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Event: Mount Messenger Bypass Hearing

Date: 9 August 2018 (Day Five)

Before: Mr S Daysh - Hearings Commissioner

Witnesses: Mr T Hovell - Te Rūnanga o Ngāti Tama
Mr L Shapiro - Te Rūnanga o Ngāti Tama
Mr G White - Te Rūnanga o Ngāti Tama
Mr B Stirling - Ngā Hapū o Poutama
Mr H White - Ngā Hapū o Poutama
Mr R Gibbs - Ngā Hapū o Poutama
Mr U Signer - Personal submitter
Ms M Doorbar - Personal submitter
Ms E Bailey - Personal submitter
Mr R Maxwell - Personal submitter
Mr T Pascoe - Landowner
Ms D Pascoe - Landowner

Counsel: Mr D Allen - NZ Transport Agency
Mr T Ryan - NZ Transport Agency
Ms S Ongley - Department of Conservation
Mr T Hovell - Te Rūnanga o Ngāti Tama
Mr R Walden - Te Korowai Tiaki o te Hauāuru

Also present: Mr P McKay - Hearing manager
Ms R McBeth - Reporting officer, New
Plymouth District Council
Ms K Hooper - Reporting officer, Taranaki
Regional Council
Mr J Winchester - Advisor

THE COMMISSIONER: Welcome, Mr Hovell. I will hand over to you shortly. Mr Allen, are there any housekeeping matters we have to deal with before we get on with today from your side?

MR ALLEN: No, thank you, sir. All ready to go.

THE COMMISSIONER: We are ready to go. Mr Hovell, over to you. The floor is yours.

MR HOVELL: Yes. Thank you, Commissioner. Good morning. I'm not sure if my mic is on --

THE COMMISSIONER: How is that?

MR HOVELL: -- for those at the back?

THE COMMISSIONER: Yes. I have a master switch here, which is sometimes on and sometimes off. So I am always reminded if it is not working by people in the gallery. Thank you.

MR HOVELL: Yes, thank you, Commissioner.

(Māori spoken)

Just to introduce those with me this morning, I have to my right Mr Greg White and then further to the right Mr Lee Shapiro, who'll be giving evidence along -- as part of the Ngāti Tama submission. Also, behind me there are members of Te Rūnanga o Ngāti Tama Trust. We have Mr Paul Silich, the chair of Te Rūnanga o Ngāti Tama and we have Mr Conrad O'Carroll, a trustee; Mr Larry Crowe, a trustee; and also have Ms Patricia O'Carroll, another trustee. So we have the trustees from Te Rūnanga o Ngāti Tama here. We also have a number of whānau and I also acknowledge those who are with Te Korowai as well. We have some of those folk here as well, so acknowledging the various people that are here. And we also have - who has providing cultural support for Te Rūnanga o Ngāti Tama - Mr Hohepa Potini, who opened up this morning's proceedings. And so tēnā koutou katoa.

THE COMMISSIONER: Yes. Welcome, Mr White, Mr Shapiro and members of the Te Rūnanga o Ngāti Tama.

MR HOVELL: Sir, I have pre-lodged some submissions, which were filed by email yesterday evening. So I'm not sure if you picked those up or not?

THE COMMISSIONER: I got them very early this morning. So I must admit I have not had the pleasure of reading those through yet.

MR HOVELL: I'll work through those. I do have hard copies here, which I'll up and -- as well as the -- around the room.

THE COMMISSIONER: Yes. Mr Hovell, just a preliminary matter. I noticed also that you filed some supplementary evidence for Mr White.

MR HOVELL: That's correct.

THE COMMISSIONER: I just wanted to address you on that. It seems to me from a quick scan this morning that that is in the form of perhaps some rebuttal, rather than through supplementary. We have been working on a submission timetable, which gives the opportunity for the applicant to have a look at things in advance and come back. While I am not closed off to the idea of supplementary evidence, I would like to have a discussion with that and then seek the views of the applicant and perhaps seek anyone else's view that is represented here about the receipt of that. If I am going to receive it, I will probably need to perhaps provide the opportunity for other

submitters in this sphere to perhaps be able to lodge something else as well. It is a process I wanted to address you on.

MR HOVELL: Yes, that --

THE COMMISSIONER: If you could give us some advice?

MR HOVELL: Yes, I'll give some context to the statement. So the statement itself is picking up on matters that have occurred through the process of the hearing to date, so the hearing last week, and questions and evidence that was given then. Mr Greg White has been here throughout the duration of the hearing. He has been listening to the proceedings and has sought to comment on some of the matters that arose through the course of the hearing. So that's the context of the supplementary statement. So in that sense, you could call it a form of rebuttal in that sentence, not so much a summary of the original statement. And I'll come to that because Mr Shapiro does provide something of that nature.

THE COMMISSIONER: Yes.

MR HOVELL: So that's the context of the supplementary statement that has been provided by Mr White. And I guess in some cases,

it is seeking to clarify matters. So where some things touch on matters that the trust has particular knowledge of such as the Parininihi land and details around that, it does cover some of those matters as well.

THE COMMISSIONER: Yes, I am reasonably relaxed, but I did want to have the discussion about this and perhaps I will go around the room and seek any comments. Mr Allen, do you have any views on this?

MR ALLEN: No views on that. I haven't seen it, but no views in terms of it being admitted in as evidence.

THE COMMISSIONER: Yes, and you will be able to look at it and ...?

MR ALLEN: Be able to look at it and it's -- I see it as no different to, like, DOC with no conditions yet in terms of drafting.

THE COMMISSIONER: Yes, and ability to ...

MR ALLEN: And the ability for us to then respond to DOC's drafting when we finally get it.

THE COMMISSIONER: Yes. I am certainly in favour of being flexible. I think there are a couple of analogies to this. Certainly, we have been receiving up statements from all the experts for the applicant and also for the Department of Conservation. They have, through those additional statements, picked up on matters that have arisen through the hearing. I think there is probably not much difference from that. Also, one of the submitters, Poutama, has not actually given us anything as yet.

So in terms of natural justice and fairness, subject to any other comments around the room, I am minded to just receive it and admit it as official evidence. In terms of for the council, there is a counsel for the councils. Do you have any views about this type of process in a council hearing situation?

MR WINCHESTER: I think it is appropriate for you hear the information that comes in Council hearings are naturally fluid in terms of giving everyone a fair say. Providing the applicant gets a chance to respond and then counsel as well, I think that is entirely appropriate.

THE COMMISSIONER: Yes, and any other comments from anyone else in the audience about just receiving some more information?

MR WALDEN: Sir, Ron Walden. I'm standing in for Rob Enright at Te Korowai.

THE COMMISSIONER: Yes.

MR WALDEN: I haven't seen the statement. I have read Mr White's evidence. I have no difficulty with it. I'm happy. The main executive parties are the Council and the applicant. If they're okay we'll look at that, sir.

THE COMMISSIONER: Thank you very much, Mr Walden. So thank you for that, Mr Hovell. We will --

MR HOVELL: Yes, I appreciate that, Commissioner, and one of the points that just came out of a discussion, which I'll come to in the submissions, was the information from Otanga(?), one of the submitters. So the submitters to follow would have the benefit of having heard those before them and be able to comment on those submissions, and in that sense that's what Mr White's statement is doing.

THE COMMISSIONER: Great. Thank you very much.

MR HOVELL: But the Rūnanga won't have that benefit in relation to Poutama and then also Korowai, who follow later in the piece, which I'll touch on in the submission for the Rūnanga. We were going to seek the right to have an opportunity to reply to anything that might touch on the rūnanga in particular after those submitters.

THE COMMISSIONER: All right, thank you.

MR HOVELL: So thank you, Commissioner. So I'll go to the lead submissions. Sir, just starting at paragraph 1 of those submissions, I take it you have a copy.

THE COMMISSIONER: Thank you.

MR HOVELL: This submission is on behalf of Te Rūnanga o Ngāti Tama Trust. The Rūnanga is the post settlement governance entity for Ngāti Tama and representative entity for Ngāti Tama on various matters, including resource management matters. Ngāti Tama has a long and proud history of occupation and exercise of mana over the land and moana between the Mokau River

southward to the Titoki Stream that flows into the sea at Waiiti Beach.

Unsurprisingly, there are strong views about the proposed State Highway 3 realignment by the New Zealand Transport Agency. This is not unexpected, given the potential requirement for Treaty settlement land returned to Ngāti Tama as part of its historical Treaty settlement. And the role of this process is to ascertain the issues and potential effects and determine the appropriate planning response.

While land acquisition under the Public Works Act is not an issue for this forum, it is significant that the Rūnanga and the Transport Agency have entered into an agreement that the compulsory acquisition powers of the Public Works Act will not be used to acquire the Ngāti Tama land. This recognises the ancestral and Treaty context to this land. That agreement allows the Rūnanga and Ngāti Tama to engage in this RMA process without the threat of compulsory acquisition and allows the Rūnanga to retain its power of free consent beyond this process. As stated in the evidence of Mr White, it allows Ngāti Tama to maintain its mana intact within this process. And on this basis, the position of the Rūnanga is that it can support the

grant of the RMA approvals, subject to conditions to properly address the cultural effects.

Turning to consultation, consultation is not required for resource consent applications or notices of requirement and I refer to the section of the RMA that addresses that; that consultation's not in contention for the Rūnanga. The RMA requires proper assessment of relevant matters and necessary information to enable informed decision-making and this has been noted by the High Court. I won't read through that extract there, but I include an extract from the High Court decision that touches on that.

THE COMMISSIONER: Thank you.

MR HOVELL: Paragraph 10, the Rūnanga has no issue with the consultation process, which has involved: participation in the multi-criteria analysis process; ongoing negotiation meetings; hui-a-iwi, including attendance by Transport Agency at some of those; input into design matters; facilitated discussions with the Department of Conservation; and meetings on property-related matters. As the Rūnanga and the Transport Agency have not reached agreement on some matters, consultation will continue to

occur. And as those discussions are still occurring, the detail of those matters remain without prejudice.

There are a number of ongoing processes to address the outstanding issues beyond this hearing, including this ongoing consultation, any further RMA process, and the discussion on the Public Works Act matters.

The Rūnanga has also taken an active approach with iwi members with a number of hui-a-iwi. The consultation has enabled the project to respond to cultural concerns as it has evolved and allows necessary information on cultural matters to be provided to the Commissioner.

Turning to the matter of alternatives, the legal basis for the consideration of alternatives was outlined in the legal submissions for Transport Agency and I don't repeat that detail.

During the multi-criteria analysis process, the Rūnanga analysis identified the online route as the preferred option on cultural grounds. The route ultimately selected by Transport Agency was the next preferred. So that was amongst the short-listed options on cultural grounds. And options to the west of

the existing highway - that's on the coastal side - rated poorly on cultural grounds as part of that MCA process.

Since notice of the selected route, the Rūnanga has consulted with the Transport Agency to consider measures to avoid, remedy or mitigate the cultural effects arising from the proposed alignment. The Rūnanga submission highlighted the issue of alternatives. This has been partly addressed by the agreement not to use the compulsory powers to require the Ngāti Tama land. And for the Rūnanga, the online route remains relevant to the Treaty relationship issues in this case.

THE COMMISSIONER: Mr Hovell, could I just ask you a question about alternatives?

MR HOVELL: Yes.

THE COMMISSIONER: I understand that Ngāti Tama people are involved in the MCA process and they are actually able to rate the cultural values between the alternatives?

MR HOVELL: Yes. So there were two stages to the process. There was a long list and a short list on this and a large of options and a short list with a smaller number. The Rūnanga

were involved in both stages and the process for the Rūnanga and the trustees in particular was to rate each option on cultural terms. So --

THE COMMISSIONER: I read the ranking and the cultural ranking on that criteria. By my read anyway, each of the routes was equally as bad. They all recorded a minus four in terms of the summary table. But there was a distinction made that the online route was the preference?

MR HOVELL: That was the product of the process.

THE COMMISSIONER: Okay.

MR HOVELL: So there were a number of factors that went into the cultural grounds. They scored each factor for each option and then the outcome of the process. And as you can imagine, all options bar the online route were seeking to traverse Ngāti Tama land. So that was the most strong factor in the process itself as well.

THE COMMISSIONER: Okay. So the position of Ngāti Tama, as I understand it, is while there was a preference for the online route, accepting the decision to go with the designated route or

the notice of requirement route, subject to the discussions you are having. I think Mr White has said that --

MR HOVELL: That's right. Yes, that's because it's --

THE COMMISSIONER: -- it has moved from a neutral position on that to able to support, yes.

MR HOVELL: And there has been an ongoing process that has led to that as well. So it was a decision for the Transport Agency as to which route it chose. The product of the MCA process that the Rūnanga went through did come out with the online route being the preferred one. Then the one that was ultimately selected was the next preferred.

THE COMMISSIONER: Yes.

MR HOVELL: Yes, and there -- and from there, there's been a process that the Rūnanga's been working through on that particular route.

THE COMMISSIONER: Okay. Okay, thank you very much for that.

MR HOVELL: I think that what you picked up, as was sort of noted at the outset, one of the positions of Ngāti Tama from the outset was that there are no good routes, you know, in this context. But they're having to go through that process.

So turning to the part 2 provisions on page 5, so again the legal submissions for the Transport Agency as well as the Department of Conservation addressed the effect of the Supreme Court decision of King Salmon and subsequent High Court authorities which have produced different views on the application of part 2 to notices of requirement and resource consent applications. I won't go through that background as such. The point I come to, Commissioner, is to say that either way, it's submitted that King Salmon provides an exception to the general position and the general position being that you doing refer back to part 2; you look at the planning instruments. King Salmon provides an exception to that where Māori issues are at play, such that section 8 and the associated sections 6(e) and 7(a) continue to apply to both the notice of requirement and resource consent applications. And I've quoted there the relevant extract from King Salmon provides and paragraph 88. I won't read that out aloud. Take that as read.

THE COMMISSIONER: Thank you.

MR HOVELL: I've also referenced the High Court decision, which has again come out subsequent to the King Salmon decision, which has picked up on this comment around section 8 providing somewhat of an exception, such that these part 2 matters will remain relevant where Māori issues are at play with a resource consent application or a notice of requirement. Again, I'll take that as read.

THE COMMISSIONER: Thank you.

MR HOVELL: So paragraph 23, section 8 and the associated sections 6(e) and 7(a) are significant in this case, particularly given the impact on land returned to Ngāti Tama as part of their Treaty settlement.

Turning to section 7, I've quoted section 7 there just for the -- for convenience. I'll take that as read. That's the section that talks about kaitiakitanga. A kaitiakitanga provision was considered recently in the Environment Court decision in Tūwharetoa Māori Trust Board v Waikato Regional Council. And in that Environment Court decision, the court noted the associated statutory definitions that went with

kaitiakitanga, and it lists those there from (a) and (b) through to (d):

- "... kaitiakitanga means the exercise of guardianship by tangata whenua of an area in accordance with tikanga Māori in relation to natural and physical resources ... [and];
- (b) mana whenua means customary authority exercised by an iwi or hapū in an identified area;
- (c) tangata whenua, in relation to a particular area, means the iwi, or hapū, that holds mana whenua over that area; and
- (d) tikanga Māori means Māori customary values and practices."

So that's the definitions within the RMA itself.

The position of the Rūnanga is that Ngāti Tama exercises mana whenua and kaitiakitanga over the project area. The kaitiakitanga of Ngāti Tama to the project area is not in dispute. There may be issues as to whether other groups claim kaitiakitanga. So it's not -- Ngāti Tama's kaitiakitanga itself is not in question.

Turning to Poutama, the Rūnanga has not yet had an opportunity to review the cultural assessment for Poutama and therefore seeks the right of reply to the Poutama submission if

necessary. We just don't have the information at this stage to be able to comment on it.

THE COMMISSIONER: Yes. I will rule on that now, Mr Hovell. I think because that is in the form of a cultural impact assessment rather than evidence exchange, I do think from a natural justice point of view it would be fair for you to have an opportunity to look at that and address me further after you hear that. So --

MR HOVELL: Appreciate that, sir.

THE COMMISSIONER: Yes, thank you.

MR HOVELL: Turning to the submission from Te Korowai, there appears to be common ground that some of the people within Te Korowai are Ngāti Tama. Te Korowai appears to state that it is a representative entity for Ngāti Tama in addition to the Rūnanga. This is an issue of mandate rather than mana whenua per se. And as noted in the legal submissions for the Transport Agency, the Environment Court has generally held that issues of mandate are not matters for this forum to determine and just to give an example, Māori Land Court, for example, has jurisdiction to address issues of mandate.

THE COMMISSIONER: Yes, and thank you, Mr Hovell. I certainly will not be looking at any of those mandate issues in my decision. I will just be looking at the cultural effects in their broad sense under the RMA and listening to all of the parties.

MR HOVELL: Appreciate that indication and that's essentially what I think the submission drives to; we can almost, not so much ignore, but by dealing with the merits, these things will fall away.

THE COMMISSIONER: Yes, thank you.

MR HOVELL: Paragraph 29, the Rūnanga has fully engaged with its members throughout the process for these applications, including six hui-a-iwi. The hui-a-iwi have endorsed the approach by the Rūnanga. While there can be cases of particular hapū or ahi kā associations within iwi, the evidence is that Ngāti Tama operates at the iwi level. The Rūnanga does not seek to detract from the right and ability of Ngāti Tama members to present to the Commissioner. And this project clearly raises issues of identity and cultural effects relevant to all Ngāti Tama members, including the Rūnanga trustees themselves. And again,

just to -- making the point that's already been noted, in the circumstances, the key task is ensuring the RMA approvals properly avoid, remedy or mitigate the cultural effects, which has been and continues to be the focus of the Rūnanga. And like with Poutama, the Rūnanga has not had the benefit of the submissions by Te Korowai and seeks a right of reply to that one as one.

THE COMMISSIONER: I see it as a little different because they have filed some evidence and I think they are last on the last day. So I think we should address that on that last day. Otherwise, we will just be going around in circles and people wanting to have a last say, and the last day is definitely for the applicant. I just have to flag an unease with that.

MR HOVELL: And just on that, the evidence for Te Korowai was lodged on the same day as the evidence that was lodged for Te Rūnanga. So they haven't had an opportunity to respond to it as such and that is actually --

THE COMMISSIONER: But Mr White might pick up --

MR HOVELL: -- what is picked up in the supplementary statements.

THE COMMISSIONER: Yes. So you have the opportunity to actually --

MR HOVELL: So they have now had the benefit of that and can deal with that here now.

THE COMMISSIONER: Yes. So you have the opportunity to address some of that. All right. Mr Hovell, back to that 32, which I see as my key task; is to look at the cultural effects and not try and make any decisions about who has mana whenua or kaitiaki. I just want to listen and actually have the ability to see whether those are addressed in terms and conditions in my decision-making role.

I just have a question about the hui-a-iwi and the various other parties. You may or may not know this, but people who are Poutama, they sit under that banner and Te Korowai. Would those people ordinarily be part of a wide invitation list for those hui-a-iwi? Is it a broad invitation process to get hui-a-iwi? Are they advertised in newspapers and those sorts of things?

MR HOVELL: I can address you to the extent I know things, but -

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THE COMMISSIONER: Mr White might be able to ...

MR HOVELL: Yes, Mr White may well talk to that and also we have members of the Rūnanga themselves who might be able to address it. But my understanding is that members of Te Korowai who affiliate to Ngāti Tama and members of the Rūnanga Trust membership per se do receive those notices, those information that go to the wider membership, are invited to hui-a-iwi and in fact participated in some of those hui-a-iwi. That's Te Korowai, but the situation might be a little bit different for Poutama, which Mr White can address.

THE COMMISSIONER: I can ask Mr White about that. Thank you.

MR HOVELL: So coming to the heading, section 6, and I've quoted there section 6 from the RMA, which deals with the relationship of Māori to the ancestral lands, sites, water, wāhi tapu and other taonga. Paragraph 35:

"The recognition of the relationship of Ngāti Tama to the ancestral lands, water, sites, wāhi tapu and taonga has not been in issue. This recognition has been assisted by the fact that the project affects lands returned to Ngāti Tama through their historical Treaty settlement."

Paragraph 36, what is required to provide for the relationship of Ngāti Tama to their ancestral lands, water, sites, wāhi tapu and taonga is a more substantive task of which there remain different views, which are subject to ongoing consideration.

On cultural effects, the consideration of ecological effects in this case, including substantial evidence on methodologies of no net loss, offsetting and compensation have provided a point of contrast to cultural matters in question in this case. The cultural dimension is an important part of the RMA. And the metaphysical or cultural dimension was expressed in the Tūwharetoa Māori Trust Board case - that's the Environment Court decision I referred to earlier - with references to the statutory provisions as follows. And this is an extract from that Environment Court decision. And think the useful part of this extract is it lists the various RMA provisions that touch on this cultural dimension and support the point that the cultural dimension is an important part of the RMA.

THE COMMISSIONER: I have read that decision, Mr Hovell, with a lot of interest. That was a position where there were two or maybe more established iwi that were looking to have some kaitiaki role in a geothermal development project, I think.

MR HOVELL: That's right, yes, and there was one iwi that already had the benefit of particular conditions within the process and another iwi was seeking conditions to recognise them within that process as well.

THE COMMISSIONER: Yes. Are there some similarities there with what I am being asked to consider in terms of particularly the roles around the kaitiaki condition and being at the table when decisions are being made?

MR HOVELL: We do have a central iwi here in terms of Ngāti Tama. So in that sense, it can be distinguished. We've yet to hear the position from Poutama, so there may be some -- I'm not sure if there's sort of mana whenua or these issues arise as a result of their submissions. So there may be some similarities with this decision there. But the key point I would say is that usefully this decision provides a sort of a list of the various provisions from the RMA that acknowledge and recognises cultural dimension as an important part of the RMA.

THE COMMISSIONER: Yes. No, I have actually taken that on board. I suppose I was thinking ahead to the next. That was a request from one group of Māori to actually be at the table

through monitoring and those sorts of things. The decision-maker there did not permit that, but the court said they should have the opportunity to at least sit at that table. So that is where whether that can be distinguished was the purpose of my question.

MR HOVELL: That particularly aspect can.

THE COMMISSIONER: Yes, thank you.

MR HOVELL: So paragraph 40, it's relevant that the RMA provisions define the environment as including:

"people and communities ... and cultural conditions that affect [them]."

And in this vein, Ngāti Tama identify with the -- identify with and are part of the environment affected by the project. As Ngāti Tama are ahi kā, their relationship to the ancestral lands, water, sites, wāhi tapu and taonga spans both the physical and metaphysical dimensions and reflects the combination of both sections 6(e) and 7(a).

And just noting, unlike like we have for ecological effects, there is no agreed or common methodology for avoiding,

remedying or mitigating cultural effects. I'd say that there has been a lot of more between the parties to bridge that gap.

THE COMMISSIONER: After hearing two or three days of ecological evidence, I beg to differ about whether there is an agreed or common methodology for looking at that either. It all seems ...

MR HOVELL: That's a fair point.

THE COMMISSIONER: Yes, okay. That is an aside. Thank you.

MR HOVELL: There's certainly frameworks that the ecologists work with and --

THE COMMISSIONER: Sure.

MR HOVELL: -- the debate's more sort of technical refinement rather than concepts (Overspeaking)

THE COMMISSIONER: No, I understand your point. I did not want to diminish it, Mr Hovell.

MR HOVELL: Yes.

THE COMMISSIONER: Yes, thank you.

MR HOVELL: On avoiding effects, the Rūnanga position has been and remains that the area affected by the project is of such importance that the project should not proceed without the free consent of Ngāti Tama. This is not to claim a right of veto but that the RMA provisions and the cultural importance of the area in question are such that where Ngāti Tama does not consent to the project, the proper planning response must be that the cultural effects should be avoided. This issue has been met through a number of related measures, including:

The Rūnanga and NZTA have been in thorough discussion to consider measures by which Ngāti Tama might be able to consent to the project;

The RMA process allows the Rūnanga to consider and develop measures further;

NZTA has agreed not to use the compulsory acquisition powers under the Public Works Act.

And just to say there that that agreement ensures Ngāti Tama retains control to freely consent to the project beyond this process.

THE COMMISSIONER: Just on --

MR HOVELL: So again, on that basis that I referred to this in an earlier part, as outlined in the evidence of Mr White, the Rūnanga supports the grant of the RMA approvals conditional on it being able to advance appropriate measures to address the cultural and ecological effects.

THE COMMISSIONER: Mr Hovell, just on that, I cannot recall who asked the applicant or not. But is there actually a written agreement about the agreement not to utilise the Public Works Act compulsory acquisition procedures? Or am I to take the position that that has been advanced by both the applicant and you as the position?

MR HOVELL: On that matter, there is a written agreement. I'm not sure what confidentiality might be attached to it, if any. I think that was actually an open agreement, that one. I am getting nods from my friend for the applicant. So there is a

written agreement between the Rūnanga and the Transport Agency that those compulsory powers won't be used.

THE COMMISSIONER: All right. On that basis, I do not even need to see that. That is the position that has been advanced by both parties and agreed, and I have been told there is a written agreement. So that is all I need, thank you.

MR HOVELL: And just to add, that agreement was presented at a hui-a-iwi from representatives of the Transport Agency to Ngāti Tama.

THE COMMISSIONER: Thank you, Mr Hovell.

MR HOVELL: So turning to mitigation of cultural effects, the evidence of Mr White outlines the matters that have been and continue to be discussed between the Rūnanga and the Transport Agency. The concept of a trust fund: the Rūnanga and the Transport Agency have discussed the concept of a fund, which would be the principle mechanism to mitigate the cultural effects. The purposes of such fund would be to support the integrity, functioning and resilience of Ngāti Tama within their rohe. That language has a link back to the RMA on definitions of "environment" and "intrinsic values".

Paragraph 48, at the time of this submission, there are still different views on the amount of the fund, and the details of this are still subject to without prejudice discussion. It is anticipated that discussions will continue beyond this hearing. For current purposes, the Rūnanga is content that the RMA approvals can be approved without the inclusion of a condition of this -- on this issue on the basis that this can continue to be addressed through discussions direct with the Transport Agency and future processes as necessary.

Turning to the Kaitiaki Forum and condition 4 of the applications, condition 4 provides for the Kaitiaki Forum Group. The Rūnanga considers the proposed condition for the KFG incorporates the relevant matters to form part of the Kaitiaki Forum, being: cultural expression in artwork and road corridor features; water management; biodiversity offset and ecological mitigation proposals; signage of local features; naming of the new highway; accidental discovery protocols; cultural protocols for the works; cultural indicators; and cultural monitoring. So those are all the matters that are covered within that condition.

And just noting that there has been a change to that condition through this condition, which in my view has assisted the condition. So just noting, with the additional change proposed through this hearing, the condition provides sufficient direction as well as flexibility to ensure the intent and purposes of the tasks listed above will be achieved. And Ngāti Tama governance and operational structures that sit alongside that KFG are still being developed. So those are not matters for the conditions per se. That's alongside.

THE COMMISSIONER: All right, thank you.

MR HOVELL: So turning to ecological matters and pest control, Mr Lee Shapiro has provided technical support to the Rūnanga, with a view to ensuring that any pest control programme is successful in achieving the outcomes it is intended to achieve. And Mr Shapiro has made suggestions on the methods and monitoring associated with that pest control and he'll talk to those.

As noted in the evidence, Ngāti Tama has proven experience in pest control, as well as kaitiaki principles that value the restoration of the natural environment. There may be the opportunity for Ngāti Tama to implement pest control, which is

also a matter being discussed with the Transport Agency and Department of Conservation as well.

On the pest management area, the Rūnanga has relied on the ecological experts as to the size and location of the PMA. And as noted in various evidence, I should say, the principles include proximity to the area of effect. The evidence in relation to Parininihi is that it does not have any long-term committed pest control resourcing and therefore the Rūnanga would support the inclusion of Parininihi in the PMA.

The DOC submissions submitted that the PMA should be defined in the conditions and if this cannot be confirmed, it has proposed an alternative site. The Rūnanga just wanted to comment on that. And adding the cultural dimension to this issue, the view of the Rūnanga is that the PMA should remain within Ngāti Tama rohe. There are concerns with moving the PMA to a more distant location and the position for the Rūnanga is that actually that could occur after the efforts have been exhausted in the affected area.

THE COMMISSIONER: Thank you.

MR HOVELL: Turning to other opportunities, the land exchange, which has been mentioned in evidence, is proposed under the Public Works Act and therefore separate to the mitigation matters that have been covered above. The project involves other opportunities that the Rūnanga is exploring with the Transport Agency, including employment opportunities for Ngāti Tama members. And overall, the Rūnanga considers the project involves a package of opportunities for Ngāti Tama that warrant ongoing consideration, which would be provided by the approval of the RMA applications.

In conclusion, while there are ongoing discussions between the Rūnanga and the Transport Agency, the Rūnanga supports the grant of the approvals for the following reasons:

Measures to address cultural effects have been incorporated in the consent conditions.

There are a number of ongoing processes to address any outstanding issues, including any further RMA process, ongoing consultation and the Public Works Act matters.

The Rūnanga has taken an active and open approach with its members in relation to the project and will continue to do so.

And Ngāti Tama, through the Rūnanga, retains sufficient control to freely consent to the project outside this forum, given the agreement by NZTA not to use the compulsory acquisition powers.

Those are the submissions, sir. I'm happy to take any questions.

THE COMMISSIONER: Thank you, Mr Hovell. No, I think I have picked up all of the points on the way through. That has been helpful and thank you very much for preparing those submissions.

I have read and made some mark-ups to both Mr White's and Mr Shapiro's evidence, so just obviously take those as read. It is over to you now on how you would like to proceed.

MR HOVELL: Yes. I've just had Mr White ask if Mr Shapiro can go first and then he'll come after him.

THE COMMISSIONER: Sure.

MR HOVELL: So we'll take that order. There have been the statements lodged, which you've just referred to. It's not proposed to read through those, so those can be taken as read.

THE COMMISSIONER: Thank you.

MR HOVELL: For Mr Shapiro, he has produced a very brief two-page statement --

THE COMMISSIONER: That would be helpful, yes.

MR HOVELL: -- which we can hand up.

THE COMMISSIONER: Sure.

MR HOVELL: And that is in the nature of a summary of his original brief.

THE COMMISSIONER: Yes and I did request that. So thank you for having that. Could those be circulated (Overspeaking)

MR HOVELL: I'll circulate those now, sir.

THE COMMISSIONER: Sure.

MR HOVELL: I'll hand it over to Mr Shapiro.

THE COMMISSIONER: Good morning, Mr Shapiro.

MR SHAPIRO: Good morning. Can you hear me all right?

THE COMMISSIONER: Yes. Can others hear Mr Shapiro all right?

MR SHAPIRO: So I'll read through what I've got here. Te Rūnanga o Ngāti Tama have engaged me to review the proposed pest control measures, as well as the pest and biodiversity monitoring proposed for the restoration package. And that's within the PMA as outlined in the ecology and landscape management plan, ELMP. The key points of this review were included in my evidence-in-chief.

Mr Roger MacGibbon's responded to some of these points, included in my evidence-in-chief, in his rebuttal evidence and during the hearing to date and also in a conversation, informal conversation, this morning. The paragraphs -- there's a mistake here. It should read paragraphs 5, 6, 7 and 9 below refer to specific points raised in my evidence-in-chief that have been responded to by Mr MacGibbon in his rebuttal evidence and during

the hearing to date. So for each of these points, the response from him has been that a correction or update to the ELMP will be made to either clarify the points raised or correct the errors in the ELMP highlighted by these points. So the most recent version of the ELMP, which I believed is 6 August 2018, does not clarify or correct the errors referred to below in paragraphs 5, 6, 7, 8 and 9. It's probably worth mentioning here that through informal conversation this morning between Mr MacGibbon and myself we have obviously found some of those points. He's agreed that some of them, yes, have not been agreed with and may be updating them now. There are obviously other points where we will probably continue to disagree.

THE COMMISSIONER: Okay. So you can highlight the ones which --

MR SHAPIRO: I can highlight his -- I can differentiate between the two.

THE COMMISSIONER: Thank you.

MR SHAPIRO: So in terms of monitoring of pests, as stated in my evidence-in-chief, the proposed number of sample points for monitoring rats and stoats, which is proposed to be three points per year in years one to five, in my opinion is not best

practice and it should be four. That was something that I believe was discussed in conference with Ngāti Tama, DOC and Laurence, with the DOC expert suggesting that four would be ideal. That reflects the best practice conditions, which would be -- Craig Gillies from DOC who actually authored those conditions. And I'm referring to the suggestion there are four monitored there.

So those four monitoring sample points, in my evidence, should occur for the first 12 years. What's proposed is that a single sample point for rats and stoats will be taken from years 6 onwards. In my evidence insufficient to determine whether any increase in forest bird abundance, which is proposed to be monitored -- well, actually years 3, 6, 9 and 12, can be attributed to high pest abundances or other influences, and obviously gives limited information on the relative pest abundance as well, stoats and rats.

So point number 5: as stated in my evidence-in-chief, in addition to the monitoring of rats and stoats each year, in the years of aerial 1080 operations rats and stoats should be monitored immediately before and after the 1080 operation. The idea is to give as much information on the efficacy of those operations as possible. These monitoring points should be in

addition to the standard monitoring points for these species and be undertaken for every aerial 1080 operation to ensure that they're effective.

Point 6, the ELMP proposes that yearly monitoring of rats and stoats should be undertaken at three sample points in years 1 to 5 and then reduced to one sample point from year 6 onwards. Therefore, the standard yearly monitoring cannot be relied upon to determine the success of aerial 1080 operations from year 6 onwards and -- as it would not provide an abundance measure for rats and stoats immediately before and after 1080 operations. So put simply, if there was only one monitoring period per year in year 6 onwards, you will not get a pre and post pest abundance for a 1080 operation.

THE COMMISSIONER: Mr Shapiro, are 4, 5 and 6 linked in a way in terms of monitoring? This is in terms of effectiveness of ...?

MR SHAPIRO: They are, yes. So there's two -- so there is the ground control of pest species and there's aerial operations for 1080. And so the monitoring, yes, is linked. The 1080 is at a specific time of year, so it's around -- if you can see that. The ongoing ground control is then what we're looking at with those other monitoring points.

MR SHAPIRO: So number 7, as stated in Mr MacGibbon's evidence-in-chief, pest monitoring buffer areas are proposed. And now this is one point that we discussed this morning and we'll be -- my understanding is that he will be clarifying this in the updated ELMP. And that was around -- there was a bit of confusion - I don't think just from myself but from others - around use of buffers. My initial reading of it was that for certain areas 200 metres for rats and possums, 500 metres for mustelids and feral cats would be excluded from monitoring. From discussions with Mr MacGibbon, my understanding is that they will not be excluded from monitoring. They will still be monitored, but those areas would not be included determining if the overall abundance has gone over the threshold, so pre-set thresholds for rats and stoats. So my understanding is that Mr MacGibbon is updating that to clarify that in the ELMP.

Biodiversity monitoring, so number 9. The section of the ELMP regarding the area of the PMA to be monitored for forest birds has not been updated, as Mr MacGibbon suggested it would be in his rebuttal evidence. So as stated in my evidence-in-chief, the ELMP as it currently sits states that the outcome monitoring of bird species will only occur within the 230 hectare offset area of the PMA and not within the remaining

3,420 of the PMA. This is another point we discussed this morning and he has agreed that, as it is at present, the ELMP reads -- that section reads that that is the case and he is updating that to reflect that bird monitoring will occur across the entire PMA. So we've just -- we've ripped through that, which is fine.

THE COMMISSIONER: Thank you.

MR SHAPIRO: As stated in my evidence-in-chief, the frequency of monitoring of forest birds in my opinion should ideally be yearly in the 12 years following completion of the project. And this would give -- add confidence without any changes, increases and decreases, in bird abundance to be recorded regularly. And it would also align with pest control monitoring.

Pest control methods and this is one area that we haven't -- we've agreed to disagree. As stated in my evidence-in-chief, in my opinion the A24 trap, which is a trap designed for controlling stoats and rats, is still relatively new and unproven compared to the DOC200 and other DOC series traps. Again, this is my opinion. The double-set run-through DOC200 traps that are routinely used by the Department of Conservation should be used to control stoats and rats. And that the A24 --

Goodnature A24 traps should only be used in areas that are difficult to access.

THE COMMISSIONER: Mr Shapiro, your comment in your paragraph 10, that 12-year monitoring, has that been agreed or not with Mr MacGibbon?

MR SHAPIRO: As it currently stands, what's being proposed is three-yearly monitoring of forest birds, so years 3, 6, 9 and 12, provided they lead to a 20 per cent increased threshold in year 12. And in my understanding is that the monitoring is there.

THE COMMISSIONER: Your position is that they should be yearly, every year?

MR SHAPIRO: Yes. Yes, that's right.

THE COMMISSIONER: Okay, but Mr MacGibbon thinks 3, 6, 9, 12 is appropriate?

MR SHAPIRO: Yes, that's right.

THE COMMISSIONER: I think some of the other ecologists have an opinion on that, yes.

Mr Shapiro, Mr Hovell talked about the PMA area and options for using some of other Ngāti Tama land as a preference to going anywhere else. Are you able to comment further on that or show me on the map behind me, which I think is still there, where we might be talking about?

MR SHAPIRO: In regards to what?

THE COMMISSIONER: The PMA area.

MR SHAPIRO: So, as I outlined in my evidence-in-chief, I referenced the evidence-in-chief of Roger MacGibbon, which talked about the four ecological principles of best practice that were applied to choosing that. And those included ecological equivalents, ecological proximity, connectedness and high likelihood of success. So in my opinion, if we're looking at a map of the proposed PMA, if you're talking about proximity and connectedness then obviously the area that's highlighted in green and red in the main PMA proposed area, the obvious area to the northwest in terms of connectedness and ecological proximity would be Parininihi, which is currently being controlled for the

kokako project. I did have some reservations around the area in red to the west in terms of the Ngāti Tama land to the far west, which is somewhat disconnected from the proposed PMA. It's obviously got a connection to the Ngāti Tama. In my opinion, the location of the Parininihi here in terms of its proximity and connectedness to the other area of the suggested PMA made more sense.

THE COMMISSIONER: All right. I think the applicant will be thinking about that based on discussions yesterday with the Department of Conservation. It is up to them obviously to come back and confirm that area or any other changes. Okay, thank you.

I will just have a look at your evidence-in-chief to see whether there is anything particular I wanted to ask you. Just bear with me. I have noted some notes on your EIC. Yes, this is the same question around 24, 25, 26 of your evidence-in-chief. You are talking about the area of the PMA where you say that the Parininihi block in your appendix 1 would logically form part of the PMA. Currently, that is not part of the PMA we are seeing on the board?

MR SHAPIRO: No, it's not.

THE COMMISSIONER: Okay. You have discussed that with the applicant as being a preferred area for the PMA?

MR SHAPIRO: There have been discussions around that in meetings with the applicant and the Department of Conservation. That has come up.

THE COMMISSIONER: All right. As I said, it is up to the applicant to make its call on that obviously.

All right, no, I think you have covered all of the points I had written up for you. Thank you very much, Mr Shapiro.

MR HOVELL: Thank you, Commissioner. We now have Mr Greg White. I have copies of a supplementary statement, which I'll hand up and we hand up to the other parties, which was not pre-lodged. It was provided to the Commissioner yesterday evening. I'm not sure -- or it might have been with you this morning. So I'm not sure if you've had a chance to read that.

THE COMMISSIONER: I had a quick look just to see what it might cover, but I think it would be best if you could circulate this and Mr White could perhaps speak to the highlights of this.

MR SHAPIRO: Yes.

THE COMMISSIONER: Thank you, Mr White.

MR G WHITE: Good morning, Commissioner. I was surprised when I heard you refer to my supplementary statement as rebuttal. Just by way of background, I sent a draft across to Mr Hovell and he spent a couple of days making it into a document, which sort of was less sharp. The points that I would like to make is that Treaty settlement land and Crown policy -- I refer back to Mr Dreaver's evidence. It was really -- it was extremely difficult and the Crown at that time only considered land that had low, little or no conservation values. The land was returned to Ngāti Tama because of its cultural significance. That is -- to me, it is -- it was -- has been totally sort of overlooked over the last few days by the experts that have been providing evidence. Another feature of the Crown policy was that it had to be free of all cross-claims, and so they've dealt with the "who's who in the zoo" argument. And it had to be culturally significant to the claimant group, which was ourselves.

Now following that, we agreed a protocol between ourselves, Ngāti Tama Rūnanga, and the Department of Conservation, and that protocol sets out a number of observations for both parties. A subset of that protocol was the establishment of a joint management committee. And since its inception, we've had this continuing debate with conservation. I'm a bit annoyed that they haven't shown up today. DOC's contribution, I've heard over the last few days has been considerable. That's not the case as far as Ngāti Tama's concerned. And 20-odd years ago when they did manage to fund part of the pest control, it had more to do with the farmers in the district wanting to prevent a TB incursion from the north than Ngāti Tama certainly. So money was made available to cure the possums just for that reason.

Anyhow, on the second to last or last joint advisory committee meeting with DOC, I raised the possibility that there may be a disagreement between the Rūnanga and the department when it came to resolving this application by NZTA. And I enquired, well, you know, how would -- you know, would we be able to resolve that issue? Their response was, well, DOC will do what they need to do, but at the end of the day, there were some budgetary constraints that they had to consider as well. When I looked at the panel of DOC experts that turned up yesterday and the amount of money that they must have expended

to date on this particular application, I can assure you that it would be a lot more than what they've spent on the pest control in the Parininihi area for the last two years.

And then at our hui we had earlier on the year with the Department of Conservation and NZTA, we were informed by the regional conservator that funding for pest control in Taranaki was going to be focused around inanga and we support that. We were also told that there would be no funding available for north Taranaki, which conflicts with what I was listening to yesterday.

We've listened mainly to experts and, you know, that's their discipline and I don't make any comment on that, other than to say that a lot of it has been centred around bats and the area required for bat recovery. Well, the Rūnanga can confirm that bats are not culturally significant; quite the opposite. The bat expert for the Transport Agency mentioned how the morepork or ruru predate on the bat. And the ruru and anything that moves in the dark at night is not considered to be a benefit culturally to Ngāti Tama. So any plan to increase their numbers is not supported. Having said that, the Rūnanga would still like to see as much of the area, the bush area, within our rohe under some sort of pest management control.

During the hearing, Commissioner, I heard you ask if there was a letter from Maniapoto. I think the issue of Poutama was raised and I've provided you with two letters from Ngāti Maniapoto and also one from Ngāti Maru.

And the only other point but I realise that you are not here to determine who is mana whenua, But just by way of reference, the Māori Fisheries Commission, all iwi around the country at some stage are arguing about who should be entitled to receive fish from the fisheries settlement. The Māori Fisheries Commission agreed on three principles. One was that for a tribe to be recognised as a tribe, it needed to have a eponymous ancestor; it had to have marae, and it had to be recognised by its neighbouring iwi. And I mention in my evidence that I know of no other Māori entity that recognises Poutama and, to a lesser extent, Korowai, but Korowai is only a reasonably new entity, so that's to be expected.

That's my evidence, thank you.

THE COMMISSIONER: Thank you, Mr White. I asked Mr Hovell about the hui-a-iwi that you held around the project and just the

methods of advertising that. Does it go out on a web invitation or is it notices in papers? How does that actually occur?

MR G WHITE: We've tried the best we can to keep up with the way things have been changing through the process and we have used the newspaper. But we've got a reasonably active network and, in particular, the opposition seem to be able to get the message out faster than ourselves. So it does circulate freely.

THE COMMISSIONER: So your advice to me would be that if there was a hui-a-iwi held, people that had an affiliation with that land would get to know about it and would be able to attend?

MR G WHITE: Well, it's publicly notified and it's usually picked up via Facebook and it usually circulates that way.

THE COMMISSIONER: Yes. You mentioned a protocol between yourselves and DOC. Is that like an MOU or an agreement in some sort of form?

MR G WHITE: It's an agreement among and it ended up -- it's agreement between the department and the -- they refer to us as the governance entity.

THE COMMISSIONER: Does that go into matters such as pest management and funding and those sorts of issues or have they left that open?

MR G WHITE: No, it the protocol and the covenant that we have with the conservation overlap land with links that provided Ngāti Tama with access to the DOC budget. Well, that's what the intent was. And I remember when the protocol was first drafted, in a draft form it came out with conservation values set above the recognition of Ngāti Tama's rangatiratanga. I think that's in 1.4 or something like that under the purpose. But we elevated the recognition of our rangatiratanga over and above the conservation ethic deliberately. As I say, earlier on the land had very low, if any, conservation values as far as the Crown was concerned.

THE COMMISSIONER: Yes, and you would have heard me asking questions yesterday about ongoing support for pest control from the Department of Conservation and they did not give me any firm commitments. So that was sort of guaranteed, to put it that way, but they gave me the impression particularly with the recent kokako relocation that they would see it as a priority area for ongoing support. But there is no firm guarantee even around the Government's policy of zero pests by 2050.

MR G WHITE: Yes, well, you might have heard a murmur over in this corner here when Dr Barea mentioned that should there be a kokako find during the construction of the road, the kokako recovery group would be notified immediately. Ngāti Tama's got a completely opposite view on that and the last people Ngāti Tama want anywhere near the kokako would be the Department of Conservation and/or the kokako recovery group.

THE COMMISSIONER: I think you have outlined that the relationship is somewhat strained but, again, that is really not for me. I am more interested, again from your point of view, to make sure that the cultural effects of the project in relation to your values and your principles around your cultural values are appropriately recognised and provided for. I think that is the active words in the Act, Mr Hovell, and --

MR HOVELL: Yes, sir, that's a point that's been made in the legal submissions (Overspeaking)

THE COMMISSIONER: Yes. I think your evidence is clear; that Ngāti Tama is supportive of the grant of the authorisations I have been asked to look at, the notice of requirement and the resource consents, on the basis that there has been fair and

ongoing consultation with the applicant; that you have an agreement not to use the Public Works Act for compulsory acquisition; and you are looking at an overall package to look at these cultural issues as part of the ongoing relationship with NZTA. That is a summary of the position?

MR G WHITE: Sorry, is that a question?

THE COMMISSIONER: Yes.

MR G WHITE: Yes, it is.

THE COMMISSIONER: Yes. One last question is about the kaitiakitanga condition, condition 4 which has made its way now into the draft consent conditions. I have just been looking at that and that does talk about inviting mandated representatives, Ngāti Tama. I cannot decide on mandate obviously, but it does actually reference the Rūnanga, particularly three members to be determined by the Rūnanga. That is the way it works at the moment. There is also an opportunity that the Rūnanga:

"may also invite other iwi, iwi representatives or other Ngāti Tama members to attend ... [the] meetings."

So there is a possible mechanism in there for others to be at the table and sit in, as I read it, but that would need to be agreed by the Rūnanga. That is the way you read that. Yes, okay.

I think, again, the applicants in a way determined for me their view of who the appropriate agency to work with on these kaitiakitanga matters are. They have made that position in their draft conditions and I am certainly following the direction of the courts particularly where there are differences of opinion about these sort of matters. It is not their role to make a finding on who has the mana whenua responsibilities.

I think that is about all I have for you, Mr White. Thank you very much.

MR G WHITE: Thank you.

THE COMMISSIONER: Mr Hovell?

MR HOVELL: Yes, thank you, sir. That completes the submission for the Rūnanga. Just to make one point, there were some documents handed up, the protocol and other documents which were

attached to the evidence. We'll supply those by email to the hearing manager.

THE COMMISSIONER: Yes, thank you, if you could do that.

MR HOVELL: Thank you, sir.

THE COMMISSIONER: Thank you very much. All right, we are right on 10.15 am and morning tea break. I do not know whether it was good luck or good management, Mr Hovell, but thank you very much. We will adjourn and be back at maybe 10.35 am by the time people get a chance to grab a coffee and come back. So be back at 10.35 am, please.

(Adjourned until 10.35 am)

THE COMMISSIONER: Welcome back, everyone. We are now moving on to the submitter Ngā Hapū o Poutama. If you could just make some introductions and we will go from there, thank you very much.

(Māori spoken)

THE COMMISSIONER: Kia ora.

MR STIRLING: Tēnā koe.

(Māori spoken)

MR STIRLING: My name's Bruce Stirling. I'm a historian from Wellington. I'll probably focus on the summary from my brief of evidence, section (c), in terms of presenting this today. I realise a summary's not a lot of use to you because you've only just been handed this document, but we only finished working on it very recently. So I apologise for the lack of filing within the timeframe for the project. This was compressed somewhat after I began it.

THE COMMISSIONER: Mr Stirling, we do not actually have a copy of anything up here.

MR STIRLING: That's even worse.

THE COMMISSIONER: I think I gave leave for a CIA to be prepared and presented in evidence by the author. I think that is what you have done?

MR STIRLING: Yes. That's me, yes.

THE COMMISSIONER: And for that to be presented in hard copy and soft copy today or yesterday, but we have got some copies here, thank you. Thank you.

Mr Stirling, we do not have any time now set aside for Forest and Bird, so you do have right through until 12.15 pm. I think it is quite a substantive doc. So I would quite like you to be as fulsome as you need to be and we certainly do not have any particular time constraints through to the scheduled lunch break at 12.15 pm. Whether that might help or not ...?

MR STIRLING: Yes, I might start with working through the summary and possibly we'll see what comes back from you in response to that. And then if there's anything I need to expand on, I can move to the body of the report and discuss any particular aspects.

THE COMMISSIONER: Yes, just bring out some highlights, I think. Thank you.

MR STIRLING: Okay, thank you. I'll just briefly -- well, the summary is section C, starting at page 2. But now just briefly by way of introductions, this evidence was commissioned by Ngā

Hapū o Poutama and it examines the nature and extent of customary interests of Ngā Hapū o Poutama in the Poutama lands and also considers the cultural impact on the -- of the Mount Messenger Bypass project. The recognised boundaries of Ngā Hapū o Poutama include the project area.

There is a fair bit of information about Ngā Hapū's customary interests north of the confiscation line, which runs to the east from Te Haro on the Parininihi cliffs just outside the project area. So there's quite a bit of information on the land there. There is less south of that area taking in the project area because that area was confiscated in 1865. So there's never been a well-recorded investigation of customary interests, who has rights there. So I've put together what information I can and also I think it's fair to say that the customary interests are not defined by that confiscation line. So the interests on either side of the line are fairly similar. The line itself does not represent any demarcation of customary interests. It's an arbitrary line placed by the Government in 1865.

Another point is in addition to the evidence I've put forward, I'd just like to emphasise that Ngā Hapū o Poutama has already been recognised by the Government as a tribal authority

for the Poutama lands, which includes this project area. And beyond that, contemporary recognition their customary interests have long since been recognised in the awarding of title to land in the vicinity by this project in 1882. And they retain a strong presence on that landed awarded in 1882 today, including marae and urupa not too far from this project area.

And moving to section C, paragraph 9, Ngā Hapū o Poutama are the tangata whenua of Poutama and hold mana whenua on Poutama. This has been recognised by the Government today and by Government institutions and officials in the mid to late nineteenth century. The traditional boundary of Poutama extends, in the south, from Waikaramuramu Stream, which is adjacent to Pukearuhe, and inland to the southeast to Tahoraparoa, these days known as Tahora, near Tangarakau in the Ohura district and State Highway 43. And I'll just locate for you. So this southern boundary includes the bypass project area.

The Poutama hapū have ancient connections to Poutama land, including descent from the peoples of the Tainui and Tokomaru waka, who occupied the land centuries ago and left ancestral marks and taonga for whom the Poutama hapū have acted as kaitiaki. In particular, the Poutama hapū descend from Poutama

and Panirau. The ancestor of Poutama is of Tainui descent through Hoturoa and Panirau is of Tokomaru descent through Rakeiora. These origins are remembered in a Poutama whakataukī. Poutama hapū also has ancestral ties to those who were already living on Poutama when these waka arrived in New Zealand.

In the many generations since Poutama and Panirau, the Poutama hapū forged continuing connections with the Taranaki descendants of Tokomaru, including with Ngāti Tama, Puketapu and Ngāti Rāhiri. Poutama also established connections with inland Ngāti Maniapoto to the north, descended from Tainui. These connections were embodied in chiefly marriages intended to establish alliances and foster peace and security for both parties and their descendants.

At the same time, customary authority on Poutama remained with those who occupied and held the land. For many generations, Ngāti Tama were among those groups who occupied and held the Poutama land. This changed from the late eighteenth century and into the early nineteenth century, a period of widening conflict and inter-tribal warfare that drew in large tribes from beyond Poutama, including Waikato-Tainui and Ngāti Maniapoto. This conflict culminated in the decisive defeat of Ngāti Tama on Poutama and in Taranaki in the 1820s and early

1830s. They were driven not only from Poutama but also from Taranaki, migrating to the Cook Strait region and even to the Chatham Islands. Nearly all the survivors among the northern Taranaki tribes also migrated far from the district at this time. Most never returned.

Poutama was much fought over in this period because of its strategic position on the narrow strip of coastal land that provides access between Taranaki and Waikato. It was also fought over due to the bounty of its customary resources, which are recounted in a Poutama whakataukī.

The conflict of the 1820s and early 1830s resulted in the Poutama hapū securing mana whenua over Poutama lands. These resident hapū had ancestral connections to Ngāti Maniapoto to the north -- I just note the word "to" is missing on the end of the second line of paragraph 15. My apologies -- ancestral connections to Ngāti Maniapoto to the north and to Ngāti Tama and other Taranaki tribes who had left the district. However, the hapū occupying Poutama and exercising authority had an autonomy of their own on their land.

From the 1830s to 1848, the Poutama hapū extended their authority into northern Taranaki. They established a presence

at Whakarewa at the mouth of Te Wai-iti Stream, also beside the lower Mimi River, and at Waitara. This was in addition to their numerous kainga on the Poutama coast from Waikaramuramu north to Mokau. Hundreds of Taranaki migrants living in the Kapiti and Wellington area were invited to return to Taranaki in 1848 when Poutama set a northern boundary at Waikaramuramu. Another typo there through some editing, last-minute editing, the bottom of page 3. So rather than "Waikara", that should read "Waikaramuramu".

Moving to paragraph 17, the approximately 600 Taranaki Māori who migrated to Taranaki from Wellington and Kapiti in 1848 included 19 Ngāti Tama, who initially lived at Waitara rather than attempt to return to Poutama. Soon after the return of the Taranaki tribes, the Poutama hapū invited them to a hākari at Pukearuhe at which rangatira of Poutama told the Taranaki tribes, including Ngāti Tama, they could occupy land as far north as Waikaramuramu. This boundary, which Poutama dubbed "Moanawhero" or "a Red Sea for us", was subsequently recognised by Ngāti Tama and other Taranaki tribes.

Many more Ngāti Tama, at least 120, remained in Wellington and indicated they did not intend to return by offering to sell to the Government the customary interests they tried to assert

at Poutama. Neither this offer nor another from them in 1849 was taken up by the Government. Subsequently, other Ngāti Tama in the northern South Island and on the Chatham Islands stated that they were not intending to return to Taranaki.

The southern part of Poutama was legally severed from the rest of the land in September 1865 when all the land south of a line bearing due east from the tunnel at Te Horo near Parininihi was confiscated by the Government to punish those Māori who had opposed it in the New Zealand Wars, including the Poutama hapū. Earlier, in April 1865, Crown forces had invaded Pukearuhe and built a redoubt there to defend the northern approaches to Taranaki. The placement of the confiscation line was determined by the location of the redoubt and the geography of the land around Parininihi rather than by the customary interests of those the Government sought to punish by the confiscation.

Poutama hapū were excluded from the Government's subsequent allocation of confiscated lands in northern Taranaki to military settlers, so-called "loyal" Māori and absentee Taranaki tribal claimants. The customary interests in the confiscated land were not investigated and played little part in the Government's determination of what land was granted and to whom.

None of the confiscated land was returned to the Poutama hapū. Despite this, they continued to occupy confiscated land as close to the Pukearuhe redoubt, the Waipingao Stream gully. Just to note, that's a matter of 2 to 3 kilometres from the redoubt. This was initially done in defiance of the militia stationed at the redoubt, but over time tensions eased and Poutama resumed trading along the coast and over the confiscation line with Taranaki settlers and also with the militia in the redoubt. As long as the confiscation was merely an unsurveyed line on a map, Poutama' authority over the land beyond the redoubt was not threatened.

This situation changed in January 1869 when the Government invited some Ngāti Tama, who had recently come from the Chatham Islands, to live on the confiscated land at Pukearuhe. It was hoped their presence would enhance the security of the few military settlers living near the redoubt. Poutama hapū responded in February 1869 by attacking and destroying the redoubt and killing the seven people in the garrison at Pukearuhe.

A few months later, the Government began granting several thousand acres of the confiscated land at Mimi and Pukearuhe to, what they termed, "loyal" Ngāti Tama, as well as to absentee

Ngāti Tama claimants from the Chatham Islands. There was not enough land inside the confiscation line for these recent arrivals. So some sought permission from the Kīngitanga or the "King movement" in Te Rohe Pōtae, usually known as "the King Country" and sought permission to move on to Poutama land north of the confiscation line. For political reasons connected with the Kīngitanga, some rangatira of inland Ngāti Maniapoto endorsed these requests from Ngāti Tama but emphasised their endorsement was conditional and also that Ngāti Tama had to obtain consent of the hapū on Poutama.

However, the Poutama hapū did not consent to the return of Ngāti Tama to Poutama. A handful of Ngāti Tama briefly and sporadically occupied a few parts of Poutama during the 1870s, living alongside the Poutama hapū. Some worked for Poutama hapū, felling timber. When Ngāti Tama tried to assert claims of authority on Poutama, however, their houses were burned and all but one of them again departed. The word "was" in that last line should be deleted.

Renewed attempts by Ngāti Tama to offer the Poutama land for sale to the Government in 1881 were strongly opposed by the Poutama hapū. In order to protect their customary interests from such opportunism, they lodged a claim to their land with

the Native Land Court. The claim was heard at Waitara in June 1882 when the court upheld the claim of ancestry, conquest and occupation, put by the Poutama hapū who lived on and exercised customary authority over the land. Ngāti Tama could not show any meaningful occupation of the land since being conquered and driven from the land and their claim was dismissed accordingly.

The Native Land Court title affirmed the mana whenua of Poutama hapū over much of their customary lands. That legal title did not include the confiscated land to the south, which takes in the bypass project area. At the same time, they have never relinquished their mana whenua to the land from Waikaramuramu to Te Horo, which includes the project area.

The land around Mount Messenger and the Mangapepeke Stream valley affected by the bypass project area is of significant cultural value to Poutama. Although permanent settlement on Poutama was concentrated along the coast, the hapū also made extensive seasonal use of the inland area and its resources as far inland as Tahoraparoa. There are old pā and cultivation areas on either side of the project area, placing it close to several areas of settlement in the upper Mimi River valley along the Waipingao Stream and Tooi.

The land and waterways within the project area itself hold significant cultural value as mahinga kai. The maintenance of mahinga kai is of great cultural significance to Ngā Hapū o Poutama, being intrinsically linked to the continuation and understanding of the culture and the land. Mahinga kai were and are central to the Poutama way of life. Tuna or eels are an important resource in the waterways of this part of Poutama and includes part of the catchment of the Tongaporutu River.

The earthworks and related works on the bypass project and the stormwater run-off from the completed road have the potential to damage the mahinga kai and harm the cultural values of the Mangapepeke Stream and the lower part of the Tongaporutu River catchment.

Now that concludes the summary. In terms of the rest of the time, I'm in your hands. Obviously, you may not want to work through the entire reports (Overspeaking)

THE COMMISSIONER: No.

MR STIRLING: But if there are particular issues you'd like expanded upon, I'm happy to do so.

THE COMMISSIONER: Mr Stirling, I have a limited brief in terms of deciding on whether a notice of requirement should be accepted or withdrawn or made conditions and whether resource consent should be granted. As part of that under the RMA, I am required to look at a number of matters, including the relationship of Māori to ancestral lands and wāhi tapu and areas of significance. I certainly will not be asking any questions about the history that you have relayed. That is not under my authority. Are there any particular matters in terms of the relationship, as you see them, that I should be taking into account when making my decisions? Or are there any requests on conditions or anything of that nature?

MR STIRLING: Well, as I understand it, from some of the indications I've been shown by Mr White, and Mr Gibbs, sorry, from central or local government agencies, there seems to be some idea that they don't have to deal with Ngāti Tama/Ngā Hapū o Poutama as a group having mana whenua. So why deal with Ngāti Tama in terms of having mana whenua? So really, I think what they want from me in terms of what Ngā Hapū o Poutama sought was laying out this history because it has not been done before. I mean, normally I would turn to secondary sources and summarise them but there are none really that deal with this area in any great depth, and certainly not at the level of looking at

customary interests. So I have had to go back to the primary documents and it took quite a lot of effort to extract everything that was in those because they have not really been used a lot by other historians.

The area has generally been simplified as one where the where Taranaki tribe and Ngāti Maniapoto clash with nothing in between but typically for border regions like this, similar border regions at Waikaremoana, western Urewera, around Murupara, you find tribal groups that link to both sides but do not belong to either. That is the position that Hapū o Poutama seem to be in and that is not very convenient generally for the Government, which likes large, simple groups to deal with. So really, an important part of my job was to establish who they are and where they are and how they are.

So I realise a lot of that is not relevant to you and possibly to the consenting process but under the RMA there are obviously obligations to deal with people who have mana whenua and if you just say because of some piece of legislation, a settlement legislation for Ngāti Tama that that means no one else has mana whenua, that is clearly incorrect. The legislation itself does not say that. It does not allow

anything exclusive other than in lands that have been returned in fee simple.

The area of interest claimed by groups who have their treaty claims settled are not exclusive areas. The Crown is very clear on that. So I think it behoves central and local government to realise there is more than one group they need to deal with the Poutama are not just some little group that they have to go and talk to after they have dealt with mana whenua with someone else.

So really, that is what I am trying to lay out here, that it is not sufficient to refer to some internal legislation and say that relieves you of all responsibility to everyone else because it does not. I think that is the position the Agency has got themselves into by incorrectly relying on settlement legislation as somehow defining mana whenua.

So that is really why the evidence is somewhat off-topic in terms of your job but it was very much on-topic in terms of Poutama and their desire to be involved. They have not been an interested considered in this process, not simply as landowners or owners of mining land or mining landowners but also as people with customary interests and customary authority in the project

area. They have not been, from what I can see from documentation, given that level of acknowledgement or consideration and they are particularly affected by the project. It is immediately adjacent to lands they own, formerly owned, and includes lands confiscated from them.

So that is the key thing here in terms of this specific cultural values that perhaps you would be more interested in looking at. That is dealt with in the final section of the report.

THE COMMISSIONER: Can we just go to that I think? Take me through that.

MR STIRLING: Page 49, I think it is. Yes, the bottom of page 49, section L. So that is slightly expanded upon what I stated in the summary, just laying out some of the resources, some of the cultural values in that land, some of the areas of occupation, not precisely within it but very close to it and indicative of how the project area itself would be used customarily.

THE COMMISSIONER: Do you have any maps or plans that show these areas you are discussing?

MR STIRLING: I can certainly supply them. I think one map has been put in by Rod Clough, the archaeologist for, I think, NZTA. Yes, and that is referred to in the footnote on page 50. So that is a survey plan that shows one of the Pā and a cultivation area near it on the Mimi River side of the bypass, right at the foot of the hill where it is going to start. So there is cultivation areas just above that. I have not supplied that map but that is on the record already. I have not got a map showing the elevation of tooi, that is at the head of the Mangaongaonga Valley which is over the ridge from the Mangapepeke stream. So that is also very close to the project area.

THE COMMISSIONER: All right, well I think you should perhaps take us through these cultural values so I can understand those.

MR STIRLING: Yes, as I said at paragraph 169, most of the recorded sites, the papakāinga and the pā sites of which there are many are concentrated along the coast where the land is flat and accessible to the coast and quite fertile. So inland it is really primarily an area of mahinga kai, which is food gathering areas including waterways, the Mangapepeke Stream. That is still known by Poutama today for its koha and a pā tuna that is

located there, an eel-gathering area, which is still in use and is quite significant to them.

So that is the primary use of the land as mahinga kai and I have sort of laid out at 173 some of the importance of mahinga kai in terms of cultural values. That is quite high in cultural value for bush land, forested land, especially where it is still under forest and can still hold some of these values rather than having formerly held them.

Obviously, the bird life that used to be there has largely gone and I have noted since the colonisation era that has been partially replaced by pigs which are something that Poutama have spent a lot of time hunting in the forests inland from their settlements on the coast.

In addition to just using it for mahinga kai, not that that is not just, but in addition for that there are obviously some settlement areas which I have pointed out in paragraph 170. These are older ones. I do not think they have been occupied for some time. Even on the 1897 survey plan they are noted as sort of old cultivation areas and that is also the case further inland at Tahora, where the area was a former Pā site, former cultivation. So these areas have fallen out of use by the end

of the 19th century but that does not diminish the customary value of the mahinga kai around them that tended to exist.

I think in terms of today, the primary value would be in the pā tuna and koha contained not only in the Mangapepeke Stream although that is significant but also the waters downstream which are also liable to be affected by any run-off or siltation arising from the project. So that is the Mangaongaonga Stream, the lower parts of that and the lower stretches of the Tongaporutu River.

I think the Pascoes were talking later today, and would emphasise that stream is still in pretty good shape compared to say most of the lower waterways along the coast which have been quite heavily silted after rainfall. The Mangapepeke is still in quite good condition.

THE COMMISSIONER: Thank you. Can you tell me what outcomes your client is seeking from the hearing?

MR STIRLING: I think that is for them to say. I was just asked to --

THE COMMISSIONER: To present this. So there will be some other presentations or --

MR STIRLING: Yes, I would think Mr Gibbs is leading Ngā Hapū and I think my primary purpose was to lay out these cultural values and lay out who they are important to in terms of mana whenua so that is what I have set out to do.

THE COMMISSIONER: Thank you, Mr Stirling. Mr Gibbs?

MR H WHITE: I am wanting to go first. I would like to speak first.

THE COMMISSIONER: Yes, thank you. Do you have a written statement, Mr White?

MR H WHITE: Yes.

THE COMMISSIONER: Are there copies of that?

MR H WHITE: What does he say?

MR STIRLING: He wants copies.

MR H WHITE: My name is Haumoana White. I live at the Te Kawau within the Poutama rohe. My wife passed away ten years ago yesterday. Our whānau and wider whānaunga readily come to stay with me at the Pā where I live. My father was born at Urenui in about 1898 to George and Toroa Bertrand and died in 1983. He lived most of his life in Te Kawau and died there.

My dad was a well-respected person in the community. He and his brother, Uncle Bill, cut the first lot of bush at Te Horo on the north side of Parininihi, the White Cliffs, for old lady Jesse Gibbs. He was a hard worker and he put up for most of the fences from Tongaporutu to Mokau. He spread manure and grass seed by hand, cut bush and scrub. He did a lot of fishing and distributed fish around the community. He was repaid in kind of meat and other things.

I was six months old when my parents separated and my mother returned to Wharekauri, Chatham Island. My father raised me alone at Te Kawau but had the help and support of the community to look after me. My grandfather was Te Oro, a Poutama rangatira. He and my father both identified themselves as Poutama, as I and my whānau do. I am descended from them, the Poutama people who chose to stay and keep the ahi kā

burning. To be clear, I am not from the Poutama people who originally left Poutama rohe.

Poutama does not seek and has never sought recognition from the Crown, local or central government, its agents or departments. Poutama is mandated by Poutama. It is not for any Crown department or its agents and representatives to recognise who is and who is not. We the Poutama people are still on Poutama lands today. I am kaitiaki for the iwi; we hold and exercise kaitiakitanga within our rohe regularly.

Just to explain what our infrastructure is. It is a traditional infrastructure with the Hapū having their own autonomy of their own land. There is no way that the iwi authority can influence or have any say over what happens on Te Ahuru or Rotokawau. It would be suicide financially and economically if the iwi organisations took control of those things that the Hapū do so much for, just to explain how that works.

The Hapū appoint their delegates to Te Taumata which is merely a taurawai(?) for those Hapū, a political arm if you like. It works within the court system where, whether it be with say CYFS, the Māori Land Court and even the High Court. That is its role. So I hope you understand that.

THE COMMISSIONER: Thank you.

MR H WHITE: (7) The Pascoe whānau are part of Poutama through Debbie's whakapapa. We support their position to retain their whenua and cultural assets on behalf of the wider iwi. These include Mangapepeke Stream, pā tuna, Rongoa, Te Wairau, Te Waimaori which includes a sacred spring, Te puna waiora, the trees within, the ability to give koha from the land, the birds and the wildlife and, obviously, wild pigs, the watercress in the streams, including their turangawaewae, privacy and naturalness, the old house site and their kaitiakitanga.

Mangapepeke Valley has a marae which is important to Poutama and its Hapū, it is unique. We appreciate the Pascoe whānau for keeping the valley in its natural state. The wetland has never been drained or contaminated with agricultural products.

(9) I have attended several meetings and walkovers with NZTA at the Pascoe's home. I have found NZTA's bullying and bullying behaviour towards the whānau concerning and disappointing. NZTA claim a right to reallocate mana whenua. A comment made to us by NZTA's Rob Napier, "You need to give to

respect to Ngāti Tama's mana whenua." It is not their jurisdiction. It is not their right to do so.

(10) The iwi's concern with the proposal and the lack of due diligence as far as damage and risk goes to the Mangapepeke Valley, we believe NZTA have downplayed the actual potential risk to the ecosystem within the valley and not given any regard whatsoever to the cultural integrity of our obligation to Poutama. There is no intention or mechanism to do so in their application.

(11) NZTA advised on 30 July 2018 that the haul road alignment and design has not been confirmed, and the intended road alignment has been changed. They have not advised where it has been changed to. We have not received details or information to be able to understand the effects.

(12) We request that the application be declined.

THE COMMISSIONER: Thank you, Mr White. I think your statement is clear so I have no questions, thank you. Mr Gibbs?

MR GIBBS: Kia ora. I apologise for being limited on the written notes. I have got a page full of notes done this

morning. I have just been finalising other documents last night and this morning.

I suppose to introduce me I'm Russell Gibbs, I am a kaitiaki for Poutama, I am part of Poutama Taumata by the way of being from Te Ahu Hapū, Haumoana's Hapū is Ngāti Wai, and as Haumoana has said, the role of an Iwi Taumata is to advocate and support the hapū and whānau within the iwi and not have authority over their hapū business or lands or whatever they have got to support those things.

Understanding of this process is that NZTA want to build a road bypass and they need three major things for that. They need resource consent, and are applying for a notice of requirement for a designation, and they also rely on public works acquisition of land of some of the landowners.

Within the application, and it is one of the difficulties we have come up against within the process is the determination by NZTA of mana whenua. I will flick to the right page. I am in the "Assessment of Effects on the Environment" on page 38. It is the statement oft repeated through the project documentation. It is a bold statement:

"Ngāti Tama are the iwi and exercise mana whenua for this part of Taranaki."

I see the footnote source for that is:

"Ngāti Tama provided the Transport Agency with cultural fact report on the project ..."

So that is their authority for their determination.

When we looked in bibliography for the -- I asked Rob Napier to supply a copy of the information used, it was referred to in one of the documents and one of the authorities referred to is a document, "Māori Life in Old Taranaki" with a foreword by Danny Keenan and written by John Houston. Just on page 48 on there, is a statement --

THE COMMISSIONER: Slow down. Can I just have the reference? "Māori Life in Taranaki", the author was Mr John Houston?

MR GIBBS: John Houston was the author. I have just got a few pages photocopied that the NZTA supplied, if you do not have the document.

THE COMMISSIONER: Thank you.

MR GIBBS: But it was ironic that a quote in there says:

"After the remnant of Ngāti Tama migrated to Waikanae and Kapiti the defeat and departure of the Ngāti Tama left Taranaki open to the invader."

The irony there was it is the NZTA's own source documents sort of confirming that the Ngāti Tama have long left that place.

There is korero around representation of Poutama and I see in - I will find the document - I have got Rob Napier's, someone dropped me off Rob Napier's summary of evidence and on paragraph 13 he said:

"We are focused in particular on Ngāti Tama given their special role as landowners and mana whenua. The project area traverses Ngāti Tama's rohe and runs through land returned to Ngāti Tama as cultural reversing of the Waitangi Treaty."

In comparison, the Pascoe's interests have been dismissed, in paragraph 15, as simply as:

"In addition to Ngāti Tama there are eight landowners who are directly affected ... and appropriate respectful engagement with these landowners ..."

It is clear, and it was clear to us all the way through the engagement with the NZTA, that the engagement was tainted by

that view that Ngāti Tama held mana whenua. So it was quite a different approach from NZTA and I am sure Mr Dreaver in his larger document is quite specific about that.

That is paragraph 69 which is not the part I am looking for but he is talking about several meetings taking place in the last two months to establish a framework for Ngāti Tama kaitiaki and looking to the detailed design project, and there is a whole heap of key steps to engagement with Ngāti Tama which, obviously, the same - respect is not the word I am looking for - the same robust engagement has not happened with Poutama.

I see in Mr Dreaver's large agreement, paragraph 78, there is a list of actions, I suppose, that NZTA are proposing in conjunction with Ngāti Tama and the application documents acknowledge there is a significant cultural effect from the project.

But the actions are a recognition by the Transport Agency of the cultural association of Ngāti Tama within the project area, the land exchange involving Gilbert Road, there is a cash payment, environmental mitigation packages, processed to enhance the relationship with DOC and opportunities to maximise training, work and business opportunities for the Ngāti Tama

people as well as cultural input by Ngāti Tama into the design and implementation of the project and cultural monitoring afterwards.

In comparison, at paragraph 87, Poutama is being dismissed as a group and we see that as another determination that NZTA have made the distinction that Poutama is not an iwi authority, it is a group. That seems to be the rationale for a less than robust engagement.

The engagement we had was largely discussions around mana whenua and obligations thereby cultural interest and values and our expectation that they were given substance without ever getting to the point of those cultural values and the reason, if I can find it ... the reasons we understood was in Mr Dreaver's paragraph 12, down near the bottom where the NZTA stated that:

"It would pay particular attention to the views of Ngāti Tama in respect of the land that they own as a result of the Treaty settlement."

That was put to the iwi Poutama as a reason that our values would be read down and not taken into account.

THE COMMISSIONER: Mr Gibbs, that paragraph 12, what document are you reading from there?

MR GIBBS: Mike Dreaver's summary.

THE COMMISSIONER: His summary document? Thank you.

MR GIBBS: I wanted to look at his report because essentially we see that determination of Poutama not being an iwi and this notwithstanding if we look at the resource management in -- what is the section where they give all the meanings? Section 2, and we look at iwi authority and meaning means:

"The authority which represents an iwi and which is recognised by the iwi as having authority to do so."

I think that gets to the point. There has been a lot of Treaty settlements allocating mana whenua and kaitiakitanga but we are dealing in the Resource Management Act and that is where yourself as Commissioner exercises jurisdiction from.

With regard to Poutama, the authority is often outside processes and is referred to a mandate. The mandate, if you like, for the Poutama iwi authority is rightly from the iwi. It is where the authority came from. Most organisations chose

their own representation. The district council chooses who works for it and speaks for it. NZTA chooses who works for it and speaks for it and Poutama as an iwi is no different.

So related in those section 2 terms is mana whenua which means:

"Customary authority exercised by the iwi or Hapū in an identified area."

Just a comment in relation to the previous speakers, the term Poutama Hapū is often used. We use it but it is generally used in a plural term. There is a list of - a non-exhaustive if you like - list of hapū in the Poutama Iwi Plan which you are more than welcome to have a copy of it. Section 2 also mentions kaitiakitanga and the exercise of guardianship by the tangata whenua et cetera.

In saying those things, then there is a definition of tangata whenua which:

"In relation to a particular area means either the iwi or hapū that holds mana whenua over that area."

THE COMMISSIONER: Mr Gibbs, could I ask you about the Poutama Iwi Plan you have just referred to. I would like to see a copy of that. Has that been supplied to the Council or NZTA?

MR GIBBS: Yes, I am sure NZTA have a copy. Council have had multiple copies in multiple processes over the years. We just got sick of handing multiple copies out because they cost a reasonable amount to print, colour photos and things in them. They lay out the iwi rules and they lay out a couple of the marae at Te Kawau and Tongaporutu and around mana whenua, customary authority, land and resources. It is basically an overview of the iwi and its concepts, if you like.

THE COMMISSIONER: Could you read out the title and the date on that?

MR GIBBS: The cover is "Poutama". Has it got a date on it? Oh, yes, Te Whakapuakitanga o Poutama, 2010 is the date.

THE COMMISSIONER: Yes, and your evidence is that has been supplied to the Council?

MR GIBBS: Multiple times. It is also on Environment Waikato site.

THE COMMISSIONER: I am not sure whether you know the specific relevance, but is that from an iwi management plan, in terms of RMA in your view?

MR GIBBS: It is an iwi management plan; that is what it is.
Yes.

THE COMMISSIONER: And when you talking about the council, are you talking about New Plymouth District Council and the Taranaki Regional Council or --

MR GIBBS: There are eight councils that impact on the iwi rohe altogether and we have different relationships with all of them. They are not consistent, obviously. It is very difficult for the Iwi Taumata or the Hapū within Poutama to engage with so many councils. It is near on impossible.

THE COMMISSIONER: But I was enquiring about when you said that copies have been given to the Council --

MR GIBBS: New Plymouth District Council.

THE COMMISSIONER: The New Plymouth District Council rather than the Taranaki Regional because --

MR GIBBS: The Taranaki Regional Council would have had copies in the various processes and whatever over the years. They all received copies back in the day when the iwi plan was first released or whatever.

I was going to bring this up later but I saw the release from Ngāti Tama from this morning on a document from the Maniapoto Māori Trust dated 24 May 2018. I have never seen that before but interesting in the middle paragraph - I will skip a couple of words in the middle - but it says:

"The inclusion of Poutama on Te Puni Kōkiri's list for national iwi, Te Kahui Mangai, continues to cause difficulties for the only two iwi [the two iwi being] Maniapoto and Ngāti Tama."

But I think what it does say in a positive manner is that it is an acknowledgement that Poutama are on Te Puni Kōkiri's list for national iwi, as an iwi authority under the Resource Management Act and Te Kahui Mangai is the mechanism that the Crown uses to advise councils amongst others of who tangata whenua is within those areas in relation to an area. Really, I think the

jurisdictional obligations of the Commission and the council sit there.

THE COMMISSIONER: So this is a letter that Mr Hovell supplied me this morning from the Maniapoto Māori Trust Board to the Chief Executive of Te Puni Kōkiri dated 24 May. Is that what you are quoting from?

MR GIBBS: That is what I was quoting from, yes. I thought it nicely spelled out that the Poutama is included on Te Puni Kōkiri list of national iwi. There is no doubt of that but I thought I would draw that to you attention, albeit the Trust Board is asking that Poutama be removed from that site. We have not heard a word about it from anyone.

THE COMMISSIONER: This is the first time you have seen this letter, today?

MR GIBBS: Yes. First time I have seen any of the documents in that bundle there.

THE COMMISSIONER: Thank you.

MR GIBBS: Just digging through files a couple of days ago, there is a letter here from Kate Wilkinson when she was Associate Minister of Conservation and for what it is worth, she says, "I am advised the department recognises Poutama as tangata whenua." If you want it, it is there for what it is worth.

But the only reason we raised it was that in the application there has been a determination of mana whenua away from Poutama by the applicant and it put us in a difficult situation as to dealing with these hearings in that do we have to justify our own existence as an iwi? And that was sort of I think in relation to some of the comments from Bruce Stirling. It might not be quite similar on point but the issue we are effectively raising as a challenge or a determination by the applicant. It made it difficult to deal with project effects on a day-to-day basis because we have this hurdle in front of us before we get to the actual effects.

THE COMMISSIONER: So that letter from the Department of Conservation, you have a copy there?

MR GIBBS: There is a copy there you can have.

THE COMMISSIONER: That is dated?

MR GIBBS: 15 October 2009. I do not know if it is worth much.

THE COMMISSIONER: Well, I think you refer to it and I will ask you to hand it up at the end of your evidence to the Hearing Manager. Thank you.

MR GIBBS: Right, so I was going to have a look at the Council officer's report. It might take a bit of time to flick through the pages because I think I have put sticky pages on more pages than we needed. The document is Section 42A Hearing Report, I think it is Rochelle Macbeth, I am not sure. It has got dates on the bottom, submission hearing dates, I can't read it.

THE COMMISSIONER: Is this the first report, Mr Gibbs?

MR GIBBS: I think it is the first one.

THE COMMISSIONER: Ms Macbeth is affirming that, by the look of the size of it. So that is her first 42A report. She has done a supplementary as well. So can you just tell me your reference?

MR GIBBS: One of the references is paragraph 87. I will come back to that. The reason I have tagged is because over a few pages it refers to -- the reference originally came from paragraph 122 on page 43. The paragraph says:

"It can be challenging to determine which iwi authority's groups representing Hapū for the purpose of RMA or other tangata whenua groups to consult particularly where a number of groups own or have an interest in a particular locality, as is the case in the Mount Messenger area. Furthermore, it can be challenging if cultural values of one group are inconsistent with another's."

Then it says:

"With respect to the three iwi authorities who have been through or are going through the Treaty Settlement process, as listed in paragraph 87, it is appropriate that formal management bodies of these iwis should be consulted with as representatives. With respect to groups or individuals who do not align or agree with mandated iwi public notification process has allowed opportunity to participate."

The issue we have on that is that the term "mandated iwi" is being used to determine how to deal with Poutama in this case, for example, because when we flick back to paragraph 87 and those three iwi authorities who have completed or are in the process of completing settlements are listed as Ngāti Tama, Ngāti Mutunga and Ngāti Maniapoto.

I think there is an error in approach in that the determination of iwi authorities in this case is made or confirmed on the Te Kahui Mangai and the council and I assume the Commission has really no choice but to accept that. I appreciate that it is not for the council or Commission to determine mana whenua and that is probably partly why that confirmation is being made by the Crown by way of Te Kahui Mangai.

So I brought that hoping that the Commission would correct that concept and make decisions on the basis of what the Resource Management Act should provide for and not this the interpretation here.

THE COMMISSIONER: Your position, Mr Gibbs, is by virtue that you are on the Te Puni Kōkiri website, that you are an iwi authority for the purposes of the RMA. Is that the point?

MR GIBBS: Yes, as an iwi plan long lodged with the council et cetera, an iwi plan is again mandated or authorised by the iwi itself.

THE COMMISSIONER: So certainly the way the process works is that the council officers have prepared the reports and if they

need some legal advice on those sorts of matters they do have the opportunity to come back to me with their views on these matters. So by raising that, they will certainly ponder that and come back to me with some advice.

MR GIBBS: I wonder, and I was going to raise this at the end but I will raise it now, if there is a possibility of putting legal submissions in on these submissions? We only finished Bruce Stirling's report, he was making changes this morning. So we did not have any idea until yesterday morning what was actually in his report to a large extent. Whether it will be helpful subject to NZTA reimbursing the costs, in the next couple of weeks put in some legal submissions on these matters, if they are outstanding.

THE COMMISSIONER: Yes, I think we are well out of time for that opportunity.

MR GIBBS: Well, I will do the best I can today to raise the point.

THE COMMISSIONER: Yes, it is just that there has been notice of the hearing. We first started looking at the hearing in June so you had one or two as a submitter working on the legal

submissions, you have had opportunity to do that. So I would have to decline any request for subsequent legal submissions after today, I am afraid.

MR GIBBS: I understand. We are looking at paragraph 136 in that same document. It states:

"NZTA had engaged with Ngā Hapū o Poutama as a party with cultural interest in the local area. There is no Treaty settlement or acknowledgement by the Crown that recognises Poutama as an iwi, however the Poutama submission states they 'are an autonomous tuturu iwi'. It is not the council's legal function to determine mana whenua, that it is a matter for a different forum."

And our submission is that the correct forum is well laid out in Te Kahui Mangai and the determination on which the confirmation of an iwi authority is made there.

It is slightly out of context for where we are up to but the next sticky tag, paragraph 355 there is an assessment of a request for a ten-year lapse date and there is a noting of the implications for Mr and Mrs Pascoe.

I would like to just address that a little bit in that. There is a lot of stress and pressure put on the Pascoe whānau more than anyone else in this process or project application or

whatever. They are the only people that are actually living on the land that are substantially looking at being damaged and taken. They rely on that land for their pā tuna, Te Wairau, their business, they live off that land and in comparison with other tangata whenua groups in this process have had no support or resource from NZTA, and the pressure -- and also there is only two of them.

In comparison with, say, Rūnanga Trustees where there is seven or eight trustees, they live away and they work away and they have an income somewhere else and NZTA are reimbursing them for their time, it is quite an unequal treatment of people from Poutama as opposed to Ngāti Tama.

In regard to that, the effects as a whole we looked at it and I think they referred to it as Humphrey, like a fly-over on a computer, that sort of thing. It looks pretty nice but it only shows the road alignment itself. It does not show all the construction areas and the haul road, for example. The Pascoe's property, at a guess looking from here, the light purple at the top there, it is about a third of the total distance by the look of it, of the road. It is substantial.

But if we include the haul road on to the other side of the valley from the proposed grading alignment, and then we add in all the lay-down construction sites and the stream straightening and the vegetation disturbance and the sites where they permanently and temporary store with fill. I can't remember the technical term for that, it has slipped my mind.

But it seems to us that the actual affected area is going to be a rough half of the Pascoe property as compared with the rest. But it has a much bigger effect on them than anyone else and yet they have nowhere else to go.

THE COMMISSIONER: Mr Gibbs, are you representing -- I think Mr and Mrs Pascoe are down to talk later today. Are you representing their interests or making comments?

MR GIBBS: We are supporting their -- I mean, that is what the iwi Taumata has been doing, supporting their difficult, if you like, as we do with a lot of other Hapū individual issues sometimes, whānau issues. sort to support people, whānau Hapū where then cannot manage on their own, if you like, where the issue is too big.

THE COMMISSIONER: So you are supporting their position, essentially?

MR GIBBS: Yes, we have been around for three walkovers, I think. Several meetings at their house, they have come around to ours three or four times, helping with submissions, helping them deal with this Public Works Act process. That is one of the biggest impacts on them.

So I am still in this officer's report. We are talking about protection of areas of significant indigenous vegetation and it acknowledges that the Pascoes have some land. They mention offsetting, and that was one of the issues that stood out. Primarily was raised in a Public Works Act focused meeting but the application and proposal is shifting. There is no acknowledgment of - until we were in a meeting on 12 July - and it would probably be a good idea to hand this one up.

The meeting summary and NZTA, again it has only been sent in right now, NZTA have just received copy.

THE COMMISSIONER: Can I just clarify, sorry, so this is a note from yourselves?

MR GIBBS: Yes.

THE COMMISSIONER: And it is being sent to NZTA, or is about to be?

MR GIBBS: They have just got it now, yes. Hand delivered. We sort of more or less finished it on Monday. We are doing a submission so we thought we might as well make sure there is nothing we missed out.

But there are three separate processes. They were all related, as far as the landowner and the cultural values are, and how they exist. There is korero around the whakapapa, Poutama and the kaitiakitanga. The kaitiakitanga, while we are here we might loosely have it. Specifically it sits with people on the land but the only iwi loosely have that by way of the people that are on the land, those whānau and hapū that make up the iwi.

But our concern is probably in this third paragraph in the summary. It says it reasonably well. It says:

"NZTA are effectively proposing that ecological values are taken away from the Pascoes and the wider iwi and transferred to ecologists and DOC, while any remaining

cultural values are taken from the Pascoes and the wider iwi and then transferred to Ngāti Tama."

The NZTA's strategy is exemplified in their statement. We are not talking about Māori cultural issues; we are talking about the Pascoes.

It was obvious in the Public Works Act focused discussion that the NZTA proposal separated the Pascoes from those cultural values which include the ecological values and saw them as being dealt with in this process, and that the public Works Act process would be looking at obtaining land without those values.

As an example of transferring those ecological values, the Mangapepeke Stream meanders up through the Pascoe's property and the pā tuna along these streams, fish life et cetera, and it seems to me that the mitigation for the damage of those values is proposed to be mitigated by riparian planting and fencing streams over Mimi Valley on property that is not the Pascoe's whānau, not under their kaitiakitanga.

While it might tick some ecological boxes from a very narrow perspective, it does not -- the whānau, at the moment, they have a pā tuna in a meandering stream. At the end of the

process there is an expectation from at least the iwi and whānau themselves that at the end of the process they still have that.

I do not want to read out a non-exhaustive list of those cultural values there. The pā tuna and the rongoa, the Te Wairau, the ability to koha is a big one. But by trying to separate the ecological values from the cultural values, there is a big gap or there's a deficiency in how those things get dealt with.

We did see that hui as a turning point in that there was an acceptance on that day that the kaitiakitanga of that land belonged primarily with the Pascoes and that NZTA had to change how they treat the Pascoes, or they needed to change how they treat the Pascoes. I am sure that is ...

The issue that we're facing today is saying, "What does that look like?" that treating the Pascoes differently and acknowledging and providing for that kaitiakitanga. There has been no specific progress with that. What we can say is that application definitely does not provide for those cultural outcomes in substance.

THE COMMISSIONER: So, Mr Gibbs, as I said, I think I am down to hear from Mr and Mrs Pascoe later this afternoon but do I understand you are saying that the Pascoe's are associated with Ngā Poutama --

MR GIBBS: Part of.

THE COMMISSIONER: Part of?

MR GIBBS: Yes.

THE COMMISSIONER: A part of, and that therefore they have a kaitiakitanga role or responsibility on the land they hold as part of that as a cultural value rather than just a normal landowner or someone looking at ecological effects? Is that the thrust of your position?

MR GIBBS: I am not sure that I -- the position is that they have extra assets, if you like, and rights over a normal landowner. Is that what you said?

THE COMMISSIONER: Yes, in terms of that kaitiakitanga sense.

MR GIBBS: In terms of the kaitiakitanga. But in terms of kaitiakitanga from a -- so if you have got kaitiakitanga over a stream within your land, as they do, and it is used pā tuna and say eels could be taken out it. Therefore, say tangata, for example, as a koha, for instance then the cultural values are not just an acknowledgement, they actually have substance.

That was in the fourth paragraph in that letter summary of NZTA. We understand the NTA primary engagement on the Mount Messenger proposal has been with Ngāti Tama because of the land granted to them under Treaty Settlement legislation. We understand that. We understand the political difficulties of taking land that has been conferred in settlements. It is not a good look and it is probably debated around whether it is possible under the Public Works Act where you have got specific legislation that caused that land to those people and I am not sure.

But in that land, the Crown retained possession of ecological values through covenants and the right to control public access through covenants. But it is our understanding that NZTA have transposed that understanding they have got with Ngāti Tama on that settlement land on to the Pascoe land.

There was a couple of comments made at the 12 July hui around that it cannot be Māori land because it is not public. I just assumed that comment came from that Ngāti Tama block, which was the primary focus of the NZTA complicates their conveyance on it. I know Māori land has not been treated very well over the last couple of hundred years. It has been treated as public property in a lot of ways but that is not really on. It is not necessary. It is not iwi.

There was a bit of discussion in the air around that it might not be Māori land because there is not a thousand owners. Not all Māori land has a thousand owners and that is definitely not a limitation either.

THE COMMISSIONER: So that is the thrust of your fifth paragraph there?

MR GIBBS: That was just outlining to NZTA that there is a difference in those two concepts. Both tangata whenua, albeit from different iwi, but there is a difference in concept. The difference in legal ownership is in that the Pascoes have not lost their ecological values and covenants to the Crown and they haven't lost the right to control public access either.

So through this process when the Department of Conservation are talking - this is our understanding - I might be wrong, but when they're talking about expectations of ecological mitigation it's because they have a legal interest in those Tama-owned blocks. They certainly don't have a legal interest in the Pascoe farm land.

So seeing it from our perspective, there's three types of land effectively in this proposal. There's Pascoe farming land which has all its rights intact; there's settlement land which has got a couple of major covenants, recorded values to the Crown; and then there's several very small plots of general land that don't make any claim to Māori cultural values as far as I know. But they are quite different, those three. Sort of classes of land - classes of land is the wrong word - but those three concepts.

So NZTA did undertake to reimburse for time spent engaging in the process and that. We did talk in general terms about mitigation for cultural damage to the lands and just around the general concept that the bulk farmer washes(?) may be a practical option for mitigation if the road has to go ahead along that general route.

THE COMMISSIONER: So where is that land, Mr Gibbs?

MR GIBBS: It's basically that big landslide they talk about on the Online Group. From here it looks like grassland to the left of the purple in the main route up the top end of it. So when you go down the Mount Messenger road on the north side it's everything lying under the road there. I mean, where you can't actually move.

THE COMMISSIONER: In the left as you go north. Yes.

MR GIBBS: There was not a lot of discussion around it. It was just as concept could we see a way forward with NZTA to resolve these practical issues of cultural values in kaitiakitanga, which, if you've got a pā tuna at the start of the process you have one at the end; and is there scope there. If you are going to damage the removal of vegetation, can it be offset by planting over there? That was just a general discussion which there was in a concept basis. There was some support with NZTA and they even said they had an option, a potential option to purchase it.

Stuart Haynes claimed that. That was one of the outcomes of the meeting on the 12th, was that Tony Pascoe said, "We're

all in the same position. You can't tell on the land exactly where the road alignments are where the haul roads are." So Stuart Haynes came back with some maps and we went up the gully and had a look and he said that the haul road plans, I think he said they were only on whiteboard stage at that time; they hadn't been finalised. So when we're looking at the right-hand side of the valley going up where they're proposing a haul road and we were talking about effects of the haul road on the land: is it going to be cut into the base of the hill, or is going to be filled out over the wet land? And the answer is, "I don't know". So it's very, very difficult for both Tony and Debbie and the wider iwi to quantify precise effects.

So at this point in time we see there's no scope or mechanisms in the application to give effect to mitigate those Poutama values and obviously some work has to be done to that end.

The issue around what the effect of the Crown transferring those Mount Messenger blocks to Ngāti Tama's ownership in settlement legislation, what that does to Poutama's ancestral connection and mana whenua on that land, I'm not sure. But I can say that no one's actually going to write an affidavit for it; that Poutama people have carried on hunting and gathering on

that block for the last hundred and something years and they haven't stopped because of that settlement legislation, but because of the DOC covenants no one will put it in writing that they haven't stopped doing that.

We raised the McGuire principle in discussion with NZTA early on. The McGuire case went to the Privy Council and it outlines that, if there's an alternative, even if it's not - I might get the words a bit wrong, kind of paraphrase it - even if it's not that convenient there's an expectation that that option be carried out. We see that applying to a couple of different things in there that the Online Option would cause far less cultural damage to Poutama, including Poutama as the environment.

My understanding from conversation with planners was that while there seems to be a reasonably qualified cost of the plant protection works, if you like, for that landslide across the hill, but perhaps some of the geotechnical difficulties ahead of them are due to be probably offset against that. I'm aware that in the cost of the culture including the environmental damage to the Mangapepeke option then perhaps it might not be so cost clearing different. But I'm saying that there is an expectation from that McGuire principle that even if the routes and other

routes not as convenient, then there's an expectation that that be carried out.

The second part of that McGuire principle, and we see that as relating to practical outcomes on damage, our understanding of a haul road on the right hand side of the valley going up, is that the primary purpose of that is to access the tunnel, so that the tunnel work can be carried out earlier as opposed to, for example, forming the primary route alignment and then using the primary route alignment as the access for the tunnelling equipment and infrastructure.

I am not sure of that timeline - we did not get a straight answer out of anyone. But from our look through the original application we thought it would be about 18 months' delay in starting the tunnel, but they didn't build a haul road and they used the primary alignment route as access. What that would do as far as construction damage would perhaps roughly halve the impact on Pascoe land in all of them in return for delaying the beginning of construction of that tunnel because I'm pretty sure they are insisting on construction from the north side. No doubt it would be a cost to that alternative when I'm in a position of compromising.

THE COMMISSIONER: Mr Gibbs, that McGuire Privy Council decision that I am reasonably familiar with, are you - I know you are not giving legal submissions or do not have a legal background as I understand it - you do not have a legal background of that?

MR GIBBS: No. I was active as lay worker for iwi and whānau individuals on various things.

MR GIBBS: But are you suggesting that the McGuire case is relevant here because the Pascoe land is equivalent to Mrs McGuire's land in Hastings and that?

MR GIBBS: Absolutely.

THE COMMISSIONER: It has the same privately owned Māori land.

MR GIBBS: That's Māori owned land.

THE COMMISSIONER: Yes, Māori owned land.

MR GIBBS: General land owned by Māori is its legal status, but you could change that to Māori freehold. It doesn't change the substance of the land. And yes, Tony is a pākehā. But if we

look at the Pascoe whānau all their children and grandchildren are Māori.

THE COMMISSIONER: Okay. So that is the reason. In your understanding you think the Pascoe land is equivalent to the McGuire land in that case.

MR GIBBS: Absolutely. It's the equivalent of any other land within the Poutama rohe; it is still in ownership of the Poutama people.

THE COMMISSIONER: Yes, and the good part about this process is obviously you are giving information and the position. NZTA and certainly for the councils, I would like them to consider those issues as well when they have a right of reply.

MR GIBBS: That is fine. If there's a criticism that it's confiscated land and that the Pascoe - you know, Debbie's whakapapas effectively retrieved that land, I don't think it has any substance in that it's Debbie's ancestral land and it is taken by foul means - I was thinking fair means or foul, but confiscation is in that case arguably was fair - it was taken by means outside any iwi control. However you get it back, it's

back, and our understanding is that all those rights are intact if you like.

I think Haumoana said the other day there was a quote from Whina Cooper about getting land back and that was, "If there's no other way to get the land back than marry a pākehā to get it back, so be it".

With regard to those transferring of cultural values, it's abhorrent that Pascoe's whānau should bear the cost of mitigation for others, and in that there was proposals around using their land to mitigate damage to wetlands in bush on the neighbouring Ngāti Tama block that would cause damage to Pascoe farm-owned values including the land which is best mitigated somewhere where it won't have that effect.

I'm not sure whether I can get a photo, but one of the walks up the valley, sort of there was a bit of criticism in some of the ecological reports, and I can't quote the source for them - but criticism around damages are grazing stock caused on the land. There's no doubt that the vegetation suffers in effect, but it was obvious to us that the landform of the stream environment hasn't been substantially altered. It's altered a little bit down by the main road a long time ago. But when you

get further up the valley the land forms are still in their natural form and the stream is a meandering stream, not a drainage of land. Hasn't been re-contoured as you see a lot of other places, and the stream is still in its natural form with quite a small camber.

We went up on a wet day, and what happens in a sort of -- even 40 odd mls of rain, is that the stream channel can't take it as run off for the flow of it. So the flow disperses over the valley as a whole and it's certainly down sway on the opposite side from the channel.

To jump back a step, I hadn't walked up that valley before and they -- I was surprised at the quality of the water and the life in the water, because most sort of farms we go to they've all been tampered with. But anyway to go back to that rain where it's not flood water, where it's just you know, reasonable rain event. I was supposed the channel spreads out all over the valley floor and there's criticism in the Public Works' Act valuation as to how wet it is, so it's really down.

But what's happening is all the silt is just dispersing over the valley floor in those rush lands and since not being laid down in a stream channel and it's not filling up the parts

and it's not destroying the life or the food sources that are in the water for the larger animals that are in water; and so even if they are dispensed in rain water, it's cleared.

And the other thing that doesn't happen because the rain's left in its natural form, is that that rainfall isn't scouring those streams as it does when you constrict all the flow into a drain so the environments will -- the paths we all know mind, but the place where all those little individual eel or whatever live, don't get damaged every time there's a rainfall event. It seems that as I was saying, the effects of the grazing and understanding the effects of the project is to reduce mitigation obligations.

I've got some -- we went up one day Tony was there and it might have been three of us one wet day and one of the environmental outcomes that haven't been accounted for is all the springs up the left hand side of the valley as you go up. The reason that there's springs on the left hand side more than the right is because soon now it will be the underlying stratus dips southwest and it's 1 to 3 degrees or something like that. So the water tables run on strata and that's why you generally get springs on that side because that's where all the seepages come out.

We went up one wet day, so the records are a bit of a mess, and from the road to the Pascoe boundary with the Ngāti Tama block there were 25 streams along that road realignment and I didn't see them accounted for anywhere as an environmental concept or a cultural concept, including - better check the note - the spring from the Waiora which is a healing spring.

You're more than welcome to the notes so I can prepare them better. There's a copy here. They're all still rough as we did them on the day. We'd sort of run out of time to compile them any better. Say, for example, we looked at the flows of filling a half inch pipe or an inch pipe because that's how we run our water supplies. But the eight springs got a one-inch plus flow and it's 2 metres up and we plotted them all on these NZTA project maps.

But that's not very easy to follow, but that's where we got to in that we didn't have the resources others had and I'm sure Tony and Debbie have got photos of the Waiora Spring if nothing else. They take their house water off it. It's as a rongo concept, clear water out of springs has high healing properties.

THE COMMISSIONER: So Mr Gibbs I'm just making a note of that. When you mention the springs you do not think they have been accounted for in --

MR GIBBS: I'm sure they haven't.

THE COMMISSIONER: -- and they are the sort of spring that is used for water supply for the Pascoes and that has got a particular significance as well as a healing spring. That is your evidence to us?

MR GIBBS: Yes. The spring for example that they take their house water out has those healing properties as well, but as an untapped spring that Puke Waiora is something else again.

So going the long way back to that council officer's report in para -- what was that? It's on page 108, paragraph 357, about the sixth line down, roughly, of that comment, talking about kaitiaki's responsibilities legislated through Treaty legislation, kaitiaki values aren't reliant on Treaty settlement legislation would be the comment we make, in that Poutama kaitiakitanga, including the Pascoe whānau, is not reliant on all that at all; it is inherent, come before the Crown got to New Zealand.

THE COMMISSIONER: Which paragraph is this, Mr Gibbs?

MR GIBBS: It's on page 108 of their officer's report and it's under the heading:

"Section 7: Other matters to have particular regard to
(a) Kaitiakitanga."

And below it is the sixth line down.

Flick over the page and we are talking about Treaty of Waitangi obligations. So on page 110 the paragraph reading is 103 over 160 and they talk about the principles of the Treaty - the principles of the Treaty of Waitangi. And they're talking about the acknowledgement of rangatira responsibilities in the relation to the probate area. I'm not arguing with that comment. I'm just saying that by the time the Pascoes hadn't been so far included in that expectation of the Treaty partner acting in fairness, if you like. But to be clear, what we don't see is that Ngāti Tama mana whenua being espoused as a result of a Treaty settlement land allocation spilling over on to land that is owned by Poutama whānau.

On page 111 there's a comment there in paragraph 368. It says that:

"Treaty principles of equity and equal treatment should also be considered. Through the Treaty the Crown provides for rangatiratanga to all iwi and would not allow one iwi an unfair advantage over another."

We look at the difference between Poutama as an iwi being treated as Te Ngāti Tama being treated by NZTA and there's quite a difference and the difference is very clearly laid out in their documentation. I think I've raised it before; for example, Mr Dreaver's substantive work that is part of this process.

We do acknowledge in para 369 that Poutama would provide a written statement on cultural effects, but we were always behind the 8 ball in that we weren't engaged with robustly. But in the bottom of para 368 it says:

"As already stated, through the Treaty settlement process iwi authorities are recognised through legislation and these groups have been engaged with."

In the context we're engaging with in this project and in this forum here that is not true. Iwi authorities are reliant on those Resource Management Act definitions and substance.

Getting through, the comments around the Pascoe house, and to be fair it was raised as a concern by the council planners and we appreciate that. This doesn't seem to be so clear in the discussions we've had in that we've sought our comments from the NZTA that they Pascoes will end up with a cheque with that house and that it would still be there and it would still be able to be inhabited later, but one of the Public Works' Act valuation reports said: "After two or three years vacant it will be uninhabitable". But also it seems to me the application that in stage 2 of the construction yard forming is that it's gone, and there doesn't seem to us to be any reasonable possibility of staying on that site during construction - it doesn't seem possible. You couldn't live in those conditions.

I'm not sure how the substance of those values can be dealt with in consent conditions, given that one of these are apologies for not being able to quickly point to it. One of these documents acknowledge significant cultural effects and the project lays out how they will address the significant cultural effects in Ngāti Tama. But there's no substance for the proposal to address those significant cultural events to Poutama and again those significant cultural effects are being addressed with items of substance or actions of substance, and I can't see

the consent conditions will address that. The consent conditions that obviously would be necessary such as around the ability for Poutama to monitor - when I say Poutama the focus is on the Pascoe whānau - having the ability to take part in the planning and the supervision around the actual works and reducing the damage as much as possible.

THE COMMISSIONER: Mr Gibbs, are you aware of the proposed kaitiakitanga conditions in the consent conditions updated by NZTA?

MR GIBBS: The update?

THE COMMISSIONER: Yes.

MR GIBBS: No.

THE COMMISSIONER: So there is a Kaitiaki Forum. Currently it is restricted to Te Rūnanga o Ngāti Tama. That has a number of functions, similar to what you are talking about.

MR GIBBS: That would be fine on their land. But that would not address the Pascoe cultural values and the Poutama cultural

values at all. So we haven't had any part in developing any of that.

THE COMMISSIONER: Right, thank you.

MR GIBBS: I've got a couple of examples here of the practical application of kaitiakitanga from Poutama's point of view. There's an aerial photo just got a couple of days ago on a culvert replacement on an access track - it's the only copy I've got - and we had input into the culvert sizes, the head walls, where they are, how long they are, who does the job. There's - what do they call it - removing historic access track over burden from the water tables using that as fill and there's rail fence being put around upstream of this section and planted out in native trees and harakeke on the pipeline itself or from the actual area and not from a generic Taranaki region, and that the hapū there carry out the works; not the drain works, but the works that they want to do being the planting and fencing. This is what our kaitiakitanga looks like in practice and that's what the iwi and the hapū expect. Thus far it hasn't happened.

THE COMMISSIONER: Right.

MR GIBBS: And where again we went up the Mangapepeke the other day to point out exactly where on the land is the proposal for this haul road and it can't be done yet. We can't tell whether it's on the wet land; we can't tell where we expect to be engaging in the process to make those decisions, and then engaging in the process for the actual happening of those things.

There is another Poutama restoration project for the 2018 season. This was mitigation for damage on a quarry, consent conditions on a quarry on the Waitomo District Council, Waikato Regional Council area, and they had damaged vegetation and it has been operating for a couple of years, I understood, without current consent and wanted to damage to the rest. This project was the outcome of that consultation and in practical effect they have contributed to a restoration project, are currently fencing off and planting pa sites and other wahi tapu, including a stream.

So, as evidence of kaitiakitanga within the hapū and iwi and expectations, I think those two documents, for example, that are current, give a fair representation in part of what kaitiakitanga looks like.

THE COMMISSIONER: Mr Gibbs, I am mindful of the time and I do not want to cut you off at all. Do you have much more or should we break for lunch and resume?

MR GIBBS: We are coming to the end, I think. Entirely up to the NZTA of course. Our request is that those substantive cultural values are provided for, mitigated for, whatever, that the application be declined. Up to NZTA whether they want to have a break out the process and see if some of those issues could not be addressed. They are the only ones that can make that decision. We cannot make it for them. I do not know if the Commissioner can either, whether you are in a position where you can change consent conditions or you can approve or decline but it is up to them if they want to change things or not. That is my understanding.

THE COMMISSIONER: I do have powers to all of those but you are right. NZTA has to consider this and have its right of reply. I will address Mr Allen on how he would like to handle that when you have finished so I will let you finish and then we can have that discussion.

MR H WHITE: (Māori spoken) Thank you for hearing us. We are under no illusion about the need for a good, safe road. We

would like to be part of that planning because our people use that road every day. They go to work. We have a bee company where four people go to work every day. We have an interest. Once again, thank you very much.

THE COMMISSIONER: Thank you very much. We will break for lunch shortly but, Mr Allen, in terms of my determination about providing for Poutama to do their impact assessment and appear today with some evidence, you do have an opportunity to respond. How and when do you want to deal with that?

MR ALLEN: The easiest way will be to a degree we want to respond weighing the evidence; we can do that next Thursday. To the degree beyond that, legal submissions within closing/oral submissions. We need to talk as a team as to if at all we need to respond or want to respond and if we do we will make sure that it is next Thursday.

THE COMMISSIONER: Will there be enough time next Thursday? Next Thursday will be pretty full so again will you consider that over the break and we can talk about that when we come back? All right. Thank you very much, gentlemen.

(A short adjournment)

THE COMMISSIONER: Well, welcome back everyone. Sorry for the shortish break but it is important to keep going. I think we now have Mr Signer. Before we start, Mr Signer, I would like to have a discussion about the position with the Ngāti Poutama information and submission. Mr Hovell, you mentioned that you might like to retain a right to perhaps have a response. Have you thought that through any more?

MR HOVELL: Not quite, sir. I will take instructions from the client and also have a discussion with counsel for the applicant because they may well cover other things that my clients might want to cover off as well.

THE COMMISSIONER: Yes.

MR HOVELL: So I will have that discussion with him and possibly come back to you, if that is okay?

THE COMMISSIONER: Yes, so you might come back to me ...?

MR HOVELL: I will do that sometime today.

THE COMMISSIONER: Sometime today.

MR HOVELL: I am not sure what time we are scheduled to ...

THE COMMISSIONER: Yes, we are scheduled to finish around 2.15 pm but we will have to wait and see how we go.

MR HOVELL: So if we have a quick discussion and then come back before the end of today.

THE COMMISSIONER: Yes, thank you. Thank you, Mr Signer.
Welcome.

MR SIGNER: (Māori spoken) It's a pleasure to speak in this hearing. We'd like to start with presenting to you, Mr Commissioner, a petition so I'll hand it over to Emily Bailey and Marie Doorbar to present you with a petition in opposition to this project.

MS DOORBAR: This is a petition from over 1,300 people from Taranaki and beyond calling for you, the Commissioner, to stop this bypass.

THE COMMISSIONER: Thank you. Well, let us see what we have got here.

MR SIGNER: Kia ora, Marie. It is our submission that this petition should be taken into evidence and it is, in fact, 1,305 signatures as of 10.00 am this morning to sign the petition.

That reads:

"We strongly urge you to decline consent to NZTA's proposed Mount Messenger bypass. This new road will destroy 44.4 hectares of indigenous forest and wetlands, home to thousands of threatened or at risk endemic species, including North Island Brown kiwi, the threatened nationally vulnerable Archey's frog and the nationally vulnerable New Zealand Long Tail bat."

So I encourage you to have a read. There's comments too that go with some of the signatures. We used a platform called Toko.org.nz to gather signatures from across the region and we've printed it out on double sided so it's less of an environmental impact but if we hadn't, I suppose it would have been twice as long. I suppose the submission I want to make take today is firstly, I want to look at the submissions received in the hearing that were processed by NZTA and then make a couple of other points and then I'll pass it over to Marie Doorbar and Emily Bailey, if that's all right.

THE COMMISSIONER: Yes. Mr Signer, just to follow up on the petition, you are here representing a particular group or in person? What is the status of your intention?

MR SIGNER: I've made own submission on -- just on my behalf.

THE COMMISSIONER: Yes.

MR SIGNER: I'm very involved within two groups in particular that have been involved in creating the petition. That is Climate Justice Taranaki, a community group that's been going for eight years, working on climate issues here in Taranaki, mostly around oil and gas and opposition to oil and gas exploration. And the second group is Te Whenua Tōmuri Trust, a kaupapa Māori environmental education programme that teaches people how to do water monitoring. So those are the two groups that the three of us are involved with and others that are here with us today. And those two groups are the ones pushing for people to get involved in this process by signing the petition.

THE COMMISSIONER: You know if those two are group submitters in their own right?

MR SIGNER: They are not.

THE COMMISSIONER: All right. So you are here talking through your own submission.

MR SIGNER: Yes.

THE COMMISSIONER: And I think I will just have to, you know, put on the record that the information that has come by way of petition that cannot be formally be received by me as a formal submission anyway. So, information you are providing to support your own personal submission.

MR SIGNER: Indeed.

THE COMMISSIONER: Yes.

MR SIGNER: And I suppose that leads me to straight to my first point around the submission you haven't received through the submission process. So according to the applicant's opening legal submission in the hearing, there were 1,172 submissions in support of the project. That's at paragraph four. This includes a few late submissions. 20 submissions, including my own, were opposed to the proposed project. Mount Messenger

project manager, Robert Napier, states in his evidence at paragraph 94:

"The fact that we received 1,154 submissions in support of the projects in contrast to 17 in opposition [he states] reflects the general support for a project that I encountered during our consultation exercise. It also reflects [he says] perhaps the overriding theme of the public feedback we received, which is that the transport agency should simply get on and build this much needed improvement, State Highway 3."

So that's Mr Napier's evidence. Wendy Turvey, who prepared a social impact assessment for the project for the applicant, again makes notes of the high level of support for the project, given the many submissions. However, she notes that 1,100 of those submissions were form submissions and I would like to share with you, Commissioner, my own experience of attending a NZTA Mount Messenger information spool at the New Plymouth farmers' market over the summer. I often attend the farmers' market to buy locally produced food.

THE COMMISSIONER: Yes.

MR SIGNER: And at one of those farmers' markets, NZTA staff had a information booth with the proposed routes and, with that, they had iPads, I believe, to gather feedback from the public, which, in fact, was submissions. And when I talked to one of

the NZTA staff and clearly stated my position to the proposed project, I was not invited or given the opportunity to use said tablet. I was given a form to fill out and so my submission is that what the NZTA did, in fact, was basically what we've done as well. It's basically a petition with agents going around to community, to community events, with government money to gather those submissions. So my submission to you is that our petition is of equal value and -- to 1,100 and something submission. SO that's in support of the project. It was, after all, the same process of form that you could sign and fill out, as was our form.

THE COMMISSIONER: I do not think that is --

MR SIGNER: I think that's a supporting --

THE COMMISSIONER: Are you suggesting that NZTA actually had a submission form there for people to fill out? Because they -- what --

MR SIGNER: I wanted to proceed at that stall and I don't want to give too much emphasis to it, to be honest, but the way I saw it was it was a tablet of some kind where people could fill out their details saying that they support the proposal.

THE COMMISSIONER: Yes.

MR SIGNER: I myself said to the staff involved that I was posted a project. I wasn't given -- I wasn't invited to fill out such a thing on the tablet. I never had a tablet in my hand.

THE COMMISSIONER: Yes.

MR SIGNER: I was given a form, a four page form, to fill out myself, which I did but I used the online version on -- through the council website. So yes. I suppose what I'm -- want to say is yes, NZTA gathered 1,100 form submissions but our group has also gathered 1,300 submissions as opposed -- in opposition. So there is community. My point is there is some community opposition to said project from people like us and the Pascoe Farm and from -- here we're affected as well. So if we want to talk about the positive social benefits, as Wendy Turvey talks about, you know, she says the:

"Positive social benefits related to transportation, connectivity and accessibility due to greater resilience and improved movement of people and freight."

She fails to identify the adverse social impact from climate change, for example, with the increased motorisation of our society. So it's, you know, we can talk about traffic all day but, you know, it's the social impact of climate change and a more individualised way of transporting people includes around the country has negative social impact as well, which Ms Turvey failed to get into.

Ultimately, more roads lead to more traffic and straighter roads lead to more fast traffic. I believe this is called induced demand and it's exactly the -- we should be doing exactly the opposite, I believe. We should be reducing the amount of transportation. We should be looking at public transport. We should be looking at carpooling. We should be looking at other ways of getting around and we should be looking at, for example, local food sovereignty to solve transportation issues, rather than carting in food from around the world into this region.

For me, I suppose it's another decade, another bypass. We were involved in the opposition to the so-called Wellington bypass in the early 2000's, when I was studying at university in Wellington, where NZTA bulldozed their way through the town community after a campaign of 30 years or so of community

opposition to that bypass. It didn't bypass anything. It basically bulldozed its way through heritage buildings and a vibrant and active artistic community. And for me, the same can be said about this proposed project. It doesn't bypass anything; it bulldozes its way through native forest, pristine wetlands.

Currently, in terms of money being spent on transport in this region, we have the three councils and NZTA putting in approximately \$42 million in the year 2016, 2017 into roads, into highways and its maintenance of local roads, according to the Taranaki regional land transport plan of 2015 to 2021. That 42 million compares to a mere 2.7 million that's being spent on public transport this year and back a year in that region. Now, we have NZTA coming into the community with another \$200 million on roading and so the 2 something million we spent on public transport just starts to look ridiculous. When we live in a city of 30,000 people, we don't even have any buses on a Sunday. On Saturday, we have one bus. It kind of shows that the whole framework is wrong. It's looking through the lens of -- as if -- you know, we've never heard of climate change or the fact that oil and petroleum is a finite resource.

I suppose in conclusion to my own personal submission, I want to say that, you know, the so-called Alliance's motto is to tread lightly on the land. For me, nothing could be further from the truth. This proposal does not solve any problems in terms of safety. In fact, it creates more problems by bulldozing special places, habitats for birds and intact ecosystems, wetlands and rivers. Last year, across the world, 14 rugby fields worth of forest were cut down or burned every minute. 14 rugby fields cut down every minute. That's 7.3 million hectares of forest lost to deforestation last year. That's the size of the country of Panama or half of the size of the north arm of Aotearoa, to put it into perspective.

We have a huge crisis in terms of the climate crisis and the last thing we need to be doing is creating more roads and cutting down more forest. That is my submission to you, Commissioner, and I hope you make the right decision for the futures in the community. (Māori spoken)

THE COMMISSIONER: Thank you, Mr Signer.

MS DOORBAR: Kia ora koutou, tena koe Commissioner. Although this is a personal story, I believe it is relevant to this consent. I'm a mokopuna of Maunga Taranaki and whakapapa to Nga

Mahanga and Ngāti Tairi. I was born and raised on Pitt Island in the Chatham Islands, as did my father and six generations of his whānau before him. My passion and first love is the ngahere, the forest, of which I am blessed to say has become my trade or service to others through knowledge of Rongoa Māori, traditional Maori medicine and healing. This knowledge was firstly installed in me through living in such an environment as Pitt Island as a child, where the bush was our playground.

When I moved to Taranaki in the 90's to reconnect with the whanaunga, here began a more formalised journey in Rongoa Māori through a mentor in this field. Rongoa Māori is the view in which I see the natural world, hence why I see its relevance regarding the consent in the Mangapepeke valley. I met Tony and Debbie Pascoe in February 2018. Since, I have had the privilege of walking into the back of Tony's home valley on several occasions.

What I saw in the valley is vastly different from what many of the experts have spoken of in this hearing over the past two weeks. Not because what they are saying is false or incorrect but because my view through a Rongoa Māori lens sees this valley in a somewhat different light. For example, if I wanted to harvest medicine, I need a clean environment, preferably away

from human habitat; free from sprays, fertilisers and in its natural, virgin state. This valley provides all of these qualities.

Furthermore, I look for tohu. These can be described as signs, symbols or warnings, both physical or supernatural. A wairua. Tohu for me can be heard or, more often, felt and seen. In this valley, I saw, heard and felt many tohu. These were indicators to me of a healthy environment, perfect for harvesting rongoa. Tohu such as native birds in abundance; water and springs that were safe to drink from; mature trees that provide shade for the undergrowth; kai for the birds and bark fit to harvest for medicine. The tohu I felt was the sense of peace in that valley. One tohu we have seen in Taranaki as well as around Aotearoa in the recent months is the stranding of the whales. What does this tohu mean? One can say that the imbalance of human impact on the environment is starting to take a strong hold or perhaps it's a warning for us to take more care in our role as kaitiaki and make those chances now.

The types of trees growing in the wetland of Mangapepeke, such as Kahikatea and Pukatea, are keys to indicate the type of medicinal properties they possess. They both like wet feet and can tolerate a lot of water, so these trees are used as rongoa

to combat fungal infections such as athlete's foot. Medicine in the ngahere is not only made up of what the tree is but where the tree naturally grows best. Some trees, such as manuka, mahoe or raurekau maybe valued of less importance to the -- an ecologist but, through a Rongoa Māori lens, all these trees are of importance, as the smaller trees are often used for wai rakau, an infusion of leaves to be used both internally or externally. The older, bigger trees are used for harvesting bark for dyeing flax or making balms. Like people, it takes all sorts to make up a community and the same applies for the ngahere, the forest.

The underlying philosophy of Rongoa Māori to me is kaitiakitanga. This has been modelled to me in a way: first heal the ngahere so then it can heal you. For me, this means only taking what is needed; treating all aspects of the ngahere as equal and valued as each other. Each tree, stream, bird, lizard, bat and fish all play a role as rongoa in this environment. Hold on, Mike. One cannot be separated from the other. A 500 year old tree is as significant as rush land grass. Each one's role cannot be played by the other so each is vitally important. The impact Rongoa Māori has on the taha hinengaro, the emotional wellbeing of a person, is a powerful one.

I saw this firsthand with Tony Pascoe. I arrived at his house, his and Debbie's home, after he had had a trying morning on the phone. Tony was visibly distressed as well as physically unwell from this phone call. We decided to walk back into the valley to take some photos. After maybe 20 minutes into the walk, Tony's whole demeanour had changed. The pain had eased from his body and he seemed somewhat lighter. We talked about the joy he got from being in that environment, childhood stories, listening to the streams trickling and seeing a kereru fly overhead. This aspect of rongoa is so vitally important in our country today, with the huge rise in mental illness and, coincidentally, a huge disconnection from our natural world with urban lifestyles and continued deforestation. So how will this proposed bypass affect Rongoa Māori?

To me, this valley is a taonga, a treasure, to our region and Aotearoa. What gifts lie in that valley cannot be replaced or reworked or even replanted. Here it is. A 500 year old tree felled before its time is unheard of. Water that is pristine and life-giving should not be altered or drained into a culvert for the benefit of the minority. What lies in that valley is the sustenance for the mokopuna of tomorrow. Who are we to borrow and alter from what isn't really ours?

The cost of 250 million for the four to five minutes' ease in travel time is a pittance in comparison to the taonga that we are giving up, destroying and taking from tomorrow. Is this road worth bat extinction; habitat loss; species replaced; virgin bush felled and mulched? Is this road worth yet another wetland habitat to be downgraded to a mere swamp and then drained and altered altogether? Can all of your mitigation, compensation and restoration truly be a justification?

I ask, Mr Commissioner, that you make this decision looking well into the future, beyond your time and mine, to say no to this consent so that Taranaki can be known for more than the Barrett Brothers but instead for the rohe, region, that protect what belongs to its mokopuna. Kia ora.

THE COMMISSIONER: Thank you. Can I just get a note of your name, just for the record?

MS DOORBAR: Marie Doorbar.

THE COMMISSIONER: And you can give me a copy of ...?

MS DOORBAR: Yes, I've got ten if you want them.

THE COMMISSIONER: All right. It would be good. Maybe just at the end you could hand that up?

MS DOORBAR: Yes.

THE COMMISSIONER: Thank you, yes. Thank you very much.

MS BAILEY: (Māori spoken) My name is Emily Tuhi-Ao Bailey. I'm a mother of two. Our Ngāti Mutunga tupuna arrived at least 17 generations ago on the Tokomaru waka. I live in coastal Taranaki. I have a Bachelor of Science degree, with a double major in ecology and physical geography and have been a community educator for over 20 years, focussing now on fresh water and ecological monitoring training for hapū and kura. This is funded by MfE and the Wai Māori fund. I am an iwi rep on TRC's policy and planning committee but I write this submission voluntarily in my own time and I have not had time to read all the reports and submissions.

I'd like to focus on the three things: speed, ecology and the future. So to talk about speed first. So, after a few quick searches on the net, it was clear that speed is the single most contributing factor to fatal accidents on roads. I've got

some examples here today but I can't show so I'll hand this to you afterwards. But -- so the first pie graph shows only nine per cent of car accidents are caused by defects on road design and maintenance. Nine per cent. There's a clear trend going with increased speed as -- with increased casualties on a 45 degree angle. Other graphs I've found show that speed -- for example, you -- there might be 663 crashes compared to 212 from drink driving. So it's 663 from speed. Again, other surveys have shown between 40 and 50 per cent of fatal crashes have been caused by speed.

So speeding up traffic is the main reason this bypass has been proposed. Since -- if was safety, then this makes no sense because a faster road will only increase fatal accidents. An article I found from January this year from a senior traffic engineer and transportation planner from ViaStrada Limited in Christchurch. He writes about his experience with reduced speed limits in other countries and the reduced death rates. So a few extracts from his article, which I've -- in the whole article here:

"A safe system approach to road safety is more interested in reducing the numbers of deaths and serious injuries, which is a combination of both the likelihood and severity of crashes.

There will always be some people who make a mistake or bad judgment and there will always be roads of lesser quality. Improvements in these matters will not happen overnight either. That's where lower speeds can improve crash outcomes now, even when other parts of the system aren't perfect.

So straightening a winding road may reduce the number of crashes but is often rather costly and any remaining crashes may be more severe due to higher speeds."

Given the high chance of black ice and fog on the proposed road as well, this raises the risk even higher. The speed of our roads is the cost of lives and we really need to question where this is heading. People are more important than profit.

So my second point is around ecology. I'm going to focus my reading about this project on the initial ecological studies from NZTA and on the third Wildlands report that came out in May this year, which concluded with:

"As it currently stands, the Application provides little assurance that the project will adequately address the major potential adverse ecological effects of the proposed rerouting of State Highway 3 at Mount Messenger."

This says it all really and I don't feel the need to go over these points, except to say that I fully support the Wildlands report, as well as the submissions of DOC and Forest and Bird. It is stunning that the crown, council and community time and money is wasted on a project that has been shot down so many

times by ecological experts. I understand this is the law but sometimes, the law is an ass, as they say.

I have had the unfortunate experience to go up against two previous large crown projects: Solid Energy's Cypress and Mount Augusta Mines in Powelliphanta snail and Great Spotted Kiwi territory and, as also mentioned, the so-called Wellington inner city bypass that Transit tore through our community. The result from the mine that eventually went through, after years of community resistance and a mountain occupation we held for over three years, was hundreds of hectares of pristine alpine wetland destroyed, with some possibly 1,000 year old rare endemic trees shorter than myself. The upper Waimangaroa river was ripped open. Several hundred of the last remaining endemic snails were taken, stored and subsequently killed in a fridge that accidentally lost power. And who knows how the kiwi now fare with the wetlands and forest gone and the first ever pest invasions into that valley?

The coal price fell out but the state owned company mined the valley anyway at a huge loss of taxpayer money and habitat destruction. This is the insanity of these crown projects. As for the bypass, the many community parks they promised to build along the road were never created, yet they tore our parks down

and the land is now being sold off. The relocated and renovated historic houses that they didn't destroy still remain empty ten years later, with one of the country's oldest left-wing radical, creative and pedestrian urban communities destroyed, causing years of trauma and upheaval to the residents.

The results of these projects similar to this one? A huge waste of money and resources; the loss of an important sector of the creative community and no time savings for traffic, since car numbers rose shortly afterwards, along with accidents, pollution and environmental damage. This is what we want. We want the second best regional tourist destination. We need to listen to the experts and locals and not put fanciful claims of increased economic profits and safety before the protection of threatened endemic species, protected under international laws, and precious environmental habitats.

Taranaki is already down to roughly six per cent of wetlands remaining. We cannot afford to lose any more. These habitats are crucial for stream health, water purification, ground water replenishment, flood and drought control, as well as bird, reptile, insect and fish repopulating and they nurture crucial wetland plants that were used by our people for many

generations for food, medicine, housing, boats, tools, shoes and clothing, alongside the birds and fish that were eaten.

New roads bring new pests and weeds. Anyone can see that. Roads change water flows, wind flows, increase noise and air pollution, compact soils, move soils and basically damage the wairua of any environment. Every now and then, my family does a cleanup of rubbish along our State Highway 45 section outside our house. The vast majority of the waste we see is drink containers, takeaway food packaging, farm waste and broken vehicle parts. Rubbish is ugly and uninviting and promotes the dumping of more rubbish. Unless it's picked up and taken to landfill or recycled, this waste washes into waterways, gets stuck in trees or is buried randomly in soil or eaten by animals. This is inevitable for this proposed new and busy intercity road but there are less people around who may remove the waste. The same goes for weeds and animal pests. Need we be reminded of the countless news stories of escaped pet dogs what ripped through kiwi territory in a single night? A road means a pest route forever. So who will maintain the pest control?

As much as people like to go on about pest control, deforestation remains the largest single factor contributing to

the loss of species. So this road is obviously more of a problem than any pests already existing or to be introduced via the road. New research into 1080 is also starting to look at other effects previously not considered, such as long term effects from consumption and on further species not previously tested. If 1080 is ever banned, can we seriously maintain pest control by hand in this large valley we are proposing to further open up?

So the future. I spent a night in a Pouakai hut a couple of months ago in Taranaki. There were about 31 people happily crammed in the 16 bed hut. At least six others left early to try and reach the next hut before dark. That hut was probably full too. We were locals, New Zealanders from other towns and foreign travellers. All of us were prepared to walk three to five hours uphill in the wind and rain, just to experience the beauty and wilderness -- wildness of our incredible Taranaki natural environment. There is huge potential to increase the rapidly growing tourist and recreation economy in Taranaki. And let's not forget this is now the largest economic contributor to this country's economy.

The area around Mount Messenger is an obvious area to promote, with stunning scenery and already-established tracks

and huts. Since there is only one inter-city bus at the moment a day, most travellers come by plane and/or travel by small vehicles, increasingly turning towards electric bicycles, EVs, and hybrids which have far less impact on the roads and the environment than heavy, diesel-chugging trucks and buses.

The localised, small-market farming economy in Taranaki is also seeing a return with on-site milk vending shops hosting food products and crafts from neighbouring producers alongside crop shares, farmers' markets and market gardening on the rise. The rising awareness of going zero waste - as this council is proudly -- and moving away from costly fossil fuels is helping many people realise that they need to buy local, grow their own, go fishing and ditch their petrol or diesel vehicles.

Our future is not in long-haul ocean, air or road transportation of heavily-packaged goods controlled by massive corporations; it's in fresh, healthy, local produce traded with environmentally, socially and economically sustainable means. I empathise for the truck and van drivers who are pushed to deliver more and more goods at faster and cheaper rates, but this is not a problem that should be taken out on the natural environment and community of Mount Messenger. This is an economic problem of an unsustainable global market that, no

matter what, is going to have to face the rising price and scarcity of fossil fuels. So holding on to methods that endlessly increase these problems by constantly pushing for more of the same, quantity not quality, is no solution at all. Change is coming, whether we like it or not. We can fight it and make it worse for everyone, or jump on the waka and sail.

I know there are restrictions on what can and cannot be considered under the RMA - and probably I've talked way off the topics we're supposed to look at - but looking ecologically, looking at all the factors and the interactions, you cannot ignore the effects and connections between activities. Our forests are not single trees in a barren landscape but communities of interconnected plants, animals, fungi and soils; just as our communities who are threatened do not stand alone.

The importance and security of national infrastructure cannot only be measured in economic terms but must be -- must be measured also in social terms. To put it simply, faster roads equals more deaths, and a fossil-fuelled transport economy has no future. We should not sacrifice the long term for a ridiculous, short-term capitalist model of take and break that has already caused more harm on this planet in just a few generations than any other event in history. This road supports

this model, not crucial infrastructure for a sustainable and just society. I request the bypass application is denied and the repair of the existing road is chosen.

THE COMMISSIONER: Thank you very much.

MR SIGNER: That concludes our submission. If you have any questions, we are happy to answer them.

THE COMMISSIONER: No, I think you have been very clear with your position. And I would appreciate a copy if you do have a copy of your notes for the record. Thank you very much.

MR SIGNER: Kia ora.

THE COMMISSIONER: Kia ora. Mr Maxwell?

MR MAXWELL: Kia ora, Commissioner.

THE COMMISSIONER: Kia ora.

MR MAXWELL: Thank you for the opportunity to present here today.

THE COMMISSIONER: Thank you.

MR MAXWELL: I do so in strong support of the proposed improvement to Mount Messenger obviously with appropriate consenting and mitigating processes which I'm aware take place in every one of undertakings of -- certainly of this scale, but on virtually every significant road improvement throughout the country.

My name is Roger Francis Hamilton Maxwell. I've lived and farmed in the Urenui and North Taranaki districts for over 50 years. I'm not sure how to describe myself, other than to say that over that time I've been an advocate for community wellbeing, and one of the enduring issues in the community and the wider community of Taranaki and beyond has been roading. And part of that is the country in which NZTA and others try to generate good roading surfaces, it's been a issue ever since anyone lived here in this area. It is a very difficult terrain.

Now, my advocacy has been, over the years, through Federated Farmers at a senior regional level. I had the privilege of serving the community for 15 years as a Member of Parliament, six years of that as a Minister of the Crown. And, more recently, 18 years as a regional councillor, and three

terms of that was as chair of the Regional Transport Committee which is the mandated - if you like, using the word that's used here often - mandated as the -- representing the Taranaki region in terms of roading promotion and liaising with government agencies about how that might be done and the allocation of funds.

Now, as I've said, I support the Mount Messenger bypass. Without going into the details, it's a long story, but it is the largest project of a suite of three, which take in the bypass of the Awakino Tunnel, the corridor is known as the corridor between the two tunnels which the work of and improvement of which has taken place quite -- well, about halfway finished. And Mount Messenger bypass being the last significant and largest project, and probably the largest project that Taranaki has seen for a long, long time, relatively speaking.

Now, I support -- my support is based on a need to recognise, one, the need for the improvement, and that need has been presented to those in authority and with the money for the last 100 years and beyond. But we're looking forward, with a project like this, to future-proof the -- a difficult part of the road to -- for another 100 years, and it's an investment in

the future generations, probably more than the current generation.

I think I've got at least as good a understanding as any - and perhaps more than some - of the potential environmental impacts, having lived in this area and farmed it for decades. There is a need to minimise and mitigate the effects, but that's got to be balanced by reasonable mitigating factors, and taking into account all the circumstances of the environment in which you are operating.

Now, I recognise also the impact on those directly affected by the proposal, for example, these, of course, are the landowners. And in that respect, from a personal point of view, I've had the experience of having land taken for state highway improvement. And initially, can I say, that has quite a negative impact, until you sit down and work - in that case it was with Transit - sit down and talk about the issues, how it might be managed, whether there's a benefit for, in this case, both parties: the roading agency and the person farming the land. And that was quite a long time ago but it's not left a lasting negative thing; if anything, it had a positive outcome.

Now, none of the issues that I've heard and noted in the supporting evidence by NZTA are unique. They're -- these issues have been -- see, and I'm not saying the bypass corridor which is planned hasn't got some interesting and may have some unique features, perhaps yet to be discovered, but they are important for the local people and they are relevant to the region in which it's sited. And if you blew that map up, Mr Commissioner, a bit bigger, if you've flown over that area you would know there are tens of thousands of hectares of not dissimilar country. Some of which is farmed, others which is -- well, no, I don't think there's much virgin bush, there's a lot of cutover bush, but the Moki Forest might have the odd pocket that hasn't actually been milled. So most of it's modified in some form.

But these projects around the country are -- all of -- faced similar issues that are being raised here today and in previous submissions, and in the documentation which has been put forward by the applicant and others. And it's in that respect, having been involved in this process for some time now, and looking forward to getting to the end of a long-road journey with the construction of a suitable deviation from the existing road.

I've taken the opportunity to look on two occasions in detail at the Huntly deviation which is on the expressway, on the last piece of the expressway which is, I don't know, it's about halfway through construction at the moment. Many parts of that corridor were not dissimilar to the issues that'll crop up at Mount Messenger, although Mount Messenger and the proposed realignment has obviously got its own unique features. And I give credit to the NZTA and their consultancies where they've sought to address most of those issues, and the Alliance which I think has, well, I know has put a lot of effort into thinking how would you manage the process to have the minimal impact.

Now, just by way of background, this project hadn't reached this point without a lot of background work, some of which has virtually been repeated in the detail of which the hearing has considered. But one of the milestones along the way which may have been brought to your attention - it's the only piece of paper that I have - that I can present to you in a printed form; I'm not about to deluge you with a whole lot of documentation in that regard - but this is an updated version of the State Highway 3 working party, which initially started in 2002 under the management of the Taranaki Regional Council, and it's an inter-regional forum between the Waikato and the Taranaki Regional Councils with the whole idea of pooling their ideas and

resources and making sure that there is funding available, and the appropriate projects undertaken to improve the road access between the two provinces.

Now, one of the other things that's taken place is that there has been, relatively recently, some funding allocated which gives the opportunity for projects like we're discussing today to actually take place. Now, the Taranaki Regional Council got concerned about the loss of regional funding as a result of a government decision. We argued that with the national roads or roads of national significance, the way it was allocated, we would miss out. So we went advocating for another form of regional funding.

As a result of that, I was privileged to lead a delegation to meet the minister of the day, the Minister of Transport, and there were eight other similar regions that were affected by the change in the criteria. What we got was a sympathetic hearing and we like to think that as a result of that, the Accelerated Regional Roding Fund was established within the funding stream of NZTA.

Now, in addition to that, as you'll be probably aware, Commissioner, the NZTA has a very exhaustive process which you

have to go through to get any money out of them. And we, a colleague and myself, in particular, and the Regional Council supported and attended virtually all of the meetings that were held which involved the Waikato and Taranaki to develop the business case for improvements in State Highway 3 under the umbrella of this new funding.

Now, during that process there was lots of references to issues that need to be considered in detail under the RMA. And so all these issues that have been talked about for the last few days and prior to that have, you know, already people have been thinking hard about how they might mitigate and minimise the impact.

The natural concern, of course, about a major construction in a bushed area is understandable, but what we also need to remind ourselves is that, even in Mount Messenger, when some areas look really quite pristine, they're actually all modified areas. Now, man's done it through farming and bush clearance and harvesting of probably the better trees, the specimens that were there. The beasts, of course, and the pests like goats and possums and pigs, being the main ones, and, of course, domestic animals that tend to stray from time to time, particularly in the winter if they're not well-constrained or well-fed. And

nature, of course, itself can be quite damaging, and bear in mind these are geographically, as you know, very young soils, and that's a constant thing that's occurring in the area.

Now, I accept what is planned is more intrusive in scale than -- and so it's got to be -- than what we've been used to, and it's got to be carefully managed. And I've -- so I've used the example of Huntly because I can't think of a better example. Not only is Huntly a major construction project, but the -- dealing with the hapū and iwi representatives in there, and conservation groups, was arguably of a greater scale than what we would anticipate at Mount Messenger, and that's all been successfully managed and it had a very positive outcome. And I know the construction of this highway will benefit everyone and I don't know of too many people who will be disenfranchised as a result of that major investment in roading.

Now, as a farmer and someone who's lived on the land all my life, but also in different areas, I can understand the cultural/spiritual, issues that these are more difficult for people to deal with. And with Ngāti Tama, obviously that's of particular concern, I understand that. They've talked about how that might be offset by different mechanisms, either by you or

by the applicant or the government of the day, whoever actually gets involved.

But I'll just note that in terms of when, originally, these proposed routes were put out for public discussion, there was real concern about what would happen to the migration of the kōkako, a project which I applaud and Ngāti Tama have been spearheading for, you know, at least a decade. And one of the concerns was about the ability of the kōkako to migrate further inland to the other parts of the region which would be a suitable habitat. Now, the interesting thing is - I just note it in passing this morning - that the current plan of the tunnel and bridges and does actually give a land bridge for that movement, if required. And so that's one small issue that might be partly addressed by the current room and the current project.

But I come back to the point that I understand the landowners' real concern about obviously quite significant disruption to life. I think NZTA should take account of that and be sympathetic in how they manage that. But with the good will and acknowledgment of the full impact of land loss on a particular farm, it should be possible to have a fair and equitable compensation package or suitable reparation for those people, and it should be reached.

Now, the public expectation is that projects like this are carried out to a high standard, including those cultural issues, the environmental issues, and I think the proposed mitigation design is capable of meeting that expectation. And my experience is that the communities at large can and will get great benefit in the future from this project proceeding, and I wish you well in your consideration of the appropriate consenting amendments and requirements to not only make it possible, but also ensure that the best possible outcome comes from all the deliberations that you have been considering. Thank you.

THE COMMISSIONER: Thank you very much, Mr Maxwell. And I think you have been very clear so I do not have any questions. Thank you.

We will have Mr and Mrs Pascoe now. Welcome, Mr and Mrs Pascoe. Certainly take your time; the floor is yours so I'm interested in your views. Thank you.

MR PASCOE: Sorry if I get a bit emotional. My name is Tony Pascoe. I'm here with my wife, Debbie. We are from Ahititi and live in the head of Mangapepeke Valley. We own the land that

the proposed NZTA Mount Messenger alignment has indicated for -- been indicated for. I do not have any formal qualifications, but I am here as an affected landowner, stakeholder, guardian, holder of knowledge, traditions and values through my long connection with this valley. Through my wife, my children, my grandchildren, I am part of the Poutama iwi.

I am 60 years old and have lived there all my life. I live in the same house I was raised in. We have raised our family there. Our grandchildren visit and stay with us there. Other people come and bring their families to learn about the natural environment and ecosystems.

Fogs regularly sit so still and low in the valley that it's difficult to see a few short metres in front of you. We've got some photos. Parts of the valley are constantly shaded and never have the sun in it, especially during winter. Black ice forms and stays there for very long periods of time.

The valley floor of our farm makes up approximately 30 - 50% of swamp and wetlands but it's realistically more than like 60% in the winter. The area NZTA are seeking to designate and damage includes all the natural values of the valley floor,

including the wetlands, springs, streams, and all the life in them.

We pay rates for the whole parcel as farm land but can only farm a small portion of it. We have left as much of the valley in its natural state as possible. We have not recontoured all the land and turned the meandering stream into a drain. When it rains, flood water disperses over the valley floor and the natural swales; as a result, the silt is deposited on the land. The stream doesn't get choked up with silt or scoured. We have not sprayed any of the vegetation, wetlands and stream.

We have been able to live off the land to survive. We have made ends meet by pig hunting and possum trapping for the family. As a teenager, I started cutting ponga and firewood for sale; we still do this. We regularly give pork and pigs to people. We pick watercress for our household from the valley stream. We let people take eels and crayfish for tangi as well.

The atmosphere within the valley has a healing effect. Mangapepeke seems to have very high oxygen levels which influence our health and wellbeing. If we are feeling under the weather, we will walk up the valley for the fresh air, peacefulness, healing. The valley is a calm and peaceful place.

The whole valley is largely a wetland and is home to eels, crayfish, tom tits, grey robins, pigeons, New Zealand falcon, moreporks, kiwi, fantails, kōkopu, inanga, just to name a few. There are springs in the valley where the water is pristine as the air. One of the many trees is a very large rimu, at approximately 1.5 m in diameter. According to NZTA reports, these natural features will be destroyed for the proposed road.

Quite often, a representative of NZTA would arrive at and access our property with no notice. NZTA advised us on 30 July 2018 that the haul road alignment and design has not been confirmed and the intended road alignment has been changed. They had -- they had not told me where it is -- has been changed to. I have received -- I have received details or sufficient information to be able to -- I haven't, sorry, received details or sufficient information to be able to understand the effects.

NZTA have met with us over 24 times. Nearly all of these meetings have been tense, confrontational, condescending and distressing. Below are some of the comments made to us at some of those meetings:

"You will have no home. The construction noise will be atrocious. You shouldn't have those people here [our support people]. How much is your mortgage? Your house

may be special to you but doesn't have much value. Can we broach five years down the track, what would your life be like if we hadn't come along?"

I believe the application should be declined. I believe several million dollars and destruction of a natural organic ecosystem full of native trees, natural springs, streams, freshwater fish, invertebrates, bird life. The wrong word in there. The chosen option is reckless, extremely expensive and potentially dangerous.

THE COMMISSIONER: Mr Pascoe, did you replace the word "online option" with the "chosen option"?

MR PASCOE: The chosen option. It's the wrong word in there, sorry.

THE COMMISSIONER: Thank you. I have just made a note of that. Thank you very much.

MR PASCOE: Because of the significant effect this decision may have, I believe it is important that the Commissioner, Mr Stephen Daysh, physically walks over and takes a closer look up the valley. I use this forum to formally invite you to do so.

While I acknowledge and accept that land is needed from time to time for the public work, I am someone who knows every inch of that valley, probably better than anyone else in this room. I have seen all the elements, the weather conditions. I cannot emphasise enough that this valley is absolutely the wrong place to make a new road. You cannot put a commercial place into a natural world without destroying the life force and natural energy of that world. Thank you.

THE COMMISSIONER: Thank you very much, Mr Pascoe. I do have a couple of questions for you. The first one is, the top of this page here at paragraph 16 you talk about the meeting you had on 30 July 2018, and that you were informed that the haul road alignment had not been confirmed and there were some design changes. Were you shown any plans at that meeting about possible changes? Because I've been given some plans about alignment.

MR PASCOE: We were shown some plans of the alignment of the road itself and we talked about the haul road. We walked back the valley, asked questions about it and Stu that was with us - he was only been with the group six weeks or something - he said he couldn't answer a lot of our questions because he said those

plans weren't in his hands, he did not know. For the haul road, especially.

THE COMMISSIONER: Okay, thank you for that. And just in terms of the photographs you have given me. Do you have a copy of those there?

MR PASCOE: Yes.

THE COMMISSIONER: Would you just like to take me through just any notes on the photographs. I have got the first page.

MR PASCOE: That's with the house with the flooding?

THE COMMISSIONER: The house with the flooding and the washing line.

MR PASCOE: Yes.

THE COMMISSIONER: Yes, so just take me through and take me on what you are showing me here.

MR PASCOE: That was probably, it was a --

MRS PASCOE: Well, these photos were taken -- if I may speak?

THE COMMISSIONER: Yes, certainly.

MRS PASCOE: These photos were taken a long time ago, not long after we got married. And I took the photos then because I was scared stiff. I had never seen the water like that, while we quite frequently do get floods like this. The next one along from the house one, there is a old horse float sitting out in the paddock. That is looking to the existing main road. And the water was actually running over the main road by our letterbox, which would be out of the photo on the left-hand side.

MR PASCOE: On the Mount Messenger side, yes.

THE COMMISSIONER: Yes, so are you looking back towards the existing road?

MR PASCOE: Yes.

MRS PASCOE: Yes, from the house.

THE COMMISSIONER: And roughly what year would this have been?

MR PASCOE: The time of the year, or?

THE COMMISSIONER: Yes, just roughly.

MR PASCOE: I was going to the cow shed so I was still milking when this one happened, so come home and --

MRS PASCOE: I think it would've been springtime.

MR PASCOE: Yes, late springtime. October/November of probably '93, '94.

THE COMMISSIONER: Okay. The early to mid '90s.

MR PASCOE: Yes. Yes.

THE COMMISSIONER: Okay. And the other photos on this page?

MR PASCOE: Oh, that's just heading back towards the valley, towards our sheds, as you go up through there.

THE COMMISSIONER: Yes.

MR PASCOE: Debbie had to shift the Isuzu truck from out the front paddock because when she first looked out it was sort of halfway up the wheel; within ten minutes, quarter of an hour it was trying to go into the cab, so Debbie drove it up there. Debbie had to shift all the dogs that was around behind the front shed and beside the shed and whatever, they were swimming. We had something like 100 ml of rain in four and a half hours in that flood. I was actually down the side road of the cow shed and I couldn't get out. My mate had come down because he had a four-wheel drive and brought me up to come home.

THE COMMISSIONER: Okay.

MR PASCOE: That took a long time to sort of go down, that water.

THE COMMISSIONER: Yes. This has just shown me that the valley floods pretty severely sometimes.

MR PASCOE: Every September.

THE COMMISSIONER: Yes. All right. And the next page of the photographs, just take me through what you are showing me there.

MR PASCOE: Yes. The one of the spring there, that's the spring back of the valley. It's crystal clear. It's right in the middle, actually, of the road, of where the proposed road is supposed to be, my understanding of our walkovers, they told us. That big rimu tree stand on the side, that's right in the middle of the route, I mentioned in my summary as well, which is just into Ngāti Tama land. They're significant springs; they're so clear and there's so many on that side of the valley. That's why I'd really like you to come and have a look, and have a look at the valley before you make a decision because it's very significant. Over further is some of the plain, and that was only just over 40 ml of rain one morning, and I was two hours, actually, late getting back to take the photos.

MRS PASCOE: This year.

MR PASCOE: Of this year, that was a couple of months ago. And the fog, of course, in the other photos, but it does go right across the valley and it will get very, very heavy rain. It really goes to wall to wall, quite high wall to wall really at times. And it stays for a long because the valley itself is a very flat valley, and the fact that's it, you know, the house is maybe 17 m above sea level. Over a kilometre back the valley is only 20 metres - which I was told years ago, whether that's

right or not but that's what I was told - above sea level so it's a very flat long narrow valley.

THE COMMISSIONER: Okay, they are very helpful. Thank you. And just your comment in your paragraph 3 that through your wife and your children and grandchildren, you're part of the Poutama iwi. So that is, as explained before - and I assume Mrs Pascoe will talk to me about her links back through the iwi side - is that right?

MR PASCOE: Yes.

THE COMMISSIONER: Yes, okay. Thank you very much for all that.

MR PASCOE: I'm pākehā, she's the Māori.

THE COMMISSIONER: Yes, okay. That is fine. So you connect through your marriage with Mrs Pascoe.

MR PASCOE: And my children.

THE COMMISSIONER: Yes, and your children. Thank you very much for putting this together. And I know it is always tough to be

in these situations and so you have done very well and you have been very clear in your view, so thank you very much.

MR PASCOE: Thank you.

THE COMMISSIONER: Mrs Pascoe.

MRS PASCOE: My name is Debbie Pascoe. I have lived in the Mangapepeke Valley, Ahititi, for 29 years and raised a family there with my husband, Tony. Our mokopuna love staying with us. We always take them and other children to explore the valley habitat, to the many birds, fish, insects, native flora and fauna. My great grandmother was Hera Stockman. She was also known as Sarah Stockman. I whakapapa to Ngāti Rahiri and Poutama through her. My cultural identity not only comes from her and Poutama iwi but from Mangapepeke itself, which is within the Poutama tribal area.

My parents, Aile and Jim Marsh. My father was a well-renowned colour man and water diviner. He helped people with ailments and illnesses and used his knowledge to heal. His skills in healing and water divining were sought after and took up most of his time. People from all walks of life travelled to him to be healed. He was also a successful horse trainer. His

reputation as a unique healer was also sought after and well known.

I inherited my father's skills but have never actively used it; I settled and live in a place that already has healing mauri. Everything vibrates at a certain frequency. If you are unwell and take a walk in the natural, untouched and unspoiled area, the vibrations in that area - the mauri - will resonate with you and your mauri. To breathe oxygen-rich, clean, fresh, uncontaminated air at the same time is even more beneficial for you, for your health and wellbeing. This is the Mangapepeke.

We have allowed many people to walk up the valley to soak up and enjoy the peace and naturalness. The Mangapepeke Valley has a healing mauri that, until this application and proposal from NZTA, it never occurred to me that it would ever be compromised or destroyed.

I have seen significant floods over the years. My husband and I showed the NZTA photographic records we have of various flooding - hill flooding - yet they made no reference to it in their reports. I have to question NZTA's position on climate change. With global warming, with CO2 levels increasing worldwide and carbon sinks being destroyed regularly, I believe

this application is irresponsible and unreasonable on their part. How much CO2 will be released into the atmosphere by destroying the valley if NZTA were given the go-ahead for their application? Forest health and conservation are the key to fight against climate change.

The Mangapepeke Valley ecosystem comprises of animals, plants, fungi, bacteria, fresh water and aquatic life, much of which will not survive if broken down by human destruction and the creation of this road. The reality and stress of this proposal has had a significant impact on us as a family. Tony has developed a heart condition due to the amount of stress he has had on him and has been admitted to hospital three times during this process. NZTA's dealings with us have been more than unpleasant; I find their behaviour towards us intimidating, confrontational and upsetting.

Conclusion. I believe destroying the Mangapepeke Valley ecosystem will not enhance it at all. I believe it will create more harm than good and at a very expensive price to us all. I implore the NPDC and the TRC to not grant this application, for the sake of the environment and everything that lives within it.

I submit that NZTA be required to radically rethink and change its position on upgrading the existing Mount Messenger road. It could be a great road. It would be less -- it would cost less and be less damaging and destructive in their -- than their current proposal. And I would like to support Tony's invitation to the Commissioner to take a walk up the valley and have a closer look at what is there.

This poem I wrote is headed Happy Valley. Happy Valley is actually written on the deeds of our property:

"This was a happy valley until NZTA came along
Not only did they want our land so they could build a road
But told us we would not be able to live in our family home
Then went away for two weeks and back they came again
Another bomb they dropped on us, "We want your whole valley
land
This place is very special to us, it is our family land
But they just want to mitigate iwi land
Dirt and trees they will cut down and want to put on our
land
And plant the valley floor and covenant it all
They walk around in high vis coats
All round the hills like mountain goats
And spook our stock without a care
This stock is our money to be fair
The bush in the valley is that way
Only because we care for it
Not like others who don't give a shit
This is our heritage from years before
It is our life now and our future too
Our children and grandchildren too
We love it here and this is where we want to be."

THE COMMISSIONER: Thank you very much, Mrs Pascoe. Could I ask you about your Poutama iwi links? Is this through your mother, it is her family?

MRS PASCOE: It is through my great grandmother on my mother's side.

THE COMMISSIONER: Yes.

MRS PASCOE: Yes.

THE COMMISSIONER: And she relates to Poutama through a place she lived or from a marae that Poutama relates to?

MRS PASCOE: Yes, she came from the Poutama area.

THE COMMISSIONER: Yes. And the Poutama area in the way you look at the world includes the land in this valley that you live? And how do you see the relationship you have with Ngāti Tama? Are you part of Ngāti Tama as well, or is that quite separate?

MRS PASCOE: No, separate.

THE COMMISSIONER: And it is separate because you came from a different lineage and you do not whakapapa --

MRS PASCOE: No.

THE COMMISSIONER: No, there at all.

MRS PASCOE: No.

THE COMMISSIONER: Okay. Your land is not held as Māori land, I don't think.

MRS PARCOE: No.

THE COMMISSIONER: It's freehold land.

MRS PASCOE: Yes.

THE COMMISSIONER: Yes, but in your view, you exercise kaitiakitanga in the sense, in terms of the valley and your land. Is that --

MRS PASCOE: Yes, that's right.

THE COMMISSIONER: So if there was a kaitiakitanga panel set up to oversee, if the project did get approved, you think you would have as much right to be on that as other people?

MRS PASCOE: I don't see why not.

THE COMMISSIONER: Okay, thank you for that. Look, I do not have any other questions. I think you have been very clear with your concerns. I will certainly consider your invitation to walk up the valley and I will talk to the councils about how that might be able to be arranged. But I think I have been over on the road and also on a helicopter, but it might be useful to walk up there as well, I think, so we could well be in touch about that. Perhaps, before you do go, one question I did have, I have just realised. What NZTA talks about is the online route or "option Z" in their documentation: this is realigning the main road.

MRS PASCOE: Yes.

THE COMMISSIONER: I have had evidence that the cost of that is about double the cost of the road that we are looking at here. So were you aware of that or get any information about the difference in cost?

MRS PASCOE: No.

THE COMMISSIONER: And there is a very large slip I have been told about on the northern side of the road - I think just before we get to the valley on the left, coming down - which the engineers have talked about a very costly fix. So I just wondered whether you had been made aware of the differences in costs.

MR PASCOE: No, we haven't, no.

MRS PASCOE: No, just ...

THE COMMISSIONER: All right. Thank you very much. Thank you for your time you have taken to come and present to me.

MR PASCOE: Thank you very much.

THE COMMISSIONER: Mr and Mrs Pascoe, sorry, I just -- you are the last submitters for the day so we are finished our business. But I will take five minutes just to allow, perhaps, Mr Hovell to confer with NZTA. Is five minutes enough time?

MR HOVELL: Yes, we will take that. Thank you, sir.

THE COMMISSIONER: And just go for a walk up outside and be back in about five minutes.

MR HOVELL: That is fine.

THE COMMISSIONER: Thank you very much.

MR HOVELL: Thank you.

(A short adjournment)

THE COMMISSIONER: Thank you, Mr Hovell. Have you come to any conclusions?

MR HOVELL: Yes, thank you, sir. Thanks for that opportunity. I have taken instructions and the Rūnanga would like a right to reply to the Poutama submission. It would be, I guess, a question of what the form of reply would be, and the timing, and how it might be sent to the Commissioner. So the thinking is to prepare something in writing initially, lodge that on Thursday next week.

THE COMMISSIONER: Yes.

MR HOVELL: And then if the Commissioner wishes to hear from the Rūnanga in relation to that, if he could advise us on that. There may be an opportunity to hear that either on Thursday or Friday, if that is a lay day for the hearing.

THE COMMISSIONER: Are you talking about Thursday/Friday next week?

MR HOVELL: That is right.

THE COMMISSIONER: Yes. Look, as I said before, I am reasonably flexible on these matters, just due to the way things have evolved with the evidence and Poutama's information. So, if you would like to submit something in writing, and I would also be very happy for you to present something as well. So you just let me know what your preference is and we can fit in with that.

I am quite concerned that Thursday next week could be pretty busy, and I will take some advice from the council staff in terms of timeframes and things as well. We may need to plan to be here on Friday if we need to be, just as an extra timetable. So just, again, to be a bit flexible. If we get

through everything on Thursday next week that's great, but I certainly do not want to be sitting very late or not getting through everything.

MR HOVELL: And we were advised that Thursday was pretty full which is why we made the suggestion of the Friday as well.

THE COMMISSIONER: Yes. So if you did want to tentatively book in Friday morning we could make those arrangements, even on a tentative basis, and you could confirm back through the Council what your preference was.

MR HOVELL: That is probably a good way to proceed.

THE COMMISSIONER: Give you a bit of time to think about things. Right, thank you. Mr Allen, are there any other questions from you or process matters?

MR ALLEN: No, thank you. The Friday option is fine by the applicant and can definitely work around that. There was mention of the site visit. We are very open to that as well. It may be if the Commissioner is going part way up the valley it might be useful to go further into the Ngāti Tama land.

MR HOVELL: I am not sure if you have been to the Ngāti Tama land as such yet.

THE COMMISSIONER: No and I had planned to do so but I had a bit of an accident a wee while ago and have not been that mobile but I am back fit and well now so there is an opportunity. I feel given some of the intrinsic values that have been talked about it would be probably preferable for me to have a walk through there. I will leave that with the councils to liaise with Ngāti Tama, with the Pascoes and with NZTA about how best to facilitate that and hopefully facilitate some nice clear day to do that. It would be pretty interesting on a wet day.

I think that is probably the conclusion for today. Do you want to come back to the councils in the next day or so about perhaps setting aside some time on Friday morning? That would be okay and we will work back through that. I think Ms Holt or Mr McKay about issuing an updated schedule for next week. We definitely have a full Thursday starting at 9.00 am here to hear the Department of Conservation and there is quite a bit of work to be done thinking about different versions of conditions as well that I will leave in your good care to take care of between the Department of Conservation, NZTA and the councils. Certainly Ngāti Tama has put some ideas in around some of the

issues as well so I will look forward to receiving that. Am I likely to see that before Thursday?

MR ALLEN: Hopefully we will see for the first time something from DOC on Monday night. There will be more discussions with the councils tomorrow as I understand it, so in terms of where things are at with the councils what known is quite well set. Where things are and what DOC may or may not come up with on Monday we will have to address on Tuesday and Wednesday.

Their lists may be quite long so we do not know whether it will be a new set of conditions or a redraft of what we have proposed, so we will just have to see how we go. That is another potential benefit for Friday.

THE COMMISSIONER: Mr Allen, I would like to signal I would be very comfortable if Mr Roan wanted to come back on the stand and take me through and be recalled around conditions. I certainly do not want to be in the position of squeezing time on Thursday just to get through.

MR ALLEN: Especially with the Council, given their conditions, given potentially Wildlands, et cetera, may be talking as I

alluded to the other day. 45 minutes may be tight for the councils to get through their reports.

THE COMMISSIONER: Yes. Let us plan to be here on Friday morning probably anyway just to give flexibility and we can work a new programme around that. Mr Allen, one last question and I think you answered this but are you likely to want to call some extra evidence related to the Poutama information?

MR ALLEN: Potentially we would do the same as Ngāti Tama. It may be we just address it on closing. Unfortunately Mr Dreaver is on a plane at the moment, as is Mr Beverley, and I will talk to them about the cultural aspects and report back through to the Council. But anything back from us will be brief.

THE COMMISSIONER: Yes, thank you very much. I would just like to say on my behalf I am very pleased with the manner of everyone's presentation. I know there have been some difficult issues talked about and everyone is very courteous and I really do appreciate and respect that so thank you.

(Adjourned until Thursday 16 August 2018 at 9.00 am)