's why it's called Te Waka Range, you can see the indent of the waka.

"Pirinoa is a Pa belonging to Taurira. It was not referred to in the archaeological report commissioned by Unison. This Pa is recorded in the tribal archives as being situated at the prow of the Waka o Ngarangikataka." I'm talking about the tops of the maunga and there's different place names. "Taurua o Ngarengare, this is the Pa of Ngarengare he is one of the sons of Taurira and Mateawha referred to below." And I'll just talk about the Pa sites. Tauwhare Papauma this is the place where Tupai's staff Papauma alighted and became anchored. It later became a pa site inhabited by Taurira. When you go the Napier Taupo road and you go out to Tipura road right on the summit of Titi a Okura is Papauma they call it Tauwhare Papauma and so as you descend down towards the Waikato River. Titi a Okura the mutton birds or Okura or they are referred to as city share water.

"This is the pass where the titi flew over Maungaharuru. Te Mapu and his son Te Okura camped there while crossing over the maunga. Te Okura and his father caught titi by building and lighting a fire at night attracting the birds towards its light and became snared by a net attached between two poles held high by them in front of the fire and towards the flight path

of the titi. Hence the name Titi a Okura, 'the mutton birds of Okura'. And most of us people in this room are descendents of Te Okura."

So I'll just carry on to Pari o Mateawha or the cliff of Mateawha, 8.9. "This korero concerns our ancestors, Taurira and his wife Mateawha. One day Taurira came across Mateawha and was immediately taken with the sight of her and they became husband and wife. Mateawha was one of the Turehu people she was unlike human because the Turehu people were nocturnal and they abided by what we call Tapu laws sacred laws. They did not prepare or eat cooked food nor did they clean up faeces. One day they had visitors and sadly Taurira forgot himself he told his wife to clean up after their baby who had become soiled. Usually they had servants to do this work as custom required that Taurira did not carry out this work he used his servants. Taurira also told his wife to cook their food and as his wife she obeyed her husband. However the effect of this work was to whakanoa te tapu I runga I a ia to nullify the sacredness of Mateawha. The implication of all of that was that Mateawha was unable to return to her own Turehu people. She became alienated from them because she had broken tapu. She was so distraught about the situation that she was in that she took her own life by throwing herself off the cliff face. She hit the side of the rock and fell down into what is known today as Hell's Hole. The stain of her blood was left on the rock face. Since that time whenever that stain congeals our people recognise it as a aitua a bad omen. It usually means one of two things an omen foretelling the death of a direct descendant or that a disaster is about to befall the district. At these times not only does the cliff become tapu the whole of the maunga is tapu. Further the blood stained on the cliff face is viewed by we, her descendants, as the bloodline link of the Turehu world to us." If you're coming from the Taupo side (inaudible) and you descend down and you look across the Waihapu River today, and you look across the mountain towards the west there you'll see the what they call the red rock, and that's

the Pari o Mateawha it's an orange kind of rusty colour but if it turns blood red it's not a good omen to our people.

“Te Mauri o Te Mara a Taurira, ‘the lifeforce of the garden of Taurira’. Taurira’s line of descent is from Tangaroa the Lord of the Sea who begat Oruamano, the great whale that guided the waka Takitimu across the Moana Nui A Kia the great Pacific Ocean. Descending from Oruamano are the whales and those whales you will see them at Wairoi a place called Iwiti they are hills, they are surrounded and each of those hills have a name they are but they are we regard them as the ancient whales there. And from those whales came Pania, Pania of the reef and her son More More the great white shark kaitiaki that patrols the foreshore of Tangitu. From More More descends Tunui-a-rangi the great Tohunga Wizard whose Pa is at Heipipi near Bayview. His tribe there was known as Ngai Tangaroa from him descended Taurira.” You will see that Tunui-a-rangi’s outside of our meeting house the koreru on the inside.

“The maunga and in particular its ridges are known as garden over which the power of Taurira’s spiritual essence still remains. This eponymous ancestor founded Ngai Taurira who once inhabited Te Waka Range because where Taurira lived hunted and snared birds. The maunga was a source of sustenance for his descendants over many generations. It was a taona the ridges in particular the Pa sites were clearly occupied by the tangata whenua. This is what our history tells us for his descendants the mauri or the power of Taurira’s essence still exists along the tops and ridges of Te Waka Range.”

[12.30 pm]

“Te Ahuo te Atua is situated at the most northern end of the Maungaharuru Range this location was regarded as tapu no reason was given by my old people but it was regarded by them as being very special and significant. Te ahu or tuahu is an alter, it is probably that it’s where

the Tohunga gathered to carry out their spiritual ceremonies.” You can’t see it on there its right to the eastern side the Te Ahuo te Atua.

“Tarapouniu, ‘the Peak of the Sacred Pole’. This feature is located before Ta Ahu o te Atua it was once the regular pathway or track from Tutira over to Te Haroto through Waitara. Again the name suggests a place for spiritual gatherings.” Tarapouniu is a pole where people gathered to hold their ceremonies at.

Our customary use and association with these lands. Hang on I’ll just go over, now we’ll just go up to Number 10, 10.1. “For the tangata whenua, Maungaharuru is not merely a food basket and lands with historical associations. As noted in the korero above, the landscape of Maungaharuru in its totality its natural features and shape has a special significance to us.”

“The maunga frames our rohe, it marks our boundaries when travelling tribes see our maunga they know they are approaching our rohe. We refer to it and point to it when welcoming manuhiri onto our marae. It is visually significant to the tangata whenua and manuhiri alike. The extracts of korereio in the appendix of our earlier submissions -” oh I’ll just pass that over.

We’ll go onto 10.4. We’ll just go on to, “The visual impact of the turbines on the tangata whenua within their rohe is nothing short of high and they are very high these wind turbines that we are protesting against. Our marae and ancestral lands will in the shadow of such turbines. Distance cannot mitigate our view of the turbines within our rohe.”

“Te whakatauaki Ka tuwhera a Maungaharuru ka kati a Tangitu. Ka tuwhera a Tangitu, ka kati a maungahururu denotes our mana moana and mana whenua. The economy relied on by the tribe where the resources garnered from within its boundaries through out the year and they

possessed the luxury of not having to go out side of it. The proverb also has within it an obligation, the implication that our manuhiri, visitors, would be served before them food of the forest and the sea. Today our coastline is polluted and the prolific bird life has all but disappeared with the milling the denuding of the once great native forests surrounding Maungaharuru and coupled with the onset of the pastoral industry. Our inability to protect our mahinga kai, our traditional places to gather kai, and to provide this kai to our visitors already impacts on our mana.”

I'll just leave it at that. Just try and see the spiritual significance of our mana and stories that I honour and the whakapapa that comes from that. I mean the whakapapa comes from Turihi people and that is whakapapa that is to be preserved by our people. I explain our whakapapa goes back to Tangaroa, the Lord of the Sea coming down to us so we give whakapapa to those elements or those guardians. Many of our whakapapa takes us to those areas so our world view is an ecological one that we look at Tangaroa we look at Tawhirimatea we look at our mists our Turehu people our (inaudible) people that we have a connection through whakapapa. We hear the (inaudible) to hear Bevan's whakapapa we have a relationship to Papa Tunuku (ph), it's not just a piece of land it's actually our maunga and so that was what I wanted to just convey that our feeling for the maunga. And Tony is right not all maunga is sacred, only certain maunga, are sacred and again we (inaudible) we've got against renewable energy or wind turbines, it was just that they we're going to put it on our particular maunga. And if you look at our history, our histories with Ro Patu and that will be (inaudible) but we lost about a third of a million acres and our people, like the (inaudible), again we picked the wrong religions. We were Catholic and Anglican when we decided no we're going to go to the Pomarere (ph) faith or Mahoho (ph) and we got a hiding over that and then we turned to (inaudible) who came amongst us. And of course when he was arrested our people were also arrested and taken into Chatham Islands, and then when they came back and they had no land to come

To be read in conjunction with  
the tabled evidence/statement

back to so they had to reserve back to come back on their own land. And then we took the harerataunga (ph) and so we had a when we came to the we were adamant when they were going to put those wind turbines at our Ngati we said no more. We weren't going to budge an inch and that was the only thing we had left was our mountain. And so when it comes to our (inaudible) there was no compromise as far as I was concerned so (inaudible) to look out at the background of the people and I do agree that we do need to wairanga (ph) with people and so that we are informed of what we do and that more importantly they are informed about a persons background.

**CHAIR:** Can I just thank you for your evidence and also Mr Taylor, I understand now so much better that decision, reading Judge Bollards decision having heard your evidence which clearly was very compelling and the Court accepted, so I do appreciate that, so thank you.

**MR RETI:** Thank you very much.

**MS HOPMANS:** I know you must be very tired now having listened to that.

**MR GARDINER:** No we're uplifted thank you Tania.

**MS HOPMANS:** Great that's lovely to hear, well there are some people who would like to lift you up a little bit higher. We just wanted to end really with the latest generation of whanau from Tangoio. And we have a Kohanga down here at Tangoio Marae and they're a little bit shy until they get to know you and then. We've got some of the teachers with us here, and one of the things we wanted to mention was that learning about how important the maunga is about when people can start talking and walking, they start learning about their maunga and it is incorporated as part of their learning at Kohanga Reo, and I have small people myself, and one thing I noticed that was similar was that the children here at Tangoio do what my kids do at home in their sand pit. They don't build castles, they build maunga.

**CHAIR:** Oh really?

**MS HOPMANS:** Yeah they do, they're quite funny they build maunga, but just one minute I just wanted to introduce you to one of our teachers here, one of my cousins, Jacqueline Taurima.

[12.40 pm]

**CHAIR:** Welcome.

**MS HOPMANS:** Do you just want to say something a little bit about what it's like to teach these children and what they know about their maunga?

**MS TAURIMA:** (inaudible). Just about our Tamariki, from my last term we were learning about our maunga and our marae and our awa. (Inaudible). We try and teach our kids as much as we can about their maunga because the majority of our tamariki, they are from here, and we have the odd one or two that ain't. But we try and teach them about their maunga because

To be read in conjunction with  
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they always patae (ph) to us or (inaudible) and it's just a little normal girl maybe. Yeah so we can't actually tell them off for haruru tena because - our kids want to go to the maunga because they don't quite understand about their maunga but one day they'll grow up to go and see Maungaharuru we would like to take them there maybe in the summer sometime when it's much warmer. But during the last term they built maunga out of the sand and all that and it's quite significant to them because it's learning steps and before they didn't know what a mountain or a maunga was but now they know how to say their maunga, their marae, their awa, who they are how old they are and where they live. So with our tamariki they're quite intelligent they are. But we have a quick waiata it's about the whakapapa in Tongoio and yeah. Etu tamariki mai.

(Waiata performed by Tongoio Marae children)

**CHAIR:** Well I'd like to say thank you so much, not only for the hospitality and the evidence, and for sharing with this Board of Inquiry your journey with your case involving your mountain. And to the children that was wonderful, I'm a very boring proud grandfather myself, so all the best to you all and thank you so much, kia ora katou. Have we got one more? Oh look I apologise to you, I'm sorry I didn't realise, I thought the children were the last - right. If you could come forward please.

**MS HAMILTON:** Kia ora tatou katoa. I have a confession to make, I'm a little bit of a ring-in today, on environmental matters we normally engage Murray Black, and it's really a sign of our capacity issues here that I'm standing here before you today. I'd like to apologise to the whanau too, because I didn't bring spare copies of the submission we made in October to the Board. But I also wanted to bring in some other korero. Ngāti Kahungunu Iwi Incorporated is an incorporated society with 19,000 registered members. We know through census that there are 59,000 people in Aotearoa who recognise themselves as being Ngāti Kahungunu. In terms of this submission, which I'm going to now refer to as a statement, because apparently Ngāti Kahungunu doesn't submit, so Moana Jackson said at the Foreshore and Seabed hearing last month.

We're charged with the responsibility of protecting, preserving and promoting the interests of our members and our environment. I think one of the things good from this morning was Tania, Bevan and Fred, I'd like to mihi to you all is that they really show how much it affects our Nakau and our Whakarau and I think they did an awesome job in terms of putting forward the Whakarau RaNgātira associated with these koupapa. It's been really interesting for me to sit here listening to the questions in particular that the panels asked, and I think one of the things I'd just like to think about is that what we're trying to achieve here is a bit of certainty I guess, and on behalf of the Crown they're trying to look for certainty in terms of electricity supply. And in terms of us, we're looking for certainty

in terms of our treaty relationship with the Crown.

[12.50 pm]

There was an interesting question around does the Resource Management Act already provides the tools for us to put our case forward. And I think one of the observations I would make is that if it already did why would we have to go into litigation. I just want to talk a little bit about Wai 262 because I think it's pertinent to this. The Wai 262 claim was brought about by Ngāti Kuri, Te Rarawa, Ngāti Wai, Ngāti Porou, Ngāti Kahungunu and Ngāti Koata and was heard by the tribunal between 1998 and 2007. The claim sought recognition and protection for matauranga Māori and rights in respect of indigenous flora and fauna, and called into question not just the protections given by the intellectual property regime, the protected objects regime, aspects of the education system, the environmental decision making regime, and those parts of the health system that involved Rimua (ph), but also the wider decision making process including the way in which the Crown negotiates international instruments on behalf of New Zealand.

Specifically the claim addressed the following issues. The nature of the Māori interest in indigenous flora and fauna and matauranga Māori, intellectual property protection for taonga works, biological and genetic resources of indigenous and/or tawa species, te whanga Māori and Matauranga Māori, te reo Māori, the relationship of kai tiaki with the environment, taonga species, again sorry, and rongoa. We concluded that the New Zealand legislative framework provides no protection for Matauranga Māori or the Māori relationship with indigenous flora and fauna. Neither recognising the rights to indigenous species nor involving Māori in environmental decision making, and I think that's part of the reason why we've come here today.

Ngāti Kahungunu recommended that as the legislative framework is so

manifestly inconsistent with the principles of the treaty, adhoc specific amendments to particular legislation or on particular issues would not be a sensible way to proceed. In order that the claimants tino rangā tira tanga is properly recognised across the legislative framework that deals with indigenous flora and fauna and Mātauranga Māori a holistic and principled review of the legislation is required. Ngāti Kahungunu proposed a process based solution to enable Māori and the Crown together with other stakeholders, including the public to develop joint solutions to problems identified in the claim.

A coordinating body was supervised the process while eight working groups would be established to deal with particular issues, and I'll just list the three that I think are pertinent to this. One is the environmental management working group, which would deal with resource management issues, local government issues, bio security and customary fisheries. Another one is the resource ownership working group, looking at Crown minerals, other minerals and indigenous flora and fauna. And the third one that I want to just refer to is the international and legislative review working group. And that would be looking at ensuring and the involvement of Māori in legislative process, the involvement of Māori in development of international instruments. The key point made by Kahungunu was that it's important to work through the big issues before getting into the details, and we're still awaiting the tribunal report which I think is about a year overdue at this stage.

I'm sure you have copies of our submission there, I guess for the benefit of the whānau here I'll just kind of generally refer to it, or just go through some key bits maybe the introduction, key summary paragraphs and yeah.

So, "Toitu te Marae a Tane Toitu te Marae a Tangaroa, Toitu te iwi, Tihei! Mauri ora!. This submission has been collated by Ngāti Kahungunu Iwi

Incorporated in response to the consultation document, “Proposed National Policy Statement for Renewable Electricity Generation,” released August 2008. The matters mentioned herein constitute the main issues related to this kaupapa as determined from the incorporation’s perspective. They are in no way to be construed as supplanting the views of our individual hapu or marae, but as a support for more meaningful engagement and participation in attempting to address the multiple issues that arise under the guise of ‘renewable electricity generation’. We recognise the need for consistent direction from decision makers for implementing renewable electricity regimes, of which a National Policy Statement is but one option. The Ministry and the Board of Inquiry must recognise however, that an element of caution needs to be adopted to ensure that the raising of the priority level for renewable electricity generation does not displace other values that are inherent within existing resource management constructs. This would be akin to reverse sensitivity being promulgated under the Act.” I guess the main argument throughout our submission is that we’re seeing national interest potentially taking a priority over other interests that we hold very dear, and very important to us.

I’ll just go down to part C, just the last sentence there, “Of specific interest to Ngāti Kahungunu is how some of these issues will be addressed, particularly the preservation of the natural character of the coastal environment, including the coastal marine area, wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development: The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development, the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. The protection of historic heritage, sites and values, from inappropriate subdivision, use, and development.”

Our interests in the policy statement relate mainly to, “The lack of a robust consultation process.” Which Tania highlighted this morning. “The narrow scope of the proposed NPS, Section 32 analysis report, the single proposed objective, imposition of the new NPS on our constituents, potential adverse effects on outstanding natural features, iconic landscapes, the marine environment, freshwater environments. no acknowledgement, recognition or provision for Kahungunu interests, adaptive management and climate change, flora and fauna.”

I’ll skip through the consultation process in this Section 32 analysis, I’m sure you’ve read it, and those issues were highlighted pretty strongly by Tania this morning. One of the comments I did want to just highlight is there are lots of positive examples out there around how iwi are kind of getting some satisfaction and grasp on these issues. And I think in terms of Kai Tahu, the way in which their rights and responsibilities have been built into legislation through cultural impact assessments is one solution to look at. The other opportunity too to look at is the economic development opportunities that exist, and I just refer to Ngāti Raukawa and to Arapaki as an example where hand in hand the developers and the iwi have worked together for mutual benefit.

Just skim right through, the proposed objective, part C. “As National Policy Statements are tools to help local government make decisions regarding local and national interests, there needs to be an element of partnership with local iwi/hapu in directing and informing the nature and extent of the relevant issues and values around matters of regional and national importance.” And I think one of the problems that we face here in kahungunu is that often we’re seen as pretty much the poor relations, there are many examples where regional councils are working really successfully with Tangata Whenua and I think another example of that is Te Arawa Lakes Trust, and their relationship with Environment Bay of Plenty. And yeah, horses for courses it seems to be.

In part D, “For Ngāti Kahungunu, we form our relationships with other sectors of the community, including local government entities, based on our cultural preferences and values. Local government as a branch of central government, enacting legislation approved by central government, must also adhere to Treaty guarantees and responsibilities. Nowhere within the proposed NPS is it signaled that Treaty matters will be given due weighting within the decision making processes.”

[1.00 pm]

There’s other references there to our comments around natural features, significant landscapes, freshwater environments, the marine environment, our concerns relating to indigenous biodiversity, it seems to be an emerging hot topic. New and emerging technologies, one of the things that I think is quite interesting in the debate and in the policy statement is that it feels to me, I may be wrong, that we’re looking at a macro supply objective, rather than looking at micro supply objectives that would serve the greater good, and also have less impact in terms of our environment. Just the comments around part 10, our flora and fauna page 12, “The relationships of Ngāti Kahungunu marae/whanau/hapu with indigenous flora and fauna has been well documented in the Wai 262 claim to the Waitangi Tribunal. Given that the outcomes from the hearings have yet to be notified, the ratification of new policy that can undermine those outcomes and the aspirations of Ngāti Kahungunu is not supported. The addition of new objectives and policies to the proposed NPS as suggested in this submission will provide some safeguards, but the public notification of the NPS at this stage is somewhat premature.”

And that is all I would like to say. I would just like to finish with a little bit of a korero. We held a huia hapu up in Wairoa last month and (inaudible) who some of you may be familiar with, had a bit of a korero to make about our relationship with our wai Māori with our wai and with our whenua and

it's that we don't speak of the land, we don't speak of the water, we are of the land and we are of the waters. And I think that whakapapa relationship that was highlighted by Fred and Uncle Bevan this morning highlights the importance of these taunga to us. I'd just like to finish with a little bit of a korero from Māori Marsden a great philosopher who explains a little bit about Māori cosmology.

**MR GARDINER:** Thank you Ms Hamilton just don't go away.

**MS HAMILTON:** Can I just invite the whanau to back me up, any questions that you would like to answer?

**MR GARDINER:** I'm interested in the micro because one of the things with the NPS as you're probably aware that, my focus is on NPS 5 which is community based, and the reason I'm interested in that one is because many of the isolated communities around the country are Māori, Northland, Eastern Bay of Plenty perhaps some areas of Ngāti Porou, and so I'm interested in your observation that the NPS seems to face on macro issues and not micro. So can you just talk a little bit more about that?

**MS HAMILTON:** Is part of this a drive about the 2013 sunset clause around electricity provision to Ngāti Porou, is that?

**MR GARDINER:** I don't speak for Ngāti Porou.

**MS HAMILTON:** I think one of the things that I'm seeing with these National Policy Statements that are coming out of Wellington at the moment is they're trying to address quite big issue with quite a blunt tool, and I think you'll hear that in the submissions that probably iwi up and down the country have raised. With the latest budget announcement by the national government, I was really heartened to see ideas like the insulation retro fit, and the sorts of opportunities that that will provide for our whanau in addressing things really at a household and individual level. And I guess part of what I would like to see is how can we build on those

sorts of initiatives that may - we may end up surely having solar panels on the roof of our wharenuī is far better than having a series of wind turbines on Maungaharuru, so I guess it's really thinking about the problems in a bit of different way. I get a bit worried with also some of the things that are happening in the name of climate change. And I think we've been asked to take on quite big projects and think about national policies, rather than look to the solutions and smaller communities. And a lot of our communities are dealing with a whole range of infrastructure problems, not just electricity. There's water supply, access to transport all sorts of things. And I think too often we kind of look at the broken arm without looking at the whole of the Tinana so I would really like to see, I guess, a little bit more work down around joining up some of the policy objectives, rather than trying to deal with problems in isolation. Because I think the solutions hopefully that the government, and that our country need will be more sustainable and more enduring.

**MR GARDINER:** I have a question I really like the Moana Jackson statement, I think that's really captured the essence of what Tangata Whenua is saying in this whole process. Regrettably, not many have responded and this is the only marae we're going to visit, and so it is actually a pleasure to come here and see the full range of a Māori community operating from the pohere to the pai korero to the te korero matawhero to the Kohanga Reo and to the power and emotion in the submissions.

**CHAIR:** Within your area that you're responsible for, have you got any hydro facilities?

**MS HAMILTON:** Our area, well, it's from the Wharerata through to Paretu so Morrie would be better placed than I would to answer that question. I'm just trying to think, is anybody else?

**ANONYMOUS MALE SPEAKER:** Waikaremoana.

**MS HAMILTON:** Is that Tuwai? My grandfather built that all by himself.

**CHAIR:** So have you been involved at all in any consenting issues to do with hydro?

**MS HAMILTON:** I know over the last couple of years, Ngāti Pahauwera have been dealing with issues to do with the Mohaka River and the issues around that. We've kind of just supported from the background really in terms of those things, and we come in as and when they need us to, but it seems like I think they're on the right track there still. But I think one of the things that happened in that process was that the way in which the hui happened, and then just the arrogance and the audacity of the power company to say, "Well it really doesn't matter whether you like it or not, because this governments backing us and so we'll go through this meaningless consultation process." And they basically tried to ride rush shot over the community up there. That was at that particular time I know it's kind of turned around quite a bit now but that was part of the korero that happened with the hapu.

**CHAIR:** That was at the time of the consultation order was it?

**MS HAMILTON:** Yeah.

**CHAIR:** Yes. Did has your have you made a submission on the Proposed Policy Statement on Freshwater?

**MS HAMILTON:** Yes we have.

**CHAIR:** Would you be able to supply a copy of that to Ms Beruldsen? That would be really helpful, thank you.

**MS HAMILTON:** Absolutely, yeah.

**CHAIR:** And did you make a submission on the Coastal Policy Statement?

**MS HAMILTON:** Yes we did yeah.

**CHAIR:** Once again if we could -

**MS HAMILTON:** I'll get your contact details.

**CHAIR:** That would be very helpful. Another matter, just a final matter that I was I raised with Ms Hopman was this issue of integrating into outstanding landscape areas and planning Māori values in respect of landscapes. Have you been doing have you done any work in that at all in the resource management context?

**MS HAMILTON:** There's I mean there's been dribs and drabs of different pieces of work done over the years by different hapu and by the iwi. I think we're trying to take more of a regional kind of national focus at the moment rather than the local issue stuff, but there's been a lot of stuff done in terms of regionally with the Tukituki river the Ngaruroro and the Karamu as well. So but yeah I mean there's no comprehensive kind of mapping system in fact your best kind of idea of pulling that together would probably be something like the Waitangi Tribunal Land Claims.

[1.10 pm]

**CHAIR:** Well thank you very much, and we did appreciate the work that went in to your submission, so thank you. So if I could just say on behalf of the Board that I'm very conscious of the work that's gone into both hosting the Board today, and also preparing the evidence and the submissions. As we move around the country we are hearing submissions on all values, and I must say that I am refreshed to hear that you don't submit to anybody. We'll think twice now about how we address these documents, so thank you very, very much, and thank you for turning on such a wonderful day as well.

**ADJOURNED** [1.12 pm]

To be read in conjunction with  
the tabled evidence/statement