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EVENT: TARANAKI VTM APPLICATION CONFERENCE – DAY 3

SPEAKERS:

EPA PANEL:	THE HON. KIT TOOGOOD, KC DR HILKER GILES DR LORETTA LOVELL GAVIN KEMBLE NATALIE HAMPSON
ROYAL FOREST & BIRD PROTECTION SOCIETY OF NZ INC:	PETER ANDERSON
ARAUKUUKU HAPU:	KARLEY HEMOPO
BROOKS SEAFOODS:	ALI BROOKS
TE KOROWAI O NGĀRUAHINE TRUST:	TE AORANGI DILLON EMMA GARDINER ALISON ANITAWARU NAOMI PUKETAPU-WAITE
ŌKAHU-INUĀWAI HAPU OF NGĀRUAHINE:	JOHN HOOKER MERE KAWHINE TEPAPA BROOKS ALISON ANITAWARU-COLE EVE KAHUWAERO RONGO
TE KĀHUI MARU TRUST:	SAM TAMARAPA KASEY BELLAMY
TE TŌPUNI NGĀRAHU TRUST:	JACQUI KING DION TUUTA WHARE
NGĀTI HĀUA HAPŪ:	RERE-NO-A-RANGI POPE SARAH MAKO
NGĀ MOTU MARINE RESERVE SOCIETY:	BARBARA HAMMONDS ELISE SMITH
TE KĀHUI O TARANAKI:	DAMON RITAI JACQUI KING
TRANS-TASMAN RESOURCES:	ALAN EGGERS
TOTAL LENGTH OF AUDIO:	5.18 HOURS
TOTAL PAGES:	99

[Start of Recorded Material: 00:17]

[off topic background chat]

K TOOGOOD: We're a bit early, but I think we'll make a start unless we're waiting on anyone. I can see Royal Forest and Bird are well prepared and ready to go.

P ANDERSON: We're enthusiastic [laughter].

MALE VOICE: E anō. E tō mātou Matua i te rangi, Kia tapu tō ingoa. Kia tae mai tou rangatiratanga. Kia meatia tau e pai ai ki runga ki te whenua, kia rite ano ki to te tira. Homai ki a matou aianeī he taro ma matou mo tenei ra. Murua o matou hara, me matou hoki e muru nei i o te hunga e hara ana ki a matou. Aua hoki matou e kawea kia whakawaia; engari whakaorangia matou i te kino. Nōu hoki te rangatira-tanga, te kaha, me te kororia. Ake, ake, ake. Āmine.

K TOOGOOD: Āmine.

MALE VOICE: Kia ora tātou.

K TOOGOOD: Kia ora. Good morning.

P ANDERSON: Good morning.

K TOOGOOD: Welcome. Introduce yourselves, and we'd love to hear from you.

P ANDERSON: So, kia ora koutou. My name's Peter Anderson. I'm a lawyer representing Forest and Bird, and with me is May Downing, who's another lawyer from Forest and Bird. We have provided a three page document that we propose to talk this morning.

K TOOGOOD: That's very helpful, thank you.

P ANDERSON: In our time, I'm just going to have a brief introduction to Forest and Bird and our involvement in it. Then, I'm going to go through this document. I think the document will take about 10 minutes, so I think the value of this exercise is in questions from the panel, so I'd encourage you to ask questions as we go along to make the most of the time.

K TOOGOOD: Thank you.

P ANDERSON: Forest and Bird is well known, New Zealand's largest conservation organisation. Forest and Bird was involved in the 2006 application, submitted and called evidence on marine animals from—

Do you want me to use the microphone?

K TOOGOOD: Excuse me one minute. Elliott, yes, the microphone. Thank you.

P ANDERSON: Testing. That's good.

Forest and Bird called evidence on marine mammals from Anton van Helden, and also claimed evidence from Natasha Sitarz. We appealed the decision and were involved in the appeals all the way to the Supreme Court, so we're pretty familiar with it. And then on the referral back, we were also in this very room for a couple of days before it got pulled, so we're relatively familiar with this exercise.

In terms of the overview that I've provided, what I've started there with is just a run-through the statutory framework. So, starting with the purpose of the FTAA, so to facilitate infrastructure and development projects with significant regional and national benefits. One of the things that will become apparent during this process is that the question of what are significant regional and national benefits is a real important issue in this case, albeit probably most of the fast track applications cos what they are and how you define those is important.

Paragraph 2, for each approval sought, the panel must either grant approval and impose conditions or decline, and then going through the mandatory considerations in Section 81, must consider the subjective application, any advice, reports, comments or other information received. I've referred there to the other relevant sections. Apply the relevant clause of the approval type, comply with Section 82, comply with Section 83 in certain conditions and may only decline in accordance with Section 85 where adverse impacts are out of proportion to the regional and national benefits. Again, this is a very important provision cos that's where the rubber hits the road so to speak, and how you make that evaluation of

impacts, what are impacts, how you evaluate those against regional and national benefits is an important both substantive and legal question.

Regional and national benefits must be considered under 81(4). I'll get to that bit later on, but the evidence that Forest and Bird has tended from Professor Banks brings into doubt the quantum of the regional and national benefits, in fact whether they even are regionally significant.

And then we go to Clause 6 of Schedule 10 of the Fast Track Act, which has to be applied. First, take into account the purpose of the FDA, which we've already outlined. Then, go to Sections 10 and 11 of the EEZ Act. 10 and 11 are important because they were the subject of much discussion and litigation through the 2016 application declined process. What the bottom lines in Section 10 mean, what happens when they're breached and how does it impact on the assessment that the panel has to make under Section 85(3). Relevant policies under the EEZ Act, and then of importance is D, the sections that are set out there, 59 which includes the long list of considerations that have to be undertaken and all the matters are there.

So to Paragraph 7, the FDA requires the greatest weight be given to the purpose of the Act, but this doesn't override the need for genuine consideration of the list of matters including environmental effects under the EEZ Act. The statute direction to prioritise the FTAA's purpose must be followed, yet it does not ordinarily outweigh all other considerations. That is important in this case because if there are regional and national benefits from this proposal, that doesn't automatically mean you get your consent. You have to give genuine consideration to all the other matters that are required, which includes the impacts on marine mammals from the noise, the impacts of the plume on the ecology of the South Taranaki Bight.

How do we do this? This is an important point, that Clause 6 list of things that, say, give the greatest weight. Enterprise Miramar confirms that each factor must be assessed independently before conducting the overall balancing and cautions against the Act's purpose to neutralise or diminish the weight given to other statutory criteria. Environmental effects may be outweighed by the FTAA's purpose or they may not, but they must be

properly evaluated on their own terms. What that means is that when you've got the list of four things which I set out there (and I haven't set out there), which talk about the purpose of the Act and those matters. What that means is you don't assess, you don't do your analysis of each of those things and then say, well, that gets watered down because of what the FTAA's purpose is. You need to evaluate those provisions in accordance with the terms in the Act, so you need to go and do the evaluation of Section 10 of the EEZ Act, what that means with respect to bottom lines. You need to do the evaluation of the 59(2) of the EEZ Act. All those matters, you need to consider. Once you've done that evaluation, that's when you assess that the purpose of the FTAA balanced against the conclusions you've made.

The reason for that is otherwise it just becomes a horrendous mess cos if you're trying to evaluate a condition with the overlap FTAA or a particular matter overlaid with the FTAA that becomes really unworkable. The logical and the way that Enterprise Miramar suggest you do it is you actually do your evaluation in terms of the provisions of the second, third and fourth thing. We talked about what is the impact of this on the bottom lines in the EEZ Act and then you make that assessment in accordance with the EEZ Act. What about that big, long list of things in 59(2)? You do that evaluation with each of those but you don't overlay the FTAA in that evaluation. You get to the end and then you say, okay, here's our conclusions under the EEZ Act and then you overlay and attach the requirement to consider the purpose of the FTAA and give that the greatest weight.

Paragraph 9, under Sections 83 and 84 of the FTAA, the panel must set conditions of granting approval and may impose additional conditions to recognise and protect Treaty settlements and obligations under coastal legislation. Conditions must be enforceable, credible and tailored to manage the specific risks of the activity, particularly where effects may be more than minor. Importantly, Section 83(2) requires conditions must not be more onerous than necessary to manage the adverse effects of the activity. Inadequate, uncertain or disproportionately burdensome conditions cannot be just used to justify approval where material harm remains unmitigated.

It's a little bit tricky to understand what the requirement not to have minor risk conditions actually means in practise cos it's pretty unusual circumstances where you would impose conditions that were unnecessary or didn't do anything anyway. I think that doesn't seem to add very much to the assessment that's required to be undertaken under Section 83.

What I haven't talked about in here is Section 85(3), and I would just like to have a few words about that as well. Section 85(3) is the proportionality test, and my submission is that the proportionality test isn't undertaken in isolation of the balance of the assessments made. You don't just go to Section 85(3) and say, okay, we've got some adverse impacts here, we've got some adverse impacts from the plume, we've got some adverse impacts from the noise on marine mammals. We've got some benefits. Whether they're of regional or national significant is in doubt. We've got some benefits over on this side. You need to determine whether they're out of proportion, but when you're determining the impact side of it, then my submission is that the things that weigh in relation to the EEZ Act are absolutely irrelevant to making an assessment.

If there's a conclusion that the bottom line in the EEZ Act is breached, then that is something to consider when you're doing a proportionality analysis under Section 85(3). It's not just simply done in a vacuum, and the same with the Section 59(2) matters, which includes the benefits to New Zealand, which would obviously go to the other side of the proportionality test, but when you're doing that evaluation, we're talking about the importance of the ecosystems and the threatened species. If you find an impact on an ecosystem or threatened species when it comes down to Section 85(3) and when you do your proportionality test, then the weight you might give that in your evaluation of proportionality will be influenced by the assessments you've made under the EEZ Act.

Similarly, if you find that there are significant national benefits, which is something that the evidence says isn't supported, but if you did, then that would also go to the proportionality test on the other side. It's not a test that's undertaken in a vacuum cos the proportionality test in this case is obviously going to be of critical importance to where we go. That's the quick run through of this.

- K TOOGOOD: Just before you move on from that, it was suggested to us yesterday on behalf of ... I think it was Greenpeace, that once we've conducted the proportionality test, we retain a residual discretion. I think what was being suggested, cos otherwise there wasn't much point in making a submission, was that we might decide that the adverse impacts were not sufficiently significant to be out of proportion to the regional or national benefits, but we might still be able to decline the Application. Have you heard of that submission or have you considered that submission?
- P ANDERSON: I would just probably go to the EEZ Act itself and see what 85(3) says, and I, with respect, have my doubts about that.
- K TOOGOOD: The FTAA you mean?
- P ANDERSON: Yeah, that's right. I'll just pull that section up.
- K TOOGOOD: I must say I didn't drill down into that when the submission was made. I didn't actually understand it, but I've been giving it some thought. It just doesn't seem to me to be right somehow.
- P ANDERSON: My initial reaction is the word 'may' indicates that you—
- K TOOGOOD: Yes, no, I accept that.
- P ANDERSON: You may do it when it outweighs, but I think that the flip side of that is while it doesn't say it, it implies you may not do it if you don't. I want to check the wording in Section 85(3).
- K TOOGOOD: Look, don't worry about it. It wasn't your submission. I was just wondering if you'd given it some thought.
- P ANDERSON: Yeah, on the fly, I'd say the word 'may' indicates that you can only exercise that discretion if the adverse effects outweigh the benefits.
- K TOOGOOD: Thank you.
- P ANDERSON: Moving on now to the evidence that Forest and Bird has called, so we've called/filed (we may or may or may not be hearing) ... so Deanna Clement is the marine mammal ecologist that Forest and Bird's called. She has identified there are several threatened species, including pygmy blue whales, Maui and Hector Dolphins that may be present in or near the

project area. She concludes there are significant deficiencies in the Application, in particular the absence of baseline data or ambient underwater sound and the lack of robust modelling for cumulative noise effects. That's an important issue about understanding what the impacts are on these threatened species, which is a matter that has to be considered under the EEZ Act and the absence of adequate information to make those assessments.

The proposal involves continuous low frequency noise generation over 20 years, yet TTR has not demonstrated how it would manage exceedances of its proposed noise limits or mitigate impacts on species that rely on sound for survival. There's two parts to this. One is that marine mammals, whales, particularly also dolphins, are extremely sensitive to noise because that's the way in which they live their lives, through communicating through noise. Low frequency noise is a potential big impact on them, and the point about the management of the exceedance is that they've got to build a very big boat and they've got to build a crawler. Those things are going to be built, and once they're built, it's very difficult to understand. It hasn't been demonstrated how if in fact the noise limits are exceeded by the boat that they've built, the IMV and the crawler, what can they then do to turn down the noise impacts to make it meet the limits? That's an important thing if the real world, ie out in the Taranaki Bight, the noise levels are higher than anticipated, you've got this very expensive boat and crawler, and there's nothing to say, well, how are we going to fix this in a reasonable way.

Dr Clement's next point is the proposal's noise levels are likely understated and do not account for multiple vessel operations. If a conclusion is that the proposed conditions are insufficient to protect the species from behaviour of disturbance, auditory stress or injury, I think the injury is a less likely outcome, but the behavioural disturbance is a real issue because the whales will just simply find the noise unpleasant and leave. That is a real risk.

The second piece of evidence Forest and Bird has provided is from Professor Glenn Banks on economics. His evidence is that the proposal offers minimal regional or national significance to New Zealand's economy. He's done an evaluation which looks at the context of what that

would mean. I think in terms of the national context, it's a very, very small contribution, so his evidence is clearly the national significance test isn't met. He also doesn't consider that the regional test is met. That's important obviously when it rolls down to come into your 85(3) analysis. If you haven't got regional benefits, then that obviously tips the balance in favour of the impacts.

The use of input-output modelling, he argues it inflates the economic impacts and ignores environmental costs and sector volatility. This is the idea that we just multiply numbers and get bigger numbers, and then we say those bigger numbers are what the impact is, that the use of the multipliers in that way is not appropriate.

The next point he makes, it's only a small fraction of the proposed billion dollar capital spend that would occur in New Zealand, with most equipment imported and tax deductions to reduce domestic benefits. Here, we're talking about in the context of the 59D, the benefit to New Zealand, the billions. Of the capital spend on the IMV and the other material, 50 million gets spent in New Zealand, which is not very much and all the 950 million capital spend gets a tax deduction. I think there was a recent 20% tax deduction to encourage economic growth. That's what Professor Banks' evidence is. That's not a very big benefit.

Professor Banks' evidence is also that the mining revenue forecasts are unreliable, with examples from OceanaGold in Papua New Guinea showing dramatic fluctuations. This notion that there's a price and the price will just keep on carrying on as it is doesn't reflect reality, where the price of the things fluctuates dramatically, and that in some ways makes the predictions of benefits difficult to rely on.

Professor Banks is also of the opinion that job creation is expected to be modest and inaccessible for most locals due to the project's capital intensity and the need for specialist skills, so the idea that there's going to be massive numbers of jobs in this area is unlikely to become reality.

The third piece of evidence that Forest and Bird has lodged is Natasha Sitarz from a planning perspective. Ms Sitarz was involved and gave evidence in the 2006 application and also in the reconsideration, so this is not new material for her. Her evidence is the proposal has potentially

adverse effects from the sediment plume and noise, and these effects may impact primary production, marine mammals, seabirds, benthic ecology and sediment plume dynamics. TTR has not demonstrated these effects can be avoided or mitigated to a level that they're no longer material. The proposed conditions lack enforceability and fail to provide credible mechanisms for managing key risks, particularly in relation to underwater noise and sediment plume variability.

The adverse effects are sufficiently significant to be out of proportion to the project's regional and national benefits, and the panel may decline approval under Section 85(3) of the FTAA.

Where does that take us? The assessment under Clause 6(1) doesn't support Clause 6(1) of Schedule 10 notice. It doesn't support the Application. The plume will cause material harm contrary to the bottom line in 10(1)(B) of the EEZ Act. The matters that require consideration under 59 of the EEZ Act do not support the Application due to the adverse effects, notably from the plume and noise impacts, the importance to protect the biological diversity, particularly of marine species, ecosystems and processes and rare and vulnerable ecosystems and the habitats of threat species.

This is aimed at the impacts of the plume on primary production and the ecosystem impacts of that potentially, particularly in relation to the significant areas closer to the coast, the Pātea Shoals, Project Reef, etc, and the impact on the habitats of threatened species, including the marine mammals referred to earlier, the pygmy blue whales, the Hector's and Maui dolphins.

On the flip side of that, the modest benefits to New Zealand of this Application and also the nature of the marine management regimes, which in this case and which Ms Sitarz addresses in a bit of detail in her evidence in relation to the bottom lines in the New Zealand Coastal Policy Statement, which are a matter that has to be considered under Section 59(2)(H). And the purpose of the FTAA, despite being given the greatest weight, does not assist the Application due to the absence of regional and national benefits.

Forest and Bird's position is the Application can and should be declined under Section 85(3) because the adverse impacts are out of proportion to the regional and national benefits.

There's a couple of issues where the response to Forest and Bird's comments that I've just got a response to that in relation to the bottom lines. The bottom lines raise some really interesting legal issues. Clause 6(1)(D) Schedule 10 of the FTAA, the panel must take into account specified provisions of the EEZ Act, including Section 10, which ordinary require an application to be declined when material harm cannot be avoided, remedied or mitigated. Here's a situation where Forest and Bird says the bottom line has breached this material harm from the plume, particularly in relation to the important features closer to the coast. So, we've got material harm, and then what does that mean? It cannot be that the purpose in 10(B) of the EEZ and the imposition of those bottom lines does not have any relevance later in the process. Forest and Bird has never said that a breach of the bottom line in the EEZ Act requires consent to be declined cos 85(3) is the relevant provision, and not the 10(1)(B) provision, but what that means is that, and at the risk of repeating what I said earlier, that finding in relation to the breach of the bottom line gives greater weight to the adverse impacts when it comes to making an 85(3) assessment.

What I've said there is the bottom lines are relevant and must be given genuine consideration, but if found not determinant in the fast track context, a portion of assessment is required under Section 85(3) which takes into account the findings both on 10(1)(B) but also the Section 59 matters to be considered.

There was a suggestion in the TTR comments that we were arguing that the conditions are adaptive management. We're not arguing that. We argued that in the Supreme Court and the Supreme Court disagreed with us that the conditions were adaptive management. We're not revisiting that argument. The conditions are material to the same, so there's no argument from Forest and Bird that the proposed conditions amount to adaptive management given the Supreme Court findings on that point.

That ends the presentation which sets out what Forest and Bird's case is. We've got a few minutes left, so I'm happy to take any questions.

K TOOGOOD: Thank you very much. Natalie, do you want to start off with economic stuff or anything else?

N HAMPSON: No, I think I'll wait directly to Mr Banks. He might be more technical in nature.

P ANDERSON: [laughter].

K TOOGOOD: All right. Gavin?

G KEMBLE: No, I'm good thank you.

K TOOGOOD: All right. I think the response that I've had from my colleagues is that it's helpful.

P ANDERSON: No questions from others [laughter].

K TOOGOOD: I mean it's helpful.

P ANDERSON: Yeah, I know, of course.

K TOOGOOD: I mean it's very helpful, but your expert witnesses have presented some really interesting material. They're the ones with whom we'll engage. There's not much point in asking you questions about the detail of their evidence at this point.

P ANDERSON: I agree. All I've done there is set out what they've said, and I totally understand that you want to hear it from them. What I'll do then is give you my interpretation of that, which is obviously not as valuable as hearing from them directly.

K TOOGOOD: No, but it's useful to have that summarised in this way, which is one of the reasons why we convened this conference, so that we could hear that high level information about it cos it will help us look for and find the things that are really crucial to our decisions. Thank you both very much.

P ANDERSON: Thank you.

K TOOGOOD: Appreciate it. Our next presenters are Araukuuku Hapu, Carly and Lisa.

[background chat/set up 28:15 – 30:00]

ARAUKUUKU
HAPU:

He mihi [?: 30:03] anō ki te kaiwhakawā ka mihi ki mua o te whakaritenga o tō tātou nei technician anei te mihi o Ngāruahine ki a koutou.

Korōria ki te Atua kei runga rā. He maungārongo ki runga i te mata o te whenua. He whakaaro pai ki ngā tangata. Tīhei mauri ora. Hoi anō, ka mihi ake tēnei, ā, ki a Kāi Tahu, Kāti Māmoe, Tākitimu waka, whakatau mai. Ka mihi ake tēnei ki a koirā, Ngāti Kahununu, Tākitimu waka, whakatau, whakatau, whakatau. Whakatau i roto i te hononga, arā, ki a tātou ko Aotea waka, ā, ko Turi te tangata kei runga, rongorongo te ariki nui tapairu, ā, ka puta mai a Tānerōro.

Ka moe a Tāne Rōro ki Urengāuanaki, te taina tēnā ko Tamatia Ariki nui. nō reira koutou rā ngā whanaunga whakatau mai, Kei roto tō tātou nei tākiwā o Taranaki ki te tonga.

Hoi anō ka mihi ake tēnei hoki ki a Ngāti Hermene, e mihi, Ngāti Potimana, e Ngāti Celtic, e mihi kau ana. Koirā e te tuahine a Ngāti Hāmoa, e mihi kau ana, me kauanga hoki, whakatau mai, whakatau mai ki Taranaki ki te Tonga, ki roto ngā ahuatanga o Ngāruahinerangi.

Nō reira, i tēnei wā. Ka tuku mai whakaaro ake ki a rātou kua rūpeke atu i tēnei wā, tērā wiki, ā, ko ngā mate o Ngāti Tū, ā, ko Lola Cartney, whakawiti atu ki a Oscar Andrews, ōna irāmutu. Ngāwai rāua ko Māhanga, whakawhiti atu ki i taku hapū o Kānihi, ko tō tātou nei mate ki reira, arā te whānau Robinson a Hoani, ka tuitui ērā ki tō tātou nei ariki nui kei Tūwharetoa a Te Hiuiu e whakawiti hoki ki tō tātou nei Pirimia hou a tō pāpā a Amy Bolt. Pēnei ngā korero ki a rātou. Haere atu, haere atu, oti atu.

Nō reira, i roto i tērā, whakatau mai koutou ki roto te takiwā o Toi, ko Toi te taniwha, te takiwā tērā o... o Titia Koinā tōna terenga, tōna wāhi ko Toi tēnā hei hononga hoki a Toi, arā ki Whakatāne me kī Ngāti Awa me aua

hononga ki reira. No reira, i roto i tēra, e mihi poto tēnei. Whakatau mai, whakatau mai, whakatau mai.

[Mōteatea] [33:01-34:39]

ARAUKUUKU
HAPU:

Hoi anō, i roto i ngā kūpū kōrero, arā, ngā kōrero e pā ana ki Tī Tokowaru. Tō tātou nei araki nui o Taranaki ki te Tonga, me ōna pūpū, ā, ka hā o tote. Arā, anei hoki etahi o ngā whānau o tōna tekau mā rua, Tūtāne Waiomuri ki reira, erā whānau Kātini erā, Tī Tokowaru, ngā umu mā. Nō reira, anei mātou. Kua mutu tekau mā rua. No reira I runga o tērā, whakatau, whakatau, whakatau. Kia ora tātou.

K TOOGOOD:

Ka mihi te ki a koutou,

ARAUKUUKU
HAPU:

Tēnā koe.

[background chat 35:22 – 36:15]

K TOOGOOD:

We're just discussing the absence of a translator. We had arranged one but he's not available 'til later in the morning unfortunately. But we are recording the proceedings and we will arrange a translation of the te reo portions of your presentation. All of us may not understand what you're saying immediately but we will have the benefit of learning about that later on. It will be on the website.

K HEMOPO:

Tēnā koe. E te kaiwhakāhuihui, e te kaiaromatawai me ngā kaiāpai, e aku rangatira, tēnā rā koutou katoa.

Ko Taranaki tōku tauheke

Ko Waingongoro te awa

Ko Ketemarae te pā

Ko Ngārongo te marae

Ko Aotea te waka

Ko Āraukūkū te hapū

Ko Ngāruahine rāua ko Ngāti Ruanui ngā iwi.

Ahakoā ngā ture i raro i te Whakaaetanga Whakataunga a te Karauna i whakawehewehe ai i a Āraukūkū ki ōna tika ki ngā rawa o te takutai moana, mā tō mātou tikanga mō mātou e arahi. Ahakoā ngā ture a te Karauna i whakapōrearea nei i ngā kōrero tuku iho a ngā tūpuna, i ā tātou tikanga, i ō tātou kawa, ka hāpai tonu a Āraukūkū ki tāna i mōhio nei e tika ana, e pono ana. Ko ngā kāwai whakapapa ki runga, kei runga, ko te muru me te raupatu kei raro. Koianeī ngā oati a Āraukūkū.

Ka kore rawa a Āraukūkū e tuku i tōna tino rangatiratanga. Ka kore rawa a Āraukūkū e tuku i tōna mana motuhake. Ka kore rawa a Āraukūkū e tuku i ōna tika ki tōna whenua, ki tōna moana. Ka kore rawa a Āraukūkū e tuku i ōna tika hei kaitiaki i te taiao hei orange tonutanga mō tōna whānau, mō tōna hapū, me ngā mokopuna haere ake nei.

Ka tautoko a Āraukūkū i ngā whakatakotoranga i ngā kōrero a ngā hapū o Ngāruahine, i ngā hapū o Ngāti Ruanui, nō reira, kei te whakahē, kei te whakahē a Āraukūkū i te tāpaetanga a TTR. E mōhio whānuitia ana ka rawekehia te whenua, ka rawekehia te mauri. Ka rawekehia te moana, ka rawekehia te mauri. He mauri tō te tangata, he mauri tō te whenua. Ko au te whenua, ko te whenua ko au. Ko au te awa, ko te awa ko au. Ko au te moana, ko te moana ko au. Mai i tōku tauheke, tō tātou tauheke i tū mai rā, e rere mai ngā awa ki Tangaroa. Ko Āraukūkū ki uta, ko Āraukūkū ki tai.

Ki a Ranginui e tū iho nei, ki a Papatūānuku e takoto nei, tūturu whakamaua kia tina! Tina! Haumi ē! Hui ē! Tāiki ē!

Tēnā rā koutou katoa

K TOOGOOD: May I ask you to provide ... I noticed you were reading which is helpful.

ARAUKUUKU
HAPU: Oh ka pai, ae.

K TOOGOOD: Could you provide that to us? It'll certainly help with the translation.

ARAUKUUKU
HAPU: Ka pai, ae.

K TOOGOOD: Anything else?

ARAUKUUKU
HAPU: Ka pai.

FEMALE VOICE: Patai o te reo Māori. Ki wahine patai?

[laughter]

ARAUKUUKU
HAPU: Ka tukuna atu ngā toenga o te wā ki a raukuku. Ki tetahi whanaunga, ki a Ali Brooks. Nō reira. Āē. Ka waiho ki reira, tēnā koutou katoa.

K TOOGOOD: Āe, kia ora.

[background chat/set up 40:20 – 40:55].

NGĀTI TU: [inaudible 40:55]. While the technology's being set up, could I just mention Mr Brooks is the fisherman that Ngāti Ruanui was talking about on the first day, who is now available.

K TOOGOOD: Oh, thank you.

NGĀTI TU: I think, but I'm not sure, that it might be the same person the fishing club was talking about.

K TOOGOOD: Yes.

NGĀTI TU: He was quoting yesterday.

NGĀTI TU: Yes, that's correct.

K TOOGOOD: Will he talk to that?

NGĀTI TU: I'm not sure if he's been briefed, but that is the person who's been discussed.

NGĀTI TU: [overspeaking].

ELLIOTT: Can you hear me okay?

A BROOKS: Kia ora.

- ELLIOTT: Kia ora. So, the panel are sat behind me. I'll just put you onto the screen. The panel will use microphones, so hopefully you should be able to hear, but if you can't, just let the panel know. Good to go.
- A BROOKS: Am I good to go?
- K TOOGOOD: Just wait.
- ELLIOTT: Ka pai, all good.
- K TOOGOOD: Kia ora, Mr Brooks. Haere mai.
- A BROOKS: Kia ora. My name's Ali Brooks. For the purpose of today, I'll speak in te reo Pākehā.
- K TOOGOOD: Kia ora.
- A BROOKS: I whakapapa from Taranaki and Tainui – coastal Tainui to be specific. I have been a fisherman all of my life. I'm now 42 years old and I can recall my first memories of fishing since about five years old in Taranaki. That has just developed over the years to where now I'm a commercial fisherman based out of Kawhia, and have significant fishing knowledge of the area in question today. Can I ask if the panel, has my submission been read.
- K TOOGOOD: Yes. I'm sorry I don't want to interrupt you but I can't guarantee that we have all read all of it, but we certainly understand what there and we have it in front of us now. If there is anything you want to take us to in particular, then please do that now.
- A BROOKS: For the purposes of flow, I'd like to just make a few statements that don't require an answer from the panel around the process. I'll then speak to my submission in a bit more detail around fisheries knowledge of the area, my engagement with fisheries officials with the area and my understanding of the Māori Fisheries Deed of Settlement, the Māori Fisheries Act, and in relation to what we're discussing today.

Where I would like to make a statement is for my personal view as a Māori fisherman, who exists today because of the settlement. I am able to fish because of the assets that have been given to my tribe because we were not given any in 1986 when that was given out; however, I'd like the panel to note that from my opinion, our two rights are confirmed and guaranteed. They are reaffirmed in the Māori Fisheries Deed of Settlement in Preamble A, and if you look at Preamble K, there's further recognition by the Crown to provide by protection enabling us to exert our rangatiratanga over our fisheries.

Based upon that, my personal view is that if this was a process by where our rights were upheld exclusive and undisturbed, the panel that would be sitting there would be even Māori, interviewing the seabed mining company about whether we want this activity to happen as we have [inaudible 45:13] moana. So, for my personal opinion, I think the process is wrong and it will inevitably end up in Treaty settlement in the future and the unwinding of the Māori Fisheries Settlement.

As a fisherman, I've had significant time in the area in question, both recreationally and commercially. I spent a lot of time in there recreationally while I was doing my sea time, fishing the [inaudible 45:50]. I was able to then understand the wider inshore fishery of Ngāti Ruanui and Ngāruahine.

There aren't a lot of tribal fishers that have done that. I had the biggest boat in Port Hawera at the time, so I had the means to do so. Through this, I understand sea floor the way that a hunter sees the ngahere. I understand the sea floor the way a truck driver understands the road. Contrary to what's being put out there by the Applicant and certain factions of the Ministry and information coming from places like NIAA, I put to the panel that not only is the wider area in concern from say 22km out to 40km not a barren wasteland. It is actually one of the most significant parts of the West Coast inshore fishery as it is the transit highway as me and my kin of Awaroa Fisheries.

I just need to step back and say that I have speaking rights for Awaroa Fisheries today as well. My close kin and business partner, Leon Lawrence, has given me that power to speak on their behalf. I'm also a trawlerman for that company.

That particular part of the history is where fish from the immediate inshore reefs migrate up and they use that part of the water column to travel up and down the coastline. Now I know this because I grew up in that fishery. I understand those fish the way you identify humans and race. I understand the colour and texture of those fish the way that you can see a person. Having trawled most of the North Island West Coast, I understand when those fish school up and migrate north, and I see when they start turning up in different parts of North Taranaki all the way up to Port Waikato. Sometimes it's even as far as south of the Manukau Heads. They are a different fish to the fish we catch here year round and they have a migratory period.

Now they use that section of water to transit up and down the coastline because there's less friction and it's easier for them to travel. In shallow water, you have more friction and the currents aren't as stronger as out in deeper waters. We have been able to see this through where we've picked these fish up at different times during their migration north, and as a recreational fisherman in that rohe in South Taranaki, that all aligns between where those fish would lead, and then allow you to catch more blue cod and things that this thing would be preventing.

I have the benefit of being in the industry, and within our ranks, we have one of the oldest trawlermen in New Zealand. His name is Bill Mason and he has over 61 years of trawling both on the North Island West Coast and the Hawkes Bay. As recent as yesterday, talking to Bill about this particular part of the fishery, he said to me he can recall having monumental catches of shark and snapper in the '70s pair-trawling through that same area, which we call the rolling grounds. So, I would like to dispel any notion that there is nothing out there of any significance. There are also scallops laden throughout that area on the sea floor. I have evidence of all of this.

It is my hope today that although the Fast Track Approvals Act doesn't require you to have a full comprehensive hearing, that you will take it upon yourselves to do so because there's far too little information before you from the Applicant around the fish stocks of this area. It is a significant fishery to the North Island West Coast.

When we come down here and trawl for the large schools of trevally, we run what is called a scraper trawler, which is the lowest flying headline possible, and we run it next to no floats on it, because if we didn't, the amount of snapper we would land in one tow would exceed the amount that we are planning to catch for the four or five day trips that we're out there. We don't have the quota to do that. So, not only is it not a barren area, it is actually a vital part of our coastline fishery, and the general size of the fish out there are bigger and healthier than other parts of the North Island West Coast. I can attest to that from over 1800 days at sea in the last seven years.

Furthermore, we have our guaranteed rights. We have a settlement that has assets that were allocated based upon our area of coastline and population. Now just because Ngāruahine and Ngāti Ruanui aren't fishing actively today, it doesn't mean we don't aspire to. It is only now that myself and my kin, Leon, are engaging with our iwi in South Taranaki, and trying to restore our tribal fishing identity the same way that we have up here in Tainui. This season, it's taken us five years for all of Waikato Tainui inshore [inaudible 51:56].

Now you will have a lack of information from industry because you need to understand that these larger companies rely on decisions being made by the Oceans and Fisheries Minister that keep them in business, that promote opportunities for them. They are terrified. Myself personally, I am not. I have nothing to be scared of. That is my rohe moana, and I'll do everything I can to protect it. At the very least, I believe it would be careless to have [inaudible/background coughing] that was pushed back to the highest court in the land, fast tracked through for a 35 year consent without adequate and robust information about what is actually there.

On that note, this particular Application is likely going to be one of the landmark cases for weakening of judicial independence and the separation of powers. My people have fought to the highest court in the land, and now a piece of legislation has been drafted and passed through law that allows an activity that we have beaten in the highest court in the land to be progressed even faster with less oversight and looking into what would actually happen if this was to be done.

Now you need to understand too that a big part of why Māori in South Taranaki don't have an active commercial fishing interest right now is because we are one of the last rohe to be dealing with raupatu. We are only now (what is it?), 21 years after the allocation of assets, in a position where we can now start doing something. I just think it's impossible that you can overlook our rights. They are confirmed guarantee and they are reaffirmed in law in the Māori Fisheries Act, and therefore they must be applied.

Where are we? Bear with me.

Some questions that the panel needs to consider and weigh is does the current economic value of Taranaki and its stability crumble if this Application is declined? It does not. Does the future of our fishery have the potential to be damaged intergenerationally should this be applied? It does. The idea that you can just rush this through without proper hearings is preposterous and dangerous. It sets a bad precedent going forward.

We'd like to put to the panel that I think given information which I've given, you're going to need to understand that this is not my job. I'm a fisherman, and to run a small fishing business today is hard work. We're just coming out of winter, so I haven't had the time to prepare witness statements, photo evidence, but we can provide trawl lines, evidence of catch, skipper accounts to what is in the area, and question if we were given the opportunity to have a full and comprehensive hearing, we would need no less than 30 days to prepare that. I think balancing the weight of all of this, that is a fair and reasonable request.

Although I don't hold a formal degree much like the body, I do hold mātauranga knowledge in fisheries of a pretty substantial degree. I've read old historical accounts of Ngāti Ruanui fishing and Ngāruahine

fishing, and they discuss things like taniwha, and describe purple demonic-like creatures around the river mouths, chasing fish into the nets. Well, today, as a contemporary Māori fisherman and the last skilled at it, I fish my ancestral waters, and I believe that they are talking about the seven gilled shark that resides in that area. It is purple with bloodshot eyes and looks about 300 years old and demonic. I have the right to help my iwi capture that in time, restore all of that and add to our existing mātauranga. Without us, it's lost.

I don't envy the decision you have to make here, but I assure that that fishery is one of the most important in the entire West Coast ecosystem, and I would like to see more time allocated to do a full comprehensive hearing and testing of it.

NIWA and their testing and their West Coast trawl samples are inconclusive. You can't come through an area once every three to five years, using specific gear settings, and think you have an understanding of what's there. It's crazy ideology. If NIWA came into this fishery that I fish today, we were put side by side and we had to have a guess on who's going to catch what under these conditions and settings, I can tell you who's going to be more accurate and in line because we understand that this is what we do.

You need to understand that our rights are confirmed and guaranteed. That's the be all and end all of it. Any questions?

K TOOGOOD: Yes, kia ora, Ali. Appreciate what you've said, and I'm really interested in the point that you've just made about your ability to provide more detailed information. I'm interested in knowing just what that information would be. I respect that you've indicated you could provide it within 30 days.

A BROOKS: Okay, can I speak? If I was to show you a photo at times and date and history of a trawl through that specific area that shows a boat with 5-7 tonne of fish on board in three hours, is that not a significant amount of fish, that far exceeds the idea that there's nothing there? You can clearly see within the photos that these fish are not unhealthy or scared. I would argue with anybody that the area in question has the best volume and stocks in trevally in the North Island West Coast fishery. We can provide trawl lines dating back to 2022, and that information of those catches will

be able to be sought because it's all electronically recorded with the Ministry. We also have individual photo evidence when we took those photos.

I was down there as recently as July (I think it was the 6th), trawling in the South Taranaki Bight and just happen to see three blue whale, which I have on video. The largest concentrations of common dolphin I have ever seen on the North Island West Coast is in the mining zone. Now in 1800 days at sea, I have never ever seen as many common dolphins in the area that the Applicant wishes to mine. Now they're not there unless there is an abundant kai source.

K TOOGOOD: Well, I want to try and work out with you, and the other panel members too would want to work out with you, how we can get this information. I mean you know what you know and you know what you can access. We don't, so would the best way to do it be for you to tell us in general terms, the type of information that you can give, and then we can construct a request for information because the way our procedure has to work is that we have to come to you with a request for further information. You don't have a right now that you've made your comments, which are helpful. You don't have a right to keep on providing more information unless we ask for it, so what I'm suggesting is that you tell us in general terms what it is that you can provide to assist us, and then we'll construct an RFI which addresses those issues and then we'll give you that period which you're seeking to provide the information to us. Would that be workable for you?

A BROOKS: I mean it would be doable, but I think given the gravity of (what is it?) 50 million tonnes over 35 years, I think there's nothing less than a hearing required by where we can actually physically produce the skippers who have the knowledge of the area. We can provide photos and catch data, but a hearing should be the minimum.

K TOOGOOD: Well—

A BROOKS: [overspeaking] requested to attend by yourself.

K TOOGOOD: Yeah, no I understand what you're saying and I respect that view, but we are constrained by the legislative framework within which we are operating. As you know well, the fact that the Act says that we're not

required to have a hearing doesn't stop us from doing that, but there is a clear indication in the whole scheme of the legislation that we would seek information and ask for hearings only in specific issues because we don't have the time to set up a hearing to invite people to consider their evidence, to give their evidence and discuss it. The legislation does not allow us that luxury, so we have to work within the scheme of the legislation and in particular a timeframe that says that we have to have completed our deliberations and produced a report by the middle of March. In fact, in some instances, we would have to do that before then. We are struggling with the difficulty of time constraint, and I'm looking for the most efficient way to get the best available information from you that we can. I hear what you say about what's available and I understand that that is going to get in the way of the important work that you're doing, but it would be helpful to us if we could receive that information from you. Once we've received it, we may well decide that we need to conduct a hearing because the Applicant will receive that information, and The Applicant's representatives may have a view about that, but it seems to me that the first step, Ali, would be for you to get the information you can to us in as short a timeframe as possible.

A BROOKS: I mean, can you still hear me because I've lost sight of you?

K TOOGOOD: Yes.

A BROOKS: I mean, based upon what you're saying, if you're confined to a timeframe, but you see value in what I'm saying, the only plausible option is to reject the Application and have it reapplied.

K TOOGOOD: Well, I want you to have the opportunity to provide us with the information, so I'm trying to find a way in which we can get that from you. It's over to you. I mean we can't force you to give it to us, but I sense from my colleagues we genuinely consider that you would have some valuable insights and information to provide, and we want it.

A BROOKS: I understand that and I have no issues providing that information; however, I realistically have a business to run. Coming out of winter, then I have to take every day I can, so to be given the fair opportunity, I don't believe that the time constraints should put back on me.

- K TOOGOOD: Well, I just picked up your indication you could provide that within 30 days.
- A BROOKS: I said, 'No less than 30 days'. I thank you for the opportunity to do so and I will provide said information as fast as possible; however, in accordance with law and the Treaty, it is only right that we are given an opportunity to have a full hearing. Regardless of what the fast track application says, there is also the Māori Fisheries Act and the Māori Fisheries Deed of Settlement.
- K TOOGOOD: Look, I hear what you say. We've had a similar submission yesterday and we've not made up our minds about that. We're considering and we will consider once this conferences finished. We're meeting tonight and again tomorrow morning to discuss all of these issues and we will be making some decisions about that. Can you indicate to me that you can hear me, Ali?
- A BROOKS: Yes, I can hear you. I've lost camera.
- K TOOGOOD: No, that's okay. Well, as long as you can hear us, that's fine. So, we understand your submission. We have not yet made a decision about what if any and what type of hearings if any we should conduct, but we understand what you've said and we will certainly take that on board.
- A BROOKS: I have a final question. Where this Application conflicts with existing rights and laws that we have with the Treaty, where is the process and opportunity within this to exercise those rights?
- K TOOGOOD: Well, that's a good question, and I can assure you that the panel is acutely conscious of the existing rights that you have under Treaty settlements and under legislation. The point has been well made over the last two days that what is proposed by the Applicant, if granted, would trample on those rights. We understand that submission and we take it very seriously, because there's a very clear indication in the Act in Section 7 that we must not make a decision which is inconsistent with those rights. We are fully aware of that. Whether we have to have a hearing to understand that issue more fully is a question that we have not yet asked ourselves or answered, but certainly we're very aware that we have to consider that issue very carefully.

A BROOKS: In my final statement, I will say our rangatiratanga to that area provides us every right and some to have a hearing, and I want that on the public record.

K TOOGOOD: Understood and recorded. All right.

A BROOKS: So, where have we landed in terms of getting this information?

K TOOGOOD: What I'm asking you is to give us a short statement through the EPA, if you communicate with Elliott, a short statement, just identifying the types of information that you're able to give us, just so that we can then construct some questions in an RFI which we will put to you and then give you a reasonable time to provide the information. We'd like to have an initial indication from you as to the types of information you can give us.

A BROOKS: Geospatial data, commercial maintenance and physical photographing evidence as well as sworn statements.

K TOOGOOD: Yes.

A BROOKS: That is the types of information we can give as to what is in that area.

K TOOGOOD: All right.

A BROOKS: I would go one further to say I would be more than happy to take any of the panel out on the trawler and shoot away and show you what's there, and then you could see for your own eyes exactly what is there. I'd be willing to do that as well.

K TOOGOOD: Well, thank you. That's an attractive proposition. I'm not sure again that time will allow us that indulgence, but you have just given us a short summary of the sorts of information. That may be sufficient. We'll consider what you've said and if need be we'll communicate and ask you if there's anything else. We might prepare a short list of topics and then you can let us know whether there's anything else you could provide. Then, we'll create a proper formal RFI, send it to you and give you what we hope would be a reasonable timeframe to provide it. Ka pai?

A BROOKS: Cool. Yeah, we'll stay in touch, eh?

[laughter].

K TOOGOOD: I'm sure we will, Ali. I appreciate your contribution. I'm just going to ask my colleagues if they have any particular questions they want to ask you.

A BROOKS: Fire away.

L LOVELL: I have a couple.

K TOOGOOD: Yes, we have two from Loretta.

L LOVELL: Kia ora e hoa. I know you can't see me and I've got a lovely vision of your face not moving but thank you for presentation. I'd just like to reiterate what Kit is saying in terms of we are hearing what is being said, and we are taking all of these matters very seriously.

Now my questions may seem a bit limited given the breadth of information that you have, and please take them as me trying to understand aspects of the matters that we're hearing across all the hui. I'm particularly interested, given your expertise as a commercial and customary fisher, and it's great to have you actually here as someone with that expertise. Noting your comments on the limits of iwi or I'm assuming Ngāti Tū, the ability to undertake commercial fishing at the moment, I'm still assuming that the iwi some quota or fishing assets through the Māori Fisheries Act. Would that be correct?

A BROOKS: I missed that part of the question. Sorry, what was that last bit?

L LOVELL: It's okay, Ali, I'm getting nods from the audience. I'm just saying Ngāti Tū have allocation in terms of quota or under the Māori Fisheries Act.

A BROOKS: Yes, was that the question?

L LOVELL: That was the question that got answered for you. Just to explain, I'm from Kahanui, so I've been on the marae at home. Just to understand, when you're undertaking commercial activities, recognising that there are mechanisms by which customary take can be taken through the commercial Māori arm under the approval of kaitiaki, are there instances for example where you go out into deep water, the EEZ, and you fish and bring back customary fish for the marae, etc? Does that happen at all?

A BROOKS: Myself and Leon Lawrence are the largest customary inshore fishers using commercial means in Aotearoa. We've landed over 100 metric tonnes for Waikato Tainui in the last five years.

L LOVELL: Is that your aspiration for this rohe, so given you're talking about supporting your iwi to rebuild their commercial fisheries, is that your aspiration for them as well?

A BROOKS: Absolutely. We've actually done it. We've supported Taranaki Tu Mai in the past. We have business coming in and strategically based in New Plymouth from here on out due to weather and growing business. I have as recent as the weekend offered that to Ngāti Ruanui, and that offer goes to Ngāruahine as well as Ngauruhoe for that matter. As a matter of fact, having whakapapa to Taranaki Whanui, that offer has always been there for all of our whānau. It's just taken us, my colleague, Leon being a generational fisherman, there was a glut of fishermen in the harbour for a long time, and it's only in the last few years we've got the capacity to be able to trawl and take on bigger volumes and do more to help.

I mean that particular fishery in question is a nervous one to go into as a sole commercial fisher because of the population. I, going forward, would not want to be going down there without having pre-organised customary take for iwi because one two, as I said, can overshoot my entire allocation for the trip on snapper, especially for Tainui. Not only do we aspire to, we plan to see the rohe of Taranaki having full [inaudible 1:17:25] in fishing, whether that's taking over Egmont Seafoods and putting it all [inaudible 1:17:30] together, those are very real aspirations that we have within the next decade.

L LOVELL: Actually, you've answered my next question, which was what are your aspirations for the fisheries both customary and commercial in your rohe. I think you've just answered that question, so pai tērā, kia ora. I guess we've talked about tikanga and we've talked about rāhui on the moana. I just wondered again, when you are out at sea and you're contemplating your role as fisher and kaitiaki, are there tikanga or kawa that you apply when you're doing that? Is there anything that you would like to tell us about in terms of how you apply tikanga? We've talked a lot about rāhui, but I'm just checking in terms of fisheries and how you reflect your

relationship with Tangaroa. Is there anything you want to talk to us about in that context? I understand if you don't.

A BROOKS: I understand it on such a level that on a large moon basis, you can't go trawling out of Te Tai Hauāuru unless you're willing to land 5-10 tonne bags of snapper. I understand that that's a no-go. I understand if you are towing through an area and the numbers are down, you keep going. You don't stay in that area and keep going further out wider or inside. We carry on up the coastline. Our trawling operations will take us from south of Kaipara Harbour to Whanganui, as well as times over on the East Coast. Tikanga tells me and my missing teeth tells me don't cross the Kawhia Bar when it's 5m because you'll end up spat out on the deck when the windows explode. My tikanga is heavily guided by returning home to my partner and being able to provide for my people. That's why I fish 100% iwi quota. I don't have a relationship outside of that.

I'm a member of the hapu of Tainui where I give customary advice on rāhui for our kaitiaki. We have 97 from Mokau all the way up to south of the Manukau Heads. That is something that forum has been running for 25 years, so as far as trawling goes and tikanga, there are no Māori operators like us.

L LOVELL: One more question. Yesterday we were talking to Te Ohu Kaimoana and Ngā Rauru, and we were talking about the impact of this Application on the commercial quota. Part of that was the conversation with Te Ohu Kaimoana about the legislation that you operate under, which has been further amended to further limit Māori's ability to actually sell on the open market. You can have a view on whether that's a pro or a con, but for you as a commercial fisher and operating in the quota framework, what would you see as the implication for your quota of the Application going forward?

A BROOKS: The area in question as I mentioned, for us as fishermen, we see it as a transit highway of Te Tai Hauāuru, West Coast. We see the importance of that particular depth of column, and the current speeds. The activity in that area doesn't just affect South Taranaki rohe. It affects, like I say, right up to Manukau Heads.

Right now during October and January, a lot of the fish school up in South Taranaki and this way, and our charter boats start catching their limits

within the hour twice a day of snapper that I grew up on in South Taranaki. I know when these fish will move, so in terms of the Application, it will not only impact South Taranaki rohe, but the wider West Coast's ecosystem.

The fisheries is struggling to deal with the speed of policy change. The Hector's and Maui dolphins here have had a significant impact on inshore species, that the Ministry hasn't even caught up with, that being one of the primary species caught on the West Coast was shark and rig. Now the removal of the ability to net that inside has seen the take of those species diminish, so those fish now are ... what are we, probably nearly five years into that? They've seen the rig populations overflow to a point that if they're not culled in the next near future, we're going to have a quota issue because crab have been decimated on the North Island West Coast, and now they're predominantly eating the quota.

In terms of impacts, we are already in that space. Te Ohu Kaimoana doesn't understand it because they don't catch fish, but we're already not generating money or quota assets because of existing regulation. This will impact us even further.

L LOVELL: Okay, final question. Oh sorry, no, time to stop?

K TOOGOOD: No, go on.

L LOVELL: Final question. Now I've forgotten what I was going to say. Just a final question in terms of you commented that what you've seen around the coast has seen a reduction in fisheries, but you commented on the abundance here.

A BROOKS: When did I comment on the reduction?

L LOVELL: I think it was just a comment, not here, but more broadly, that you've seen reduction. I could be wrong.

A BROOKS: Can you please be specific to the comment cos I don't recall that statement?

L LOVELL: No, it's fine. I'll leave it. I'll leave that question in total because it's probably not accurate then. It's fine. Pai tērā. Thank you for your help.

K TOOGOOD: Kia ora, Ali, we really appreciate your help, and I expect that we'll get some more help from you over the next month or so. Thank you very much.

A BROOKS: Thank you.

[Waiata - He Pikinga Poupou].

K TOOGOOD: Kia ora. Just before we break for morning tea, I want to acknowledge the presence of the rangatahi who have joined us. We have been listening for nearly two and a half days to a lot of information from kaumatua and other much older people, people of my age, about the importance of the decision that we're making and the issues that arise here. They are talking on your behalf. It's your future they're talking about. It's your future that we will be deciding about, so this panel is delighted to see you here and to see the interest that young people have taken in what we're doing over the last few days, so I want to acknowledge you. Ka mihi nui kia koutou. Thank you.

We'll break now for 15 minutes for morning tea.

[Break for morning tea].

[background chat 1:27:50 – 1:28:10]

K TOOGOOD: One of our members has gone AWOL. We have a quorum but it would be impolite to proceed without her.

So, our next presentation is from Te Korowai Ngāruahine Trust. Haere mai.

A DILLON: Ka pai.

[background chat 1:28:40 – 1:29:35]

A DILLON: Mai Tangaroa, taoti pāmamao, Hawaiki pāmamao, taoti roa, Hawaiki roa, taoti, taoti nui, Hawaiki nui, Aotearoa nei, e tū, e tū, ki uta, e tū, e tū ki tai. Tae noa ki te tēra taha o te Waihi ki Taungatara. Piki ake ki te tihi o Maunga Taranaki, huri noa ki te tonga, haere tonu ki te awa o Waimōmoro, o Ngāruahine, o Ngāruahinerangi. E pai te pononga pai, e kōtiti te pononga pai. Haumi ē, hui ē,

TĀTOU: Tāiki ē!

A DILLON: Te ika, te ika i Waitōtara. Te ika, te ika, i wheuna kura, te ika, te ika, i Pātia, Te ika, Te iki i Tāmhoe, te ika, te ika i Waingōngoro. Te ika, te ika i kāwea, te ika, te ika i Taranaki, te tākina mai hoki te ika ki tēnei rua, ki tēnei one. Te ika ki tēnei papa, te ika ki tēnei au tapu, te ika ki te au tapu nui o Tāne, ki Te Autapunui o Tangaroa te ika. Haumi ē, hui ē,

TĀTOU: Tāiki ē!

A DILLON: Tangihia rā ki runga nei, tangihia rā te papa e takoto nei. Tangihia te rau manomano tāngata, taku mate, taku mate ki te rōpū tangata kua riro, auē, auē, te mamae e. Koutou rā, kia au te moe.

Huri noa te whare nei, ngā mata mōrehu o rātou mā, tēnā tātou katoa.

Koinei tētahi o ngā reo Ruahine e noho mai nei, he mokopuna ahau nō te maunga Tītōia, ko Ngāruahine ki te rangi, ko Ngāruahine ki te papa, pērā i te pēpeha rā. Ko taku whakapapa, he waka nō tua whakarere, he whakapapa nō roto kē i te whenua nei, ko aku māuiū ka horapa i te kāinga nei. Puta noa ki Mōkai Pātea, ki te Kāhui Maunga ki uta, haere tonu ana ki Ruawāhia, ki Tarawera, tae atu ki Taupiri, hoki mai anō ki te Kāhui Maunga ki tai.

Tēnā koutou, he ngaringari ahau mō taku iwi korikori a Ngāruahine. Ko ahau te tumu whakarae o Te Korowai o Ngāruahine, ko Te Aorangi Dillon taku ingoa, anā, ka tuku te rākau ki ōku hoa, ki tō mātou pou whakarai, ki taku taha. Whai muri i a ia, ka huri ki tētahi o ā tātou nei matauru o te taiao, ki a Ali, tae noa nei. ki tēnei taha ki Naomi, anā, ka hoki mai anō ki ahau.

E GARDINER: Tēnā tātou katoa. He uri tēnei nō Ngāruahine ki te rangi. Ko au te Pouwhakarae o te korowai o Ngaruahine. Ko Emma Gardiner tōku ingoa

A ANITWARU: Tēnā tatou. Ko uri ahau nō Ngāruahinerangi rāua ko Ngāti Ruanui. Anei ko Aliana Anitwaru tōku ingoa.

N PUKETAPU-WAITE: Tēnā tātou. Ko Naomi Puketapu-Waite tōku ingoa e uri ahau nō Ngāruahine.

A DILLON:

Tēnā anō tātou e hoa mā, kua hoki anō mātou ki te korokoro o te parata. E kore rawa mātou o te korowai o Ngāruahine e whakaae ana ki tēnei tono. We would like it reaffirmed that as was stated in our comments to the panel, Te Korowai o Ngāruahine Trust strongly urge you, the panel, to reject the TTR Fast Track Application. Minute nine put forward questions for iwi and hapu to answer. It is worth noting here that Ngāruahine is not an iwi or a hapu, but rather a post-settlement governance entity operating on behalf of our six Ngāruahine hapu. We aim to partially address the questions put forward with a focus on our deed of settlement.

We acknowledge and support the kōrero shared by our whenaunga Ngāti Ruanui and Ngā Rauru, ngā iwi, ngā hapu o te Mātongatonga and beyond during days one and two of the hearing, and all others whose evidence reinforces the environmental, cultural and legal concerns we have consistently raised throughout our comments.

I liken this to a kind of speed dating session of sorts. You want to get to know us, but we're forced to do this really, really fast. I was going to say we're not going to take up the whole 30 minutes, but we probably will. So, speed dating, fast, it's going to get awkward at times. It might get uncomfortable. Emotions might come out, as we've seen over the days, but please ask your questions where needed. We don't want to leave anything unsaid.

I'm not a lawyer or an environmental planner; however, like Haimona said in his introduction on day one, I'm a [inaudible 1:35:09] as well. I'm not a hunter/gatherer. That sits with my children; however, if you have any of your burning pātai that sit outside of my pukenga, Emma, Ali or Naomi will answer those for you.

We also appreciate that the panel would prefer to hear new information today as requested last night in an e-mail, which we will endeavour to do in some instances; however, as per processes such as the one that we find ourselves in right now, our correct answers, well, they may seem repetitive, but we're keeping in theme with the past 12 years. So, yes, you may hear information that you have read or listened to before, because at our end, nothing has changed. Ka mau tonu, ka mau tonu, ka mau tonu.

In the minute, we were asked how are your settlement arrangements and tikanga exercised today in your rohe moana? The settlement is merely a mechanism within our iwi that enables hapu and marae to develop their aspirations into realities and also build assets for our future generations. Ngāruahine give effect to our settlement arrangements through how our hapu and our marae continue to practise tikanga and kaitiakitanga. You would've heard and noted over the previous two days what PSGEs are responsible for as stated in the various deeds of settlement. As mentioned in our 2014 settlement, Ngāruahine today regard the inshore fishery as severely depleted, partly as a result of the pollution of coastal waters by the operations of the dairy and mining industries.

The depletion of these fisheries will only be amplified by the generational damaging effects on our takutai moana, which have been shared by many of the submitters through their comments and presentations over the past three days. If this Application were to proceed, our settlement would be breached, as has been detailed in points 49, 50, 51 and 52 of our comments to the expert panel.

We also align closely with the kōrero shared by Ngarauru yesterday, who reminded the panel that the erosion of environmental integrity directly undermines iwi and hapu identity and self-determination, a reflection of what was called colonisation 101, taking away identity. This shared understanding affirms that tikanga and kaitiakitanga are not abstract principles, but living and practised expressions of who we are as tangata whenua. If you need a live example, take our muru reo for example. Stealing our language from our mouths took one generation. It takes several for it to return. The same can be said for the impacts that this Application will have on our people, our practises, our traditions, our tikanga and our future.

We have made numerous submissions to the Government, more recently 30 submissions in the 2024/2025 financial year, where we have stated repeatedly and explicitly that our kaitiakitanga does not begin nor end with our settlement. The settlements will continue as long as this type of behaviour and entitlement to our natural resources continues. We have been clear that as Ngāruahine, we are for development. We are not anti-development, as we hear people say. We have worked with, married,

borne children, become neighbours, embraced other cultures, embraced other religions with those who do not whakapapa to Ngāruahine. We are experts in welcoming manuhere and their pukenga to our shores, exerting our manaaki on everybody who come into our takiwā, but we have never ever pērā i a Araukuku me ngā iwi katoa, ngā hapu katoa kua tū kei mua i tēnei tepu. We never ever relinquished our tino rangatiratanga, our mana Motuhake, our tiakitanga as tangata whenua to anyone else. Mai te maunga ki te moana, āe, ko ahau tēnei, ko ahau te tangata whenua and with that comes responsibility that remains to this day and also for the generations of Ngāruahine people in the future.

Question 3 of Minute 9 asks us to describe our rohe moana. The Ngāruahine boundary ... and this is a touchy one. There'll be someone sitting out there right now going e hē Te Aorangi, but this is not the time or the place to have our internal discussions.

[laughter].

Nā reira, koinei te korero i tēnei wā. Mai Tangaroa ki Tāwhiti nui, Tāwhiti roa, Tāwhiti pāmāmao, Hawaiki nui, Hawaiki roa, Hawaiki pāmāmao, ki Aotearoa nei. E tū, e tū ki uta, e tū, e tū ki tai. Tae noa ki taua taha o te Waihi ki Taungatara, piki ake ki te tihi o te Maunga Taranaki, huri noa ki te tonga, haere tonu ana ki te awa o Waingongoro, āe, ko Ngaruahine, ko Ngaruahinerangi, otirā ko Ngaruahine ki te rangi hoki.

This is echoed throughout our settlement and evidenced through hapu kōrero. Our people believe and have the experience of knowing that our maunga is also an androgynous being, that the awa and tributaries that flow from our maunga to our moana are the breath-waters that nourish our whenua and contribute to the health of our moana as well. Our rohe moana begins on the maunga and stretches beyond the horizon. We have a big responsibility on our shoulders.

One of the risks that this Application poses is the effects that may flow down through the Pātea Shoals and along Whanganui, with the potential to go beyond and reach our heke whanaunga. We have a responsibility to our whenaunga iwi and hapu along this coastline for the activities undertaken in our takutai moana. If this project were to be granted, it would severely strain our relationships. Our practises, which everybody

benefits from, not just us, would be under threat. This could also lead to possibly forcing our people to harvest from other areas. This is never encouraged within Ngāruahine. Our systems insist that we look after our own pātaka kai, and we don't collect from others. It would be embarrassing to say the least, as Tahinganui said yesterday, and at the other end of the spectrum, another hit on our AI, our ancestral intelligence.

[laughter].

Question 6 on Minute 9 asks us if there are tangata kaitiaki/tiaki appointed for our rohe. Yes, there are. Under the statutory framework of fisheries notice 2019, ngā hapu o Ngāruahine have appointed tangata kaitiaki. Kaitiaki powers include authorisation of customary food gathering, managing the customary fisheries area, reporting and record keeping, participation in fisheries management, ensuring customary practises are non-commercial. I didn't add this, but the hundred hapu hui, marae hui, the hui with us, the hui with them, all of the wānanga that have to take place also. Outside of a statutory framework, kaitiaki moana continue to exist at a hapu level, as demonstrated by the longstanding rāhui placed along our coastlines.

Our Pāngāpe have witnessed the steady decline of kaimoana, and the risks posed by this Application would further accelerate the degradation of already struggling reefs. We cannot be the generation that allows our mātaítai, our takutai, to vanish before our eyes. As kaitiaki, we carry the responsibility to protect what remains.

When discussing customary practises, it is worth making a clear differentiation. Diving for us is not a recreational activity, but instead a distinct connection with Tangaroa. We do not have the luxury of studying the shallows or depths of our waters as an activity. All that we do, yes, it does provide enjoyment but it is not done for enjoyment's sake. We do what we do to ensure that there is food sustainability for the generations to come as we work (and we work hard) to replenish what has been scrapped over these previous generations.

Question 9 of Minute 9 asks for the identification of potential effects. Over the past three days, we have heard from our whanaunga who are tikanga practitioners, tangata tiaki, fishers, lawyers, activists, scientists and

economists, but most importantly, you've heard from our community. Te Korowai, we don't really need to add further to the identification of effects, but we can speak to the impacts.

If this project were granted, it would be one of the most damaging precedents set for the protection of our moana, undermining both our settlement arrangements and the integrity of environmental management in Aotearoa. Emma has got some points to add.

E GARDINER: Just going back to your e-mail prompting us to add some new information or emphasis, we're looking at the potential effects. I Just want to add to paras 11 and 36 of our written submission, which talks about the failure to meet the benefit test, in particular that any economic assessment under the benefits test must include the assessment of tikanga based Māori economy approaches. So, yes, looking at our kaitiakitanga, but also looking at the day-to-day application of kaitiakitanga within our iwi economy. Some of the limitations that we see in the economic assessment is that it's benchmarking against the do nothing alternative. What does that mean? That means that the financial benefits will deceptively be in the net positive, but what is the opportunity cost?

Usually when we look at feasibility studies or economic assessments, when we talk about opportunity costs, it's often at a project level, and in this case by TTR, but actually when we look at opportunity costs, we need to look at it again from that tikanga based Māori economic approaches. The opportunity cost isn't going to be felt by TTR. The opportunity cost is going to be felt by a hapu, our iwi, our rohe and our community. The question is what are we saying no to by saying yes to this project? That's one of the biggest limitations of the economic assessment.

When we reflect on the phase we're going through at the moment as an iwi and as hapu, both together and respectively, we're in a space where we're moving into impact investments. Ali touched on it in his presentation, we're both a PSGE and a MIO (Manadated iwi organisation), so what could it look like and what are we saying no to by saying yes here? He went through what that is in regards to our fisheries.

The other one is around whenua usability. A lot of our hapu are in a space now where we're looking at actively being on our whenua and enabling

kaitiakitanga. Some of that whenua is from, yes, our maunga, all the way through to our coast, such as Rongatapu. Again, by saying yes to this, what are we saying no to in regards to the opportunities for our hapu to be on their whenua?

The third one is we've got our lodge and I know Ruanui also have the lodge up on our maunga, but it's actually not just about our lodge; it's about how do we demonstrate manaakitanga through our rohe and what are the cultural experiences that we are going to be giving our manuhiri when they come to our rohe. That extends out to our moana. Again, when we say yes to this project, what are we saying no to in regards to what our iwi economy looks like? That extends out to our moana and tourism.

The other area of focus for ourselves is the transition into renewable energy. That's exemplified through our environmental plan, our alternative energy statement and also our impact investment strategy, te puke, te hihiri where we're seeking energy sovereignty. There has been a lot of reports in regards to whether this project is compatible with renewable energy in regards to offshore. Now we are still in the process of settling where we sit on that project, but again, what are we saying no to by saying yes to this project?

I guess along the same lines as what Ali touched on before, I would actually go as far as to say that this is a limitation in regards to all applications regarding the fast track processes when we're looking at economic assessments. We actually need to look at the regional opportunity cost. What are we saying no to by saying yes to this project?

K TOOGOOD: Kia ora.

A DILLON: Question 13 of Minute 9 asks what monitoring or information is needed to assess or manage the effects from this project? To answer this succinctly, we don't think we can answer that. We cannot provide comment on appropriate monitoring or information requirements at this stage. We are significantly under-resourced to undertake the level of technical assessment needed.

It's also important to note that best international practise, such as in Australia, where monitoring of oil and gas impacts has been funded in the

millions, clearly demonstrates that such work requires substantial investment and expertise. These monitoring frameworks should not be developed in isolation. Iwi, hapu, local fishers and community representatives must be central to establishing an appropriate monitoring approach. We must all be at the table.

In closing, we echo the statement of our whenaunga, Ali Brooks. The panel is obligated to hold a hearing under the Fast Track Act, Section 7, under our multiple Treaty settlements and under our tikanga as an oral culture. We would however like to thank the panel again for committing to hearing from the various groups here in Te Hawera. We acknowledge your ability to pivot really fast, as we saw yesterday with the invitation from Project Reef. So, as per the invitation from our whenaunga iwi and hapu to go to their sites of significance, should you take up the invitation from Project Reef, we would like to invite you to drive the beautiful Coast Road, State Highway 45, famous around these places, around these joints. We'd like to invite you to drive that coast road and take note of the signs notifying the public of rāhui along our takutai and our whenua, signs that have been up for 15 years and longer, signifying the manmade pressure and the manmade stress that our takutai moana has been experiencing for decades, signifying the relentless efforts of our whanau moana of tangata whenua to exert our sustainable practises under our tikanga for the betterment of our local and regional communities, which in turn contributes to the overall wellbeing of our nation.

Nā reira, mai Tangaroa ki Tāwhiti pāmamao, Hawaiki pāmamao, Tāwhiti roa, Hawaiki roa, Tāwhiti nui. Hawaiki nui, Aotearoa nei, e tū, e tū ki uta, e tū, e tū ki tai, tae noa ki tērā taha o te Waihi ki Taungatara, piki ake ki te tihi o Maunga Taranaki, huri noa ki te tonga, haere tonu ki te awa o Waingongoro, o Ngāruahine, o Ngāruahinerangi. [crying]. He pai te hononga pai, he kōtiti te honogo pai, pērā i a Tāwhirimātea. E pupuhi mai nei ki waho, koirā te tohu o te arohanui o te tamaiti ki te wehewehe o ōna mātua. Koirā hoki, tō tātou arohanui ki tō tātou maunga, tō tātou whenua, tō tātou takutai moana.

The companies, they will come and go, and we've experienced that. When the companies are finished extracting and making money, we will remain.

We will love and we will care for our takiwa. We will fight and we will never ever give up.

[Haka] 1:54:51-1:55:55

K TOOGOOD: Kia ora.

Any questions? No? Okay.

N HAMPSON: Oh sorry, a question.

[laughter].

K TOOGOOD: No, well, just ask. No, that was impressive and thank you.

A DILLON: It was quite the speed date, I have to say.

[laughter].

[overspeaking].

K TOOGOOD: Yeah, a bit of falling in love going on over there. Thank you very much. We really appreciate it, not only what you said but the manner of your presentation. We do understand the significance of this to you and thank you for underscoring that. We appreciate it.

A DILLON: Kia ora.

K TOOGOOD: Ōkahu-Inuāwai Hapu Of Ngāruahine.

[background chat/set up 1:57:05 – 2:2:05].

J HOOKER: Te retireti ika. He Ika waka mau, kaha hae. Tēnā te ika, ka mau. Ko te ika o te rua, ko te ika o te one, te ika o te hōhonu. Tēnā te ika, ka taki ki mua, ka taki ki roto, ka taki ki te tūranga, ka taki ki te kāinga. Kā taki ki te autapu nui o Tāne, ki te autapu nui o Tangaro. Hoi anō, anei tātou, anei tātou o Ōkahu Inuāwai tō mātou nei timatanga mai te ruruki o tātou nei tohunga a Rāwiri Waimako, mai te awa, ngutu awa o Rangaitapu.

That ruruku I used is an ancient karakia used at our beach for millennia, acknowledging the time when our fishermen safely come in offshore and bringing their catch in to nurture us at home. That's our starting there, and from that there I'd now like to hand over to my turahine. Kia ora.

ŌKAHU INUĀWAI
HAPU OF
NGĀRUAHINE:

Just a few hiccups. Won't be a minute.

[background chat 2:3:35 – 2:4:00].

J HOOKER: Okay, he tino mihi tēnei e te kaiwhakawā. We're being flexible. Okay, appearing here with my turahine, Mere Kawhine Tepapa Brooks, myself (John Hooker), Alison Anitawaru-Cole and our esteemed legal counsel, Eve Kahuwaero Rongo. So, we have here the Wī-katene and the Pī-Katene.

K TOOGOOD: John, before you begin, and forgive me for interrupting me, I have a note here saying that you wish to present some sensitive information. I'm not sure whether that still applies, and if so, how you want to do that.

J HOOKER: No, I've decided to leave that bit out, but ngā mihi ki a koe.

So, tuatahi, we're looking at procedure. First off, there are a range of whakaaro for people interacting with us, but to our way from the point of view of hapu of Ngāruahine, if you want to talk to us, do not send us a phantom e-mail. Turn up kanohi ki te kanohi on our marae, kōrero ki te iwi. Also, if it's meaningful, no doubt some sort of cultural impact reports will be conducted between our hapu and anyone coming into our area. Also, at some stage, we'd like to undertake some sort of relationship document in the MOU, and we like to appoint experts jointly. We're just outlining where we are as a hapu. Within Ngāruahine, we have very active hapu, and we're a hapu centric iwi.

M BROOKS: Katoa, just before we get onto the substantive matters, and dare I say the far more interesting aspects from our kaumatua here, I've been asked to address in very rapid fashion (four minutes to be exact), some further aspects around these procedural reportings, also reflecting on some of the kōrero that we've had today.

Can you guys hear me okay with Tawhitinui making [inaudible 2:6:42] as Te Ao Rangi mentioned there?

MALE VOICE: Yes, we can.

M BROOKS: So, underlying all these six procedural requests here, I particularly want turn your attention to our requests in tautoko of the written submissions from Te Korowai O Ngāruahine, requesting a stay in proceedings. I'll elaborate that a little bit through the detail, and we will turn the panel to the jurisprudence set out in Ngāti Whātua Ōrākei and the Attorney General for 2022 case reference for NZHC843. That's a decision from Justice Palmer. It sets out some quite useful aspects to your pātai relating to procedural evidence when it comes to the management of tikanga and processes such as those that are before you.

In particular, Paragraph 6(2)(2) of Justice Palmer's decision makes it really clear that tikanga is both substantive law and procedural law, so the aspects for example of what our whenaunga, Ali Brooks, was speaking to, part of the reason why the emphasis on hearing is it's mandated not only ... our tikanga is an oral culture. The kaumatua that he referenced, the only mechanism by which you can receive that evidence is through that oral kōrero, and the case law in Aotearoa makes it very clear such as in this judgment from Justice Palmer, that tikanga is inclusive of those procedural aspects and therefore is mandated under your decision making processes. It is an depth analysis in the Te Korowai submission as to that a binding nature of the jurisprudence on tikanga that applies to these proceedings.

Also, in Paragraphs 3(6)(3), 3(6)(5) and 3(4)(9), Justice Palmer sets out some very useful examples of how you can implement that tikanga process as a matter of procedural law. He references, of course, marae discussions which is part of our request here, site visits, such as those

that Te Ohu just mentioned looking at. This is also written for you under the pink tab, the matters that I'm speaking to now.

Finally just to note that Justice Palmer recognised this problem, especially the Chair says repeatedly and that your perception (and I do differ on the interpretation of the Act) is that you do have these time pressures. I'll come to that in a minute as to why I disagree that that's a hard deadline. I disagree with that completely, but Justice Palmer, in paragraph 3(6)(4) really notes that tikanga is a time intensive process. It's a high consensus and a high participatory model of decision-making both in terms of procedure and substantive law. That is binding in my submission upon review as members of this panel.

He also calls upon you, in Paragraph 3(7)(7), and I'm quoting here, 'To hold and check closely any unconscious tendencies that you may each have as an individual and collectively as a panel to see tikanga in terms of English law heritage of the common law in New Zealand'. You must be open to looking at tikanga in its own terms as a [inaudible 2:10:25] framework and under our mana motuhake, that would be the tikanga our hapu is the iwi Ngāruahine. This is why we're specifically requesting the appointments of experts derived from the corpus of tikanga as a source of law for the nationhood of each hapu, the nationhood of each of the iwi under Aotearoa.

We're also suggesting that you can look to the Supreme Court case, and Ellis decision, reference for the panel NZC114, and you'll see attached to that there's a statement of tikanga that came out of the two day wānanga where the Supreme Court followed the directions of Justice Palmer, and the Supreme Court appointed Sir Hirini Moko Mead and Professor Pou Temara. They had a two day wānanga, and from that came out with a statement of tikanga to guide the decision-making process.

Under that package, we suggest this is where the expert witnesses with respect to tikanga, but I will come back shortly to the necessity under tikanga that that would also extend to experts with respect to the benefit test and looking at any types of economic assessments of that benefit test under tikanga, under Māori tikanga interpretations of our definitions of the

economy. As you can tell, I'm arguing that we should be mindful that the benefit test has to be inclusive and reflective of tikanga.

Now to lay that foundation, this leads us to our first procedural request that we must read the case law in tikanga with the case law on engagement. It's particularly given that the Fast Track Act, under Sections 11 and 29, it has a mandatory pre-lodgment engagement. It is mandatory. It has not happened and it is mandatory. How are we even here today right now? There's been a breach of the mandatory requirements under the Act that is not only guaranteed by the Act; it's guaranteed by tikanga and is guaranteed under Te Tiriti. It's in the Act.

We, of course, all know the Wellington Airport case. The reference for the panel 1ZLR671. It sets out all of those aspects relating to what is required for engagement and consultation, which as a minimum states, just like Matua said, it must not be assured, and it must not be a one way process such as letters that was received only to the PSGE and not to hapu, that was just a couple of pages long, earlier this year.

Just to wrap up, I want to back us up slightly. I want us to look at the context of the Fast Track Act. Deliberative democracy takes time. Tikanga takes time. Passing law under urgency, making decisions under fast track, which removes public involvement, is getting us all into very risky legal territory in terms of the constitutional balance of powers and well established obligations under Te Tiriti o Waitangi. That doesn't alleviate you as panel members from needing to apply the mandatory constitutional law requirements, the mandatory Te Tiriti requirements, the mandatory natural law requirements to exercise your discretion in accordance with all of these rights and constitutional necessities. If you must, you can of course call upon common law principles of inherent and applied powers in order to rebalance this overuse of executive power exemplified in the Act.

Now this is why there are provisions in the Fast Track Act to explicitly rebalance that overreach from the executive branch. One of those protections in the constitutional framework in the Act was the mandatory pre-lodgment engagement, so the logic of the Act, if you take the interpretive requirements, we must look at that mandatory constitutional

in Te Tiriti context. This is again why I am absolutely shocked that we're even here today because that pre-lodgment engagement was part of the protections under the constitutional tikanga and Te Tiriti requirements.

This is why the only option in our opinion for you in terms of upholding all of those mandatory legal obligations is to issue a stay of proceedings. We have already made those submissions to the Waitangi Tribunal. The Waitangi Tribunal has explicitly reserved their position for us to return. We've sought an injunction from the Waitangi Tribunal should the stay of proceedings not be granted. We view this as the trip-wire that would be triggered to activate all those additional legal protections given this vast abuse of power represented by the Fast Track Act, furthered by the non-compliance with the pre-lodgment engagement.

Just to wrap up, there have been a few kōrero so far in the last couple of days which needs to be corrected on the record. We need to always make sure that tikanga and mātauranga are embedded within all conversations when we're talking about science. I'm hearing these definitions about we need to hear more information about what's happening out there in the moana. We need scientific evidence, we need reports. I want to refer you all to this concept of the shifting baselines. This is a western science notion that we cannot take the current status quo as factual and evidential. Now I'm often hearing accusations that when we talk to our metaphysical aspects, which is guaranteed in our settlement legislation, when we're speaking to wairua, when we're speaking to tūpuna, this is part and parcel of our tūpuna baseline.

You can look to the writings of Professor Paul-Burke. She is making it very clear that any of these evidential matters regarding the moana needs to be reflective of our tūpuna baseline and our kōrero tuku iho. It is not hearsay. It is not historic and irrelevant to the present context in the moana. This is part and parcel of our tikanga and our Māori approaches, where we live with our tūpuna in the present moment, and we continue our obligations of kaitiakitanga, where the abundance and the practises that we're continually striving to uphold, even in the face of confiscations, even in the face of commercial overreach. We're still fighting on a daily basis, and that continued whawhai, that is part of our existing rights that you must also consider under the legislation.

Finally, you can probably tell from the scope of this very brief procedural context, given that the legal aspects is the 'boring part' and we want to get into our substantive kōrero, please take away that the benefit tests under that Section 3, it is not solely a monetary issue. This kōrero that you've heard so far, cost benefit analysis, financial aspects, that is not tikanga. That is not ao Māori. You must interpret benefits consistent with tikanga.

Tikanga looks at benefits alongside kaitiakitanga, alongside te taiao, alongside our tūpuna, alongside our taonga species. All of that is part of the purpose benefit test. To exclude it, frankly, would be discriminatory. It would be in violation of the Human Rights Act. It would be in violation of Te Tiriti. You must define all components within this legislation, noting that there is no definition within the Act regarding benefit. You must reference that within tikanga. Part of our tikanga, we have a pataka economy. We have a mahingakai economy. We have collective koha of kaimoana economy. This is not a second tier level of consideration coming under Section 85. This is part and parcel of the purpose test, overriding and guiding the decision-making process.

We're not only looking at the impact investment, like Emma mentioned, we of course have our Māori aquaculture settlements. We are looking at iwi and kaimoana within the EEZ. We are looking at a whole range of vast broader definitions or broader under a Pākehā context of economy, but all of these aspects are inclusive of that benefit test that must guide your decision-making moving forward.

Ka pai. I hope that was four minutes. I forgot to check.

K TOOGOOD: Just before you hand over the microphone though, I have a question if I may. Do you say that we have power to pause the proceeding from something in the statute or do you say we have an inherent power to do this?

M BROOKS: I would say both, but first and foremost, as we know under the hierarchy of interpretations, you must look to the statute. Now, you have been presented, through no fault of your own, with a matter that is fundamentally violating the very Act that you have to apply within that first order of hierarchy. Section 11 and Section 59, we all know what

mandatory considerations mean as lawyers, and this was a mandatory pre-condition to any progress moving forward.

K TOOGOOD: I understand that point, but my question is you're asking us to do something about that.

M BROOKS: Yes.

K TOOGOOD: I'm asking is that because of a provision in the Act that enable us to do that or is it an inherent power you say we have because my follow up question is shouldn't you be having this conversation in the High Court?

M BROOKS: Oh, so believe me, this is part of the matrix, right? Going back to the limitations within the Fast Track Act, of course we know the limitations include a severely restricted judicial review and our ability to go the High Court and they're severely restrictive of rights of appeal. Hence, that pre-lodgment engagement is even more important to reduce the constitutional imbalance of powers otherwise.

But to your point, yes, you do have the right to determine your own procedure under Schedule 10. Is that correct? Off the top of my head, yes. Effectively, if you wish, you can always go to your implied powers and inherent powers. I suggest you would want to you. You want to have every authority and precedent to back you up on this, but you need to remedy a fundamental flaw in the process to date regarding this mandatory process. There's absolutely no choice within the legislation.

K TOOGOOD: All right, thank you. Thank you. I appreciate that.

M BROOKS: Haere tonu?

K TOOGOOD: No.

[background chat 2:22:30 – 2:22:40].

J HOOKER: Kia ora ano. I'm on to number nine, our comments. First off, I've discussed our whakapapa te tangaro. When we look at Waihi, Waihi is new awa of an awa coming to our coast just in Hawera here, but when you go back in time, you actually see that some of the old people there laid down a karakia which discussed the splitting of Rangi and Papa. In the karakia, it

specifically states that instead of Tane splitting Mum and Dad, it was Tangaro that did the splitting. If I had time, I'd recite that one there, but we're time precious here.

So, Ngāruahine, we regard ourselves as being an intrinsic tangaro iwi, and also talking about Maunga Taranaki, when we look at our maunga, our central Ngāruahine hapu, for example, if you go to Manaia and stand on our Waiokura Marae, and if you look at our maunga, you'll actually see the twin peaks. Our kaumatua, Rangahine, used to say, 'Those are the breasts of the mother'. He described the Kapuni Stream coming down as being the waiu. That's the nurturing mother's milk coming from the maunga down to Tangaro. Also, when we're talking about mana motuhake, our people always spoke about mana motuhake mo taku Papatuanuku for the whenua, mana motuhake mo takutai.

I'll go into the first pātai on your questions and I deal with taurangawaka. Within Ngāruahine, we have 10 very important taurangawaka set aside in 1881. We start first off at the mouth of the Waingongoro River, and that's the Rangatapu Block. It is actually a mara kai, a papakainaga, an urupa and a taurangawaka, but it also has an estate out into the moana. Just over the river, we have another block there, called Te Kawau, a 20 acre block. That's got an exactly similar estate in the moan, as well as an acknowledgement of being a papakaianga and urupa as well. Moving along to the mouth of the Inaha Stream, we've got another wahi tapu there, Otaika, exactly the same estate out in the moana. Moving on to one of our famous battlefields, Orangi Tuapeka, that has several papakaianga, two pa tūwatawata and a taurangawaka in an estate out in the moana.

Going further into Ngāti Tu, we then come to Otūmoetai - exactly similar. Wairohata [? 2:26:03] - exactly similar. Otaramarae at the mouth of the Kaipokonui - exactly similar again, a hundred acre block, with several urupa. Moving onto the mouth of the Otakeho, we have the Ahikuku, and moving down into my cousin's area, they're presenting this afternoon, I'll let them mention the rest. Over into our Oeo whānau, the last taurangawaka in there. So, we have our taurangawaka with legal title on the land and rights into the moana.

Also, under our settlements with Korowai, we don't call them the iwi, our hapu together make the decisions, but in it we got a statutory acknowledgement on the moana. Also, coastal strip along the clifftops from Waihi through to Tangatahara that's been put aside, and each of our awa going into the moana has awa riparian strips.

Just as a little aside, when we quantified our Ngāruahine redress, we had a hundred thousand hectares, close to quarter of a million acres, stolen or confiscated. When we worked out what our gross quantum would be, it was about four and a half bill, land, one and a half bill on loss of reo and ancillary, and also three bill on loss of access to royalties to all of the petrochemical taken out of Ngāruahine from each of our hapu. However, the redress that we got wasn't 1%, it was less. It was 67 million. It was 0.74% (less than 1%). We've been subsidising our Te Tiriti partners but we wanted that subsidy to start reflecting back to us.

Looking at our settlements, we've had our Ngāruahine fishery settlement. Our nephew mentioned that earlier, 2015 Ngāruahine Settlement Act. We also have the Taranaki Māori Trust Board Update Act, whereby we're going through transferring the powers to another body. We also have last year the Taranaki Maunga Settlement. So, our iwi and hapu, we're used to settlements.

Okay, I'll be touching on some of that later. Also, going onto the next slide, pataka economy. Oh no, that's my tuahine's. Our hapu have had a range of fishing boats operating out of Rangatapu. In 1924, we had Raurimu, and her koro was the captain, and also Raumiro. When the kai came in, we divided the kai amongst the four hapu – Ngāti Manuhiakai, Ōkahu, Kānihi, and over there at Kāretu Marae. An extra portion was always put aside for the maintenance of the boats and that fish was sold at the market to look after the petrol and fishing here, and that was our pataka economy back then.

Now I'll go into shared spaces. My tuahine, Te Aorangi, has done that there very well, so I won't go into that there with any further depth, but our people always said that we go to Hawaiki Nui, Hawaiki Roa, Hawaiki pamamao. We acknowledge those pathways that our old people took in those previous millennia and they are still foremost to us at this stage.

So, looking at Pātai 4, out to EEZ and beyond. Now, we're looking at piho. Virtually, three or four times every century, a major trading expedition would go from either Pātea over Ngāti Ruanui or Waingongoro, but before they left, they would take a big catch of fish. They'd either catch it off that Five Mile Reef or down there off there, and they would go straight across down to the sounds to Durville Island, Rangitoto. There, they would then piho. They'd then trade fish for argillite. It has similar functions to greenstone, and then they would also bring seabirds back, and they'd come back. That was on a regular basis.

Now another one, when we look at the old people leaving from the Waingongoro and around the coast to Taranaki, they did regular expeditions down to the West Coast of the South Island to Tai Poutini, and there the trading was for pounamu. So, the outer EEZ, our people were doing that there on a regular basis.

There's been a fair bit of kōrero about money, but I'll just give an elaboration on the tītī mutton bird. Very few left here. Most of them are left in the South Island, but they forage on a regular basis out in that area there that we're looking at for TTR. From there, their nests were inland. One of my pa is called Ōkahutiti, which describes the nesting grounds of the tītī coming in, and another place where our people camped, what was at the back of Toko and Whangamōmona, which were also major tītī nesting grounds as well.

I won't elaborate on those other areas but on the marine mammal, our iwi Ngāruahine were instrumental in working alongside our other iwi, putting in place that the Hector dolphin sanctuary from the coast out to 12 nautical miles. At this stage here, Ngāruahine whānau are even considering a marine mammal reserve to look at our 718 blue whales that were mentioned this morning.

Also, when we're looking in that area out there, under our 2015 settlement and also aspects of our fishery settlement have protected our endemic native fish species. We're looking at our tuna coming in. They actually migrate off to Tonga, but coming in, they go right to the EEZ. Some of these activities coming up will severely impact them locating our awa. Also, inanga, we envision similar problems with that there, and those were

rights given to us also in the Fisheries Act as well as in our 2015 settlement. More importantly, piharau, you've heard that area there described as a migratory zone. That's where the fish go. Now our piharau, they attach themselves to the larger fish species, say like shark, etc, and if those highways are going to be severely impacted, what's going to happen to our customary take occurring on our tables for piharau, tuna and inanga? Those are issues that we'll be giving strong nudging to our Korowai counterparts to seek legal remedies for loss of that there.

Brief kōrero on MACA. Okay, the third reading has happened. The opposition assure us that they're going to appeal it, but importantly we're looking at one million Māori New Zealand citizens lose a property right. Who for? For rich multi-billionaires offshore. Okay, now so Ōkahu have currently shelved our MACA High Court application. We are a priority applicant. We had an application in 2004, and now we're waiting until the dust settles from this new settlement. We're looking at a delay until 2029, and we'd like to reiterate Ngāruahine hapu at no stage have ever relinquished mana motuhake or taku tangaro.

Moving down into six, kaimoana, each of our hapu has kaimoana tangata kaitaki, I'm one. I've been one for 30 years, but I've only ever issued one permit because my area from Waihi through to the mouth of the Inaha, including Waingongoro, reef fishery has been severely depleted and is at risk. I tell anyone, if you want kai from down there, just take five, the legal limit, and just put everything on your top table. Everyone doesn't have to have it. Our other hapu have a different role with that there. Also, each of our hapu have agreed to a Section 186A application, and we've had a range of consultation. That's about to go up to the Minister as well as rohe moana right out from the coast right out to the intersection where the Kai Tahu Fisheries boundaries come.

Now, also hapu are looking at a mataitai application strategy. One thing we picked up yesterday, we will discuss rāhui. Rāhui are significant living cultural practises in Ngāruahine. We regularly practise rāhui on the moana, whenua and maunga.

Rāhui Moana

Our last 20 rāhui moana have operated in the last 51 years off our coast here. One of our main ones, it was 51 years ago, with a boat sinking, with five of our uncles drowning there. We put in place rāhui practises before and after, with a significant time for balance, and then letting the people go back in.

In 2024 last year, we had one person fall off the cliff at Rangatapu. We just did a brief one there because apart from a small loss of balance, there was a lesser impact onto our reefs with that there, so we did a shorter rāhui.

Onto 19, rāhui whenua, we've done a range of rāhui. From 1999, Winks Road, that's in the Ngāti Tu hapu area. On the main road, there's a 90 acre block where the hapu and iwi put a rāhui on fighting against Parininihi ki Waitotara Incorporation. That's been in place for 26 years and that land is lying fellow, and the incorporation is unable to go on that there until Ngāti Tu decide to look at that.

In 2021, we also did a rāhui on the Oeo Primary School. The official assignee was going to sell that there. We put a rāhui on it. We got it returned back to the hapu and the marae in 2022.

One of the questions was, is there effect of the maunga onto the moana? Very much so. We've also run several rāhui on the maunga. The 1st of October this year, there was a missing climber on Te Rauhiringa, Phantom's Peak, and the climber was retrieved and then we allowed two or three days after retrieval and then we completed a post-rāhui ceremony there, but instead of doing that one there on the maunga, we did that there at the mouth of the Kapuni Stream. That is our sacred stream, and we did it down at Orangi Tuapeka to affect that there.

In the last five years, we've had two other rāhui from mate on the maunga and we've worked in conjunction with Ngāti Ruanui whenaunga on that there.

So, number eight, customary practises, when we're looking in a tapu area, we've had a range of rurupu blessings offshore on the Kupe field and the

Māori field, customary practises on the north side. You heard Ali talking about catching our customary catch for the deep sea pātakapata, whereby we use it there on our marae in Ngāruahine for tangihanga and sometimes special iwi and hapu events.

One comment on 13. Oh, the commercial interface, Number 14. We've had an interesting relationship with other bodies, for example, Fonterra, with their discharge at Hawera to the moana. We challenged them about their actual and potential effects that will occur on the Ngāruahine coast, and we've had meetings at marae in Ngāruahine about South Taranaki District Council discharge to moana at Hawera, and also Manaia. We've also had visits from three wind farmers to talk with hapu as well; however, we have not had a visit from TTR. Our hapu are quite easily contactable.

So, now I'll hand over to you. Are you ready to go?

A ANITAWARU-COLE: Are you finished?

J HOOKER: Yes.

A ANITAWARU-COLE: Then, I'm ready to go. Kia ora koutou.

[background chat].

K TOOGOOD: Ka pai.

A ANITAWARU-COLE: Tēnei te mihi koutou. My brief (and it's going to be very brief) is looking at whakapapa. My cousins are out there, so this is speaking to all of us. Up there, we're talking about whakapapa and mai rā anō.

Okay, so we've got all these things going cos one works from this one and that works on that one. Rightio, so we've been privileged enough to be able to live on our awa. The Waingongoroa leaves our Maunga Taranaki and finds its way down to the sea, and we're privileged enough to live alongside this awa. When we looked at that privilege, we looked at our whānau who lived there, were able to fish there and were able to survive there. Part of that survival is being in tune with our taiao, our environment.

Is it up there? Oh yeah, so you'll see that the second bend in, you'll see a big hollowing out right at the top, the little right hand side. That there is in

front of our whare. On that flat part up there, where there were also old pas along the top of those rivers, as well as the ones on the opposite side of the rivers.

If you look at the bottom right hand side and the landmass there is, that's our beach access over to the left. If you follow that river to the other side of the page, you'll see that there was a pā site Te Kawau, two pa sites that looked over the moana that we as whānau of Ōkahu were able to take advantage and be privileged enough to use, and we still are at the moment. Some of the things our tūpuna did was put a reserve down so that we have access to our beach and we still have access to the beach.

The next one, okay, so that's just describing our maunga tūpuna. He's seen as our ancestor, and he's right in the centre of Taranaki. We all whakapapa to this amazing maunga. Along the way, in terms of Ōkahu and ngaurhine and Ngāruahine, we ...

Hang on, I'll go to the next one. That is the entrance of the Waingongoro River as it meets the sea in the place that Te Rangatapu. Te Rangatapu is the area where the maunga, river Waingongoro meets the sea at Te Rangatapu.

This is just centre mind in me, but our whānau from Ōkahu to the lands and to the moana and how important a place that is for all of us. The connection of course is that wairua space for the people and also the taurangawaka, which we're going to talk about in a minute.

Now these are our rangatapu pa that sits on the river looking down onto the beach. It's rangatapu, and then you'll notice there are two waka at the gate entrance. That's Raurimu and Raumiro, and those were the two fishing boats that used to leave at that site there that used to fish for over three marae. Actually, four, wasn't it? That is now being sent up there and guarded by those two waka, Raurimu and Raumiro. They stand sentinel, they keep us safe. They're there to say to my people who have come to live at the beach, just listening to Te Aorangi, how we've invited manahere to be part of our tupunakaianga.

We may not have invited but they're there now. We encouraged an easy working relationship, and that it's nice to put the stake in the ground to say

we're from here. These are the two fishing boats that people used and they went out to fish from Te Rangatapu to taurangawaka. It was kanihi marae down the road from there.

The captain one of these fishing boats was our great grandfather Te Kau-o-te-rangi. He was a big man, and he was often referred to as Gate. Te Kau-o-te-rangi, he was father of my grandfather, and one of his mokopuna has that name. He's a big boy as well. So, Te Kau-o-te-rangi, one of the captains of one of these waka, was the main man who took these boats out. He'd fish out to the moana, and they brought back the catch. It was shared with Te Rangatapu, with Aotea Ōkahu, with Pīti marae and Ārakuku and Kahui Matiti. The four iwi, hapu and marae benefited from the fishing from these boats traditionally out at Rangatapu and the beach.

Don't say I've finished already. I told you I'd be quick and sharp.

So, part of this is, as uri of these people who set up the area for us, confiscation's been rampant. Taranaki history is a sad space and there's very little left that we could claim as our own. Te Rangatapu is just one of those places.

One of the people we want to mention is, you'll see the man here is Tauku. This is a great grandfather, and his father was called Ra. He's a tūpuna of many of our whānau out here, so he relates to many of the [inaudible 2:48:31] here. His father was Rawiri Waimako, and it's just a story that we have, and that's our story. We wouldn't really mind giving another part of that story, but Rawiri Waimako was one of the fishermen who was a tohunga, and because the Waingongoro and the fish, and between the two, Ōkahu is really close to our iwi sister, Ngāti Ruanui. So, there was some support for a joint use. But, now, Renee, you can growl me later, but this is what I heard, so this is what I'm going to say. One of the things that happened was that the river going out to the sea was moved. It was moved closer to Ngāti Ruanui. So, one of our tūpuna, his name was Rawiri Waimako. He was a tohunga from Ngāruahine. He had the karakia and the chant and that river [inaudible 2:49:30] where it comes out now. That's what the old people talked about. That's what I'm going to say now, and I know I might be proved wrong.

The stories are rampant. We have lots of people with different stories. I'm not saying they're wrong or right, but they have their own versions of the stories. Over time, we can agree, and if you don't agree, well, that's too bad. You can make up your own story. But these are the stories we have in terms of the tohunga involved and the sharing of a space between people so that we all benefit.

That manaaki is still there now. We have a different environment in the land, the confiscations. We have other people who share that space as well as Ngāruahine and Ōkahu and Kanihi as well, and the other one in Te Rangatapu. There are three main users of the space. There we go.

I've put some pātai down, and in terms of the current and future considerations, monitoring, ongoing liaison, who will be responsible to ensure the synergies and balance of te taiao, the environment, be kept in pristine conditions should that consent be granted? Who's going to ensure that the balance of taiao is going to be kept in pristine conditions as discussed with others this morning, with the fish out in the ocean, and the importance of whakapapa in the cultural space? How is it going to be accommodated should you get the proposal through and how would it be valued? How would we know that that's going to be happening? What guarantees is there going to be for those people applying for this resource consent? What happens if the consent holders in the future sell to other companies? Who will maintain the consent conditions?

We certainly put in proposals especially with the oil and mineral people who like to drill and make money out of the oil and gas and then they sell off to other people and then the consent conditions are being challenged if they're not followed up. They'll say, well, that was made up with the other people. We want some surety if it's granted, how we can maintain an oversight and control to ensure that our place in the world is going to be looked after and valued, and we still have that mana motuhake say in what happens for our mokopuna. So, some assurances around that.

And if there's any environmental mess, who cleans it up? Is there a bond? I know again with petroleum, they say they're going to do this, that and the other. They get what they want and they leave it in a mess and then

we have to clean it up. This is going back to the '90s, and it's not unusual for us to have to go to court or try and work it out or it's just left in a mess.

These are the issues we have should the granting of that consent go through. As kaitiaki, we take our job seriously. Some of them are more serious than others. Some have got a bigger mouth than others, so they push forward while the others can awhi from behind. There are genuine concerns about if it's granted, who's going to be responsible? Who do we see about the conditions that are applied? If they sell off, who's going to follow that up, and are we going to be there with a mess to clean up?

Kia ora koutou.

K TOOGOOD: Kia ora.

E RONGO: Tēnā koutou. Ko Eve Rongo tōku ingoa. He uri ahau o Ngāruahine, ko Ngāti Tū tōku hapū. Āe, he rōia ahau mō ... Ōkahu-Inuāwai, kanohi nuitia, me Ngāti Manahiakai.

Now I often find myself in a role that is redundant, sitting beside this lot, but I have been thrown a bone and assigned the role to sum up what they've said. You've heard extensive evidence this morning and this afternoon about how Ōkahu-Inuāwai Hapu have wanted engagement with the Applicant, but for engagement to be meaningful, it must also be genuine. For almost a decade, the Applicant's approach to the Application processes and engagement with Ōkahu-Inuāwai Hapu has not demonstrated any genuine desire to seek to redress their significant concerns which occurred this morning also.

The Applicant has failed to genuinely engage in relation to its Application seeking fast track approval of the very same mining activity that it previously sought consents from under the EEZ Act, and it appears clear to all Ōkahu-Inuāwai Hapu that the Applicant is unwilling to allow any change to outcome or approach, despite the project's adverse effects on the traditional rohe and mātauranga.

Ōkahu-Inuāwai Hapu consider that, taking into account all relevant considerations, that Ōkahu-Inuāwai Hapu hold existing interests in accordance with Ngarguahinetanga and pursuant to Te Tiriti o Waitangi,

that it must be provided for in any consideration of regional or national benefits. This includes the inherent value mana and mauri of Tangaroa and all associated marine life.

You have heard extensive evidence from John concerning the customary and commercial interests recognised in both the Ngāruahine settlement and the Treaty of Waitangi fisheries claim settlement, as well as customary interests claimed under the Marine and Coastal Area Act across the entire rohe moana of Ngāruahine.

Now this perspective recognises broader perspectives of definition of value, acknowledging economic activity may include using and/or not using resources or assets. Further, the moana may in and of itself may be of value even if it is not being used and certainly goes towards its protection and favouring concern.

Caution: The regional and national benefits claimed by the Applicant are significantly overstated and do not meet the threshold of significant benefits. The Applicant relies on claimed gross benefits without identifying any significant net benefit. In this regard, any claimed benefits to the project are clearly outweighed by the impacts identified by the various submitters and expert evidence submitted to this panel and what you've heard this morning.

The adverse effects of the project remain significant and are not addressed by the Applicant in the latest version of the Application despite ample opportunity to do so. Just to make it completely clear, Ōkahu-Inuāwai Hapu considers that the Application should be declined.

K TOOGOOD: Kia ora.

J HOOKER: Nga mihi and we're open for questions now.

G KEMBLE: I might have one. I'll see if I can find it.

Ah yes, I've just got one question. On your slide on your page 16, you refer to a Section 186A application. I have no idea what that is.

J HOOKER: Basically, that's MPI Fisheries, and we're applying for a two year moratorium on fishing in the area from Tāneatua through to the Waingongoro Awa. We've had significant meetings with hapu and also with the wider community.

G KEMBLE: Why are you applying?

EVE RONGO: Oh, could I just add to clarify, fin fishing can continue exactly under the pataka economy and the fact this is our livelihood, te moana, and under the cost of living crisis, all of that deep sea.

I've heard a lot of questions about the maps. This is why we're trying to bring in the tikanga approach cos obviously fish move. They also come in coastal areas. In fact, in te ao Pākehā, where Rangatapu is located, that's Mere was speaking to, it's called Snapper Bay, because all of that highway of fish that Ali Brooks was speaking to comes right into the coast. So, we have a Section 186A rāhui application, but we have specifically excluded the deep sea fin fish that come into our coast.

K TOOGOOD: Does that answer your question?

J HOOKER: Part of the reason why is because even though you're about 5km off and you've actually got good numbers there, from about 3km-4km right up to the high tide mark there, a lot of those reefs there are under severe challenge via wider community harvesting. We want to give those reefs a chance to regenerate and give the larger ones the opportunity to start re-breeding again.

M BROOKS: We want to just to clarify too that under our mātauranga, we know that these reef species depend on what Lyndon was speaking to from Climate Justice Taranaki, that the water column and the nutrients, chloroquine, Pākehā reo, that comes in and this is what our filter feeders, the kutai, the mussels and the paua are feeding off in that deep sea habitat that is dependent on the light. Under the pressures that Matua was already speaking to, you can only imagine that we're talking about an utter mass mortality event should there be anything further in that deep sea ecology that impacts our reef systems.

K TOOGOOD: Kia ora. Thank you.

L LOVELL: Kia or tatou. I've just got a couple of minor points, just picking up on your slide around customary practises and customary catch on page 11. My question follows up my question to Ali. Just for my understanding, customary catch from the deep sea pātaka, is that through the MFA kaitiaki process, so the regulations?

J HOOKER: Oh, that deep sea pātaka?

L LOVELL: Yeah.

J HOOKER: Yes, that's from 12 nautical miles further out. All that area there is a rohe moana with the kaupapa being for iwi pataka.

M BROOKS: Could I add to that one just real quickly again? I'm clearly the side kick. I just want to refer you back to ... I believe it was Te Ohu Kaimoana. They said very clearly in their evidence that this distinction of customary catch is an arbitrary distinction, so regardless whether it's inshore or under the kaimoana regs, whether it's under the Fisheries Act, all of those quota come under our definitions of tikanga.

L LOVELL: Ka pai. Just so I understand in terms of things, when you talk about your pātaka, are any of the pātaka that you contemplate within the area of the Application that is contemplated?

J HOOKER: Yes, the bulk of it would come out that.

L LOVELL: Okay, thank you.

M BROOKS: Matua referred to tauranga ika. Is the panel aware of taurangawaka and tauranga ika?

Okay, so when Matua was referencing to the 10 taurangawaka, they are land based spaces with that hongonga/connection into our tauranga ika. Tauranga is like an anchoring place. Waka, obviously where the waka would go, but the ika is where the fish are. We've already had even the commercial fishers, even the 'recreational fishers' not wanting to tell you the area where the (what was it?) 7kg crays are located. So, just take it on our submissions that the mātauranga around that tauranga ika is very well established and detailed. There's lots of cultural practises associated with that, which I'm sure you'll be familiar with within our Māori space,

waiata, karakia, mauri stones, the whole lot of it, but obviously we will keep it at that high level.

K TOOGOOD: Kia ora. We're very grateful to you. It's been a comprehensive submission, and you've obviously taken a lot of time to put this together and we appreciate it.

J HOOKER: Kia ora, just before we complete, I'll just ask my nephew over there if he'd like to come over here. This is our formal launch of our hapu environmental and climate plan, so we're formally presenting it.

[Karakia and Moteatea 3:4:20 – 3:6:42]

J HOOKER: Ngāruahinerangi, tuturohuti wakamaui kia teina. Teina. Haumi e huie. Haumi e huie. Taki e.

K TOOGOOD: Kia ora.

[background chat 3:6:53 – 3:8:00].

K TOOGOOD: We've reached our scheduled lunch break time, but we're going to push on and hear from Te Kāhui Maru Trust, who've been waiting patiently to make their presentation to us.

[background/administrative chat 3:8:10 – 3:9:05].

TE KĀHUI MARU
TRUST:

Ā, kati rā. A te tuatahi ki ngā mihi ki ngā kaiwhakawā. Ka nui he taku mihi ki a koutou. Ka haere mai māua ki te... ki te whakawhiti kōrero mō... mō ngā... mō ngā taonga o Ngāti Maru. Nō reira, tēnā koutou, tēnā tātou,

Ā te haukāinga. Ka nui he taku mihi e ngā whanaunga, Ngāti Ruanui, Ngāruahine e mihi ana ki a koutou, ka haere mai ki te tautoko te kaupapa, arā, our opposition to the sand mine. Ka pai.

S TAMARAPA: Tēnā koe, Mr Chair.

K TOOGOOD: Tēnā kōrua.

S TAMARAPA: Tēnā koe Mr Chair. Ko Sam Te Marapa tōku ingo. Ko au te trustee me te chair o Te Kāhui Maru o Taranaki, me koe hoki.

K BELLAMY: Kia ora koutou. Ko Kasey Bellamy tōku ingoa. He kaimahi au ki Te Kāhui Maru Trust. I'm Kasey Bellamy, and I'm the environmental planner at Te Kāhui Maru Trust.

K TOOGOOD: Tēnā koe, Kasey.

S TAMARAPA: If I can begin, and hopefully our kōrero won't take us that long. We're quite happy to answer any questions around the submissions if you have any on the submission that Te Kāhui Maru Trust submitted to you, but what I wanted to talk about more expressly was you have in front of you a map of where the Te Kāhui Maru is situated. What I'm going to do to first start is to explain in terms of the context of where Te Kāhui Maru is. As you can see in there, we're an inland iwi.

K TOOGOOD: Yes.

S TAMARAPA: In terms of what relevance does this have in terms of what we're talking about today? That's the endeavour of our submission is to talk about it, and of course, you would've got the submission which outlines the interests that we have.

K TOOGOOD: Yes.

S TAMARAPA: What I wanted to do was to extend further and give further explanation around our fishing rights, in particular the fishing rights for Ngāti Maru in terms of our commercial fishing interests, in terms of our customary fishing, but also to give you some context around pātakapata in terms of how it works. It works right across Taranaki region in terms of 12 iwi in Taranaki.

If I can begin in terms of the map there, it shows that we're right in the middle of Taranaki, so we're bounded in the south with our manaunga, Ngāti Ruanui, in terms of the Pātea River. It also means that we're also bounded by Ngāruahine. That's in the south, so that's the Pātea River. To the north of us, we're actually bounded by the Waitara River, and of course, the iwi along there are coastal iwi, Ngāti Tama, Ngāti Mutunga and Te Atiawa. And then inland, we're bounded by the Whanganui River, so when you have a look at that map there, you can see the extent of the area of interest for Ngāti Maru, so quite as a substantial area.

I'm not wanting to linger on our Treaty settlement, but just to remind you that we were the last of the eight iwi to sign the Treaty settlement with the Crown back in 2022. It's actually quite a recent settlement, and I'm always responding to some of the submissions back that we've had with Central Government, reminding them of the fact that, hey listen, we agreed to work in partnership with you, but when the extent of our partnership to date so far is where you give us 10 minutes to respond as part of a submission process for Ngāti Maru, that is not a partnership. We're always making that comment back to you, but today this is a particular one of interest for all of us, and I thank you guys for actually providing that opportunity.

I wanted to get on and explain a number of things here. In terms of our fishing interests, as part of the Fisheries Settlement Act, and of course, being an inland iwi, which means we didn't have coastal space, which was part of the equation when the quota management system came into being. So, for those inland iwi, we were allocated quota in the deep sea space. That deep sea space, we're talking about the hoki. We're talking about roughly, all those deep water species. That's the extent of our fishing interest from a commercial settlement.

In terms of customary, and of course, when you've got those waterways and they're quite extensive waterways, the Waitara River's the largest catchment we have here in Taranaki. The fish that are bounded in that water there, you've got the inanga. You've got the piharau, you've got the tuna. I also want to talk about that in terms of how precious they are to Ngāti Maru. Of course, two of those species ... well, actually all of those species spend part of their lifetime out in the sea. Again, the issues that we have with the effects from what's being talked about here around sand mining is of huge interest to us. When I say interest, it's actually of huge concern, so if I can start there, and of course, my cousins have already relayed the issues that they're facing, but in terms of us, I mean given that we're an inland iwi, most of our kai came from our rivers, came from the ngahere.

Way way back there, there were some relationships that we established with our coastal tribes, where we would exchange food from the ngahere, and bring our manu down with us, and then in exchange, they allowed us

to enjoy the kai from the moana. Once we had got our food, we would go back to where we came from, but the core of our sustenance was the kai that was from the ngahere and of the river. So, there just emphasising the preciousness that we have around the tuna, around the piharau, and of course, around the inanga.

Just being mindful that the inanga is not just enjoyed by our coastal iwi and by people who are fishing for the inanga now, where you get the little wee juveniles and they're put into patties. Yes, we do like them, but for us further up the river, we were also harvesting the inanga once they also had the puku in them. I know that because my mum is from the Whanganui River, and we've gone and we've harvested the inanga about 60km up river. That gives you the extent in terms of the preciousness of the inanga, so all those three species are really really valuable for Ngāti Maru.

We have a particular concern already expressed by my manaunga here this morning, the activity of in terms of that space being proposed, and when you add into that activity, the light, the noise, the 24/7 operation, we have some real concerns about the effects that may happen on those freshwater species. As we know, and of course as rightly pointed out before, the tuna, when they get into that migrating mode, they head out into the ocean. They head across to Tonga and other places that are there. Of course, from there where they spawn and then those elvers come back. Our real concern is what are the impacts on the migratory patterns of the tuna.

There's one particular fish that we don't know enough on yet and that's the piharau. We do know how to catch them when they're in the freshwater. We do know how to enjoy and how to eat them and how to cook them. We know all that stuff, but what we're seeing now, and this is a real concern for us, we are not seeing the numbers that we used to harvest that used to be there. In fact, the land rate of the piharau for us is listed as an endangered species. We're constantly working with DOC around, so give us some more resources to enable us to actually put some more pressure so that we can actually look after the species.

Just moving on again, in terms of there are other fishing interests that we are concerned with for Ngāti Maru. I just also want to explain to you the two versions of pataka that we work with here, and in particular, Ngāti Maru enjoys being part of that, and of course, just about every iwi that we have also enjoyed that. So, pātakapata, which began its journey inside Ngāti Ruanui. There are a number here that we all sat around the table and this actually took a long discussion to get through. In conjunction with Te Ohu Kaimoana at that time, it was Lawson Tony McPherson, and along with our representatives from Ngāti Muri, Ngā Rauru and Taranaki Iwi. We got together to talk about how do we express our customary rights using the tools that we have as part of the fisheries settlement.

We had the customary regulations that came into being. That described how you could actually exercise your customary rights. This was to issue permits to go and gather kai. We looked at our relationships that we had with our commercial fishing sector. We don't own boats, but we know people who do own boats. We know people who own LFRs, the places where they actually process the fish. They're keen to obviously get hold of our quota, so through that relationship, we managed to work a process where while they're out there catching the commercial fish (and of course, some of that was all from our quota), we were able to put on those vessels, customary permits. Those customary permits described the types of species, how much, and then they would bring it back to port.

We also furthered that relationship with the one particular company that we still work with, where they would process the fish, package the fish, and basically put it into their blast freezer. That essentially became the pataka, and it is still in operation. This discussion started back in 2010. We managed to talk with the management team for, at the time, Ministry of Fisheries, and that was again in conjunction with Ngāti Ruanui, Ngā Rauru, Taranaki and of course our colleagues from Te Ohu Kaimoana. We convinced the management that we could develop a system to exercise their customary rights that way. They agreed to it and they agreed to a one year pilot. We ran the one year pilot and it hasn't stopped. It's been going since then, so it's been going now for the last 15 years, and there's been no major impediments.

Just to provide some context, we actually have to develop a system because it's okay catching the fish and distributing it out. There is also a requirement to actually monitor. Well, not so much. You've actually got to record who's catching the fish, when it's caught. You have to monitor. You have to be able to show that all the way through the system and where it's actually going to. So, we developed an online system in conjunction with Te Ohu Kaimoana because one of the key purposes was to provide kai for tangi.

Now tangi had a very defined timeline to work with, and that's probably around three days maximum. Once we get notification that there was a tangi on, and we get confirmation from the iwi, from the hapu that there was a tangi on, we've got a very quick time to turn around to make this happen. The system we developed was all online.

We get electronic permits, which meant we could do it within [clicks fingers] like that. The fish was already in store. We would issue another permit that enabled a certain amount of fish that would come out and go end up at that marae for that particular tangi. It was done well within the timeframe that we needed, so most of the time, that was ... well, actually that was the primary purpose of pataka, was to support our whānau and our marae, particularly in times of tangi.

We've also extended that further because I mean we don't have tangi all the time, but we do have fish that's sitting there, so how do we keep the fish fresh? So, each iwi have the opportunities to provide other events that we could provide for. There's wānanga that we've been providing for, other hui, and one hui I'll mention was the recent Te Matatini, where we had 24 marae here in Taranaki in support of Te Matatini in terms of looking after our manuhere and looking after our whānau that returned home for Te Matatini. Part of that was the kai that came from our pataka. So, those sorts of events.

I just wanted to provide that context around customary fishing, and it's not always centred around our reefs. As you've heard before, we have some major problems happening with our reef areas. We've already got Taranaki iwi that's got a 186 total bar/closure on their reefs. We're now contemplating with our vulnerable Ngāruahine also joining that because

they're also facing pressures, whereas the pataka that we have enables us to at least express our customary rights in that manner.

A new addition to it, and we've just actually initiated it now where I've issued a customary permit for the deep water pataka that we're initiating now. We're working with Sealords. We've got our customary permits on Sealords, and they will harvest. Of course, they go out near the deep water fisheries. If you talk about the area where the activity has been placed, that's probably in that vicinity where Sealords is going to operate. Obviously, we're not going to be on top of these guys here, but they're out there, working in the same space, harvesting in that same space. Fish are fish. They're not necessarily going to be there. They could be here. The fishermen will follow where the fish are, and they will harvest them, but the point I'm making is that they're out past the 12 nautical mile limit in the deep water space, harvesting the fish for the deep water pataka.

The deep water pataka that we've initiated will follow the same lines of control that we've got established for the patakapata. There will be those checks and balances. Obviously, MPI will be all over us in terms of records, data, etc.

I should say that the system that we developed, we've maintained all the way through, and that's been run right now by Fish Serve, one of the agencies in Wellington. We have the data to validate in terms of what I've just said to you in terms of how many tangi, how many other events, species that we've harvested. Primarily, right now, one of the key species that we always harvest is snapper, and snapper predominates in the Motoraki Bight, but what we're seeing is that the snapper are also moving further south.

That's probably due to the warming temperatures. We now have snapper turning up close to the bottom of the South Island, which never ever happened before, and the same with kingfish. So, obviously, the effects of climate change and meaning our fish are moving all over the place in terms of the deep water species. What we do know is that at certain times, we have species that come in. They come through the South Taranaki Bight. We've got the warehou, we've got the rig fish here. We've got a number of other fish species that transit through that space.

Now obviously in terms of our fishing interests, once we know that they're there, that's when we will obviously activate the pataka, when they're in there, but at the moment, we're harvesting snapper from the north and that's what's providing the fish for us at the moment. In the past, we've come all the way around the coast, and I understand with the deep water pātaka, they're not too far from where the activity that's been described here. Obviously, not close enough, but the issue for us is obviously the effects from the activity in terms of noise, in terms of light and the fact that it's operating 24/7.

So, just a quick snapshot in terms of talking about our fishing interests, our customary, and in particular our commercial interests for Ngāti Maru, it's not that big, not like some of the coastal iwi, but for us, they're really precious, and even more precious is those three taonga species that I've talked about, because they fed us. They fed my tūpuna because that was the main kai that we had at that time.

We're still now trying to instil that mātauranga to our up and coming rangatahi. One of the jobs that I have is to talk to them about the [inaudible 3:27:01, and how we harvest it. There's those challenges we have. I'm quite happy to answer any questions that you guys have.

K TOOGOOD: Have you got any?

G KEMBLE: No.

K TOOGOOD: No, that's very helpful though, Sam.

L LOVELL: I have one.

K TOOGOOD: No, I apologise, but it has been a very helpful presentation (thank you), with good context.

L LOVELL: Kia ora. That's been very very helpful so I've just got a couple questions. One is in terms of the pātakapata, noting the distinction for the deep water, do you know if any of them are within the framework of where they anticipated [inaudible 3:27:52] will go?

S TAMARAPA: Yeah, for pātakapata, we face some challenges anyway cos you've got the marine mammal exclusions, which are actually pushing our fishermen

further out. It's even difficult now to put set nets in where my uncles would put set nets down at the river mouths to target the rig and the kahawai. Because of the marine mammal restrictions that we're facing, the last thing we want to be known as is to catch up a Maui dolphin in those nets, so you can see there's a reluctance were that stuff to happen.

We don't know yet, the effects of the plume, but we know that it is there. I think I'd rather that we do the work beforehand rather than after the fact. Do we fish in that space? Yes, we do. In terms of where we can harvest either using a trawler, like an inshore trawler or where we're allowed to use the set net and we will actually use the set nets. We're actually moving towards more now long lining, which reduces any effects on particularly marine mammals [inaudible 3:29:14].

How does that answer you?

L LOVELL: That's fine, and then just wondering if we would be able to receive any of the data that you're talking about in terms of acknowledging MPI will probably be holding quite a bit of it, but based on your pātakapata, some of the information you were talking about in terms of—

S TAMARAPA: Quantities, species, timing?

L LOVELL: Yeah, anything that you can provide us to give us some additional details.

S TAMARAPA: Quite happy to share that, but I mean remember that the shareholders are Ngā iwi o Taranaki.

L LOVELL: Āe tēnā, pai tēnā.

S TAMARAPA: We're going to have to talk in terms of how far do we share that information, but absolutely we do have the data.

L LOVELL: Ka pai.

K TOOGOOD: Kia ora. We appreciate it. Thank you very much, Sam. Ngā mihi.

All right, we'll take a lunch break.

Oh, I'm sorry.

[Waiata]

K TOOGOOD: We'll take the lunch break now, and we will resume as scheduled at 1:15 with Te Tōpuni Ngārahu Trust. Kia ora.

[End of Recorded Material: 3:31:19]

[Start of Recorded Material: 00:00]

[background chat 00:00 – 7:57].

K TOOGOOD: All right, we're now due to hear from Te Tōpuni Ngārahu Trust. Haere mai.

WHARE: Tēnā tātau. Te Tōpuni Ngārahu tēnei, Te Tōpuni Ngārahu tātou. Haere mai ki te tautoko i ngā iwi o te Aotea waka. Ngā Rauru, Ngāti Ruanui, Ngāruairangi. Anei te heamana, Jacqui King, me tētahi o ngā kaimahi, Dion Luke. Ko wai te pou whakahaere, Kuari Kowana taku ingoa. Nō reira kāore he kupu tua atu ko te.. Kāore e whakaaetia ki ēnei mahi, ki roto i tō tātou takutai moana, mēnā ka pērā ki roto i te takutai ki Aotea waka, Anā, ka aro mai ki ngā, ki a Kurahaupō waka, ki a Tokomaru waka. Anei a Tokomaru waka, Kurahaupō waka ngā waka o Taranaki Maunga haere mai ki te tautoko i ngā whanaunga, tēnā koutou, te komihana, tēnā koutou, kia ora tātou.

K TOOGOOD: Kia ora.

WHARE: Anei, I'll leave that. I'm just introducing our Chair, Jacqui King, and Dion is one of our environment technicians and many of our whānau, some of our people sit on, our CE's within the other iwis sit on this trust, along with our chairs. Nō reira tēnā koutou, kia ora tatou. Kei a Jacqui.

J KING: Kia ora koutou. Thank you, Whare. Ngā mihi whānau. It's challenging being here today having to address you all in regards to this matter, but what we wanted to do was just outline specifically why we're here as Te Tōpuni Ngārahu. I just wanted to outline a little bit in terms of the background. You would've had our comments already, which we submitted to you all, but we'll cover them off in a little bit more detail and share the load between us if that's okay. You just jump on in there, Dion.

The recent settlement of our collective claims for Taranaki Maunga represent the pinnacle debates of the Treaty of Waitangi redress in the Taranaki region. Negotiations began in the late 1990s officially with our

Ngāti Ruanui whānau, and our Ngāti Tama whānau being among the very first to reach settlement legislation. Each settlement since then recognised that redress relating to the confiscation of Taranaki Maunga would come later when all the iwi of Taranaki were ready to negotiate collectively, especially on something so sacred as our tūpuna maunga.

The completion of the Ngāti Maru settlement in 2022 opened the door for these collective negotiations. By 2023, Te Tōpuni Ngārahu Trust was established by trust deed, and in 2025, the Taranaki Maunga Collective Redress Act gave it legislative form. Our role, as Te Tōpuni Ngārahu Trust, is to act as the collective voice of governance entity of Ngā iwi o Taranaki in the context of the maunga redress arrangements, for the purposes particularly of he kawa tupua, the framework that sits at the heart of the maunga settlement.

He kawa tupua is the foundational framework. He kawa tupua is the living framework created under the Deed of Settlement, particularly Te Ruruku Pūtakerongo and enacted by the settlement legislation. It establishes two key expressions of authority. Firstly, te mana o ngā maunga, which recognises, promotes and protects the health and wellbeing of Te Kāhui Tupua, the legal personality comprising Taranaki Maunga and its tūpuna maunga.

Te mana o te Kāhui is the next component, and that recognises and provides for the mana and relationship of ngā iwi o Taranaki with Te Kāhui Tupua. The rights, powers and duties of Te Kāhui Tupua are exercised by Te Tōpuni Kōkōrangī, who you would've heard from yesterday. They are the statutory body established by that Act to be the face and voice of Te Kāhui Tupua. It is Te Tōpuni Kōkōrangī, of course, who speaks on behalf of the maunga, Te Kāhui Tupua itself, but it is Te Tōpuni Ngārahu, our Trust, who speaks for the collective relationship of ngā iwi o Taranaki with our sacred tūpuna.

Under Section 53(2) of the Act, Te Tōpuni Ngārahu is recognised as a public body under the Local Government Act of 2022 and is an iwi authority and public authority under the Resource Management Act of 1991. So, we stand here today with that authority and with that responsibility.

In terms of our historical context, I just wanted to talk a little bit more about that. Every Treaty settlement in Taranaki tells a story of injustice, of land confiscation, violent suppression, the loss of language and culture, and of that long journey towards reconciliation. The Crown has acknowledged not only that those acts were wrong, but that Aotearoa as a nation benefited from those very wrongs. The wealth and prosperity of Aotearoa are built in part on the confiscation and alienation of Taranaki lands and resource, and yet despite these historical injustices, ngā iwi of Taranaki have always sought pathways of reconciliation, always seeking balance between justice and progress, between past grievance and future hope. That's the context in which this hearing is taking place today, a continued battle for finding that balance while protecting what few resources we have.

The relationship of ngā iwi o Taranaki and Te Kāhui Tupua, we're not here to speak on behalf of individual iwi relationships with ngā maunga. We're here to speak on behalf of our collective voice in this regard. The maunga settlement includes and sets out for us a framework of what that connection means to us as a collective. That statement of connection, te iko tangaengae, which in that word alone, te iko being the essence of something. Tangaengae is our word for the umbilical cord. That demonstrates to you the depth of connection that our people have and particularly our iwi of Taranaki have to our tūpuna.

It sets out the depth of our spiritual, cultural, historical and traditional relationships with our tūpuna maunga. It tells us that our maunga (because there are more than just one) are our hope. They're our living pillars connecting the physical and our spiritual words. They form the very framework of our whakapapa, of our identity and our worldview.

For Taranaki iwi, the maunga are our ancestors, ever present, shaping our landscape, shaping our weather, shaping our climate and our lands. They have carved our planes, they've fed our waters, they've shaped our shores and they've anchored us as a people and our stories. They're not part of the environment, they are the environment. Te Kāhui Tupua is the synthesis of this region's physical, ecological and special spiritual character.

In terms of connecting that to this fast track application, we want to highlight that even the Applicant's own scientific reports acknowledge that the black iron sands along our coastline, those containing (I don't know if I'm saying the words right) vanadium, titanamalite or something like that [laughter].

WHARE: That's pretty good.

J KING: Those resources that they seek originate from the volcanic lahars of Taranaki Maunga. These minerals were borne of our maunga's eruptions. They are quite literally the maunga's body, scattered along our coastline. To mine and extract them for profit, it's unnatural to us. It is an act or it would be an act of taking from our tūpuna, from our ancestor.

In terms of this particular matter, it's deeply troubling that after the ongoing battles of our Aotea waka whānau, Ngāti Ruanui, Ngā Rauru, Ngāruahine, and their successful efforts might I add, notably those being upheld by the High Court and the Supreme Court to overturn consents for this project, it's so troubling that we find ourselves back in a place where we're having to defend the situation again. It just happens to be under a different legislative regime. That a separate process has been created to reopen an issue already tested and resolved through proper legal channels is an affront to the mana of those iwi. It's an affront to the integrity of due process.

We're heartened by the unity and strength that no doubt you would've seen in this room over the last couple of days, which is just a smidgen of the unity that we have as a community to stand against and oppose this Application. We're not just joined by our fellow iwi; we're joined by environmental groups, by fishing communities and other organisations who recognise what's at stake here.

Sadly, the Crown's hand in creating this legislative pathway, one that allows a project so fundamentally flawed, undermines the very trust and reconciliation that the Crown professes to seek.

To reaffirm, without hesitation, we support our Aotea waka whenaunga, Ngāti Ruanui, Ngā Rauru, Ngāruahine, and particularly we commend their steadfast opposition to this Application throughout its many iterations thus

far. The minerals the Applicant seeks come from Te Kāhui Tupua, from the maunga himself. It's only right that those minerals use or the protection thereof be determined by those iwi who descend from those sources. It's not simply a matter of resource use; it's a matter of justice or injustice depending on what side of the fence you're sitting on, Tikanga, but also Treaty obligation.

The injustice of this Application is layered. It dismisses iwi authority, it disrespects environmental protection and it prioritises short-term economic gain over intergenerational wellbeing. That is the position that we hold. I'm sure we may have had a couple of other points that we may not have covered.

D TUUTA:

Thank you, Chair. Just to go further into the Crown's role in this, what we would term to be a fiasco, we have to acknowledge that the Fast Track Approvals Act was in itself an affront, particularly on behalf of the Crown. I'd just like to point to two other amendments to legislation that weren't brought about in the Fast Track Act coming to place, which is last year. Those are the Crown Minerals Act and the Marine and Coastal Area Takutai Moana Act.

Changes to the Crown Minerals Act have seen the purpose of that Act change from managing prospecting, exploration and mining for Crown minerals to now promoting the exploration, prospecting and mining of those minerals. This is quite a huge change. It wasn't in place when the Fast Track Act was first introduced, but it now has become so as of August, and obviously with the matter changes just recently, it has changed the level of tests required to prove it to have rights customary rights recognised for takutai moana. Taken together, these two changes significantly empower fast track legislation. They undermine Māori rights and they provide an environment obviously pro-development, which was what the Fast Track Act was about. It more or less provides an extra couple of pieces of legislation to support that.

When we talk about obviously a connection to Te Kāhui Tupua, we're talking about the fabric of the iwi space, our ancestors struggles that they went through there that Jackie has referred to, but that fabric is also all the people. When we talk about environmental management, we're

looking at authority created by the Crown to manage it and the separation of people from the environment.

You probably think of the connection as a holistic one that's not separated by the arbitrary lines of the coastal marine area or the exclusive economic zone. You would've heard that in the last couple of days from iwi especially.

With that, Whare, did you have anything else to add?

WHARE: Yeah, kia ora tātou. Just the tikanga lens around making decisions about our marine activities. The Crown's obligated to protect the rangatiratanga under Article 2 of the Treaty, so the chief authority and self-determination come by rangatiratanga and includes the obligation to protect lands, forest, fisheries, our moana. That obligation is kaitiakitanga. We all have that responsibility, so we see that the iwi affected, their communities are sharing a whakapapa based kaitiakitanga. That's our role. He pou tai ora is a big part of it in terms of our framework as Te Tōpuni Ngārahu. That's about kaitiakitanga.

Again, we are very supportive, more than supportive, of the position of our southern iwi on behalf of Te Tōpuni Ngārahu o Taranaki. Kia ora.

K TOOGOOD: No, I have no questions either, and that reflects again the quality of your presentation and the written material which we received earlier. We thank you very much. It's interesting that there's such a consistent theme from all of the iwi presenters, and so many of the issues that we might have raised with you, we have discussed over the last two days. We are listening to you and we hear what you say. Thank you.

J KING: Kia ora tātou.

[Waiata]

K TOOGOOD: Next we are to hear from Ngāti Hāua Hapū.

[background chat/set up 27:10 – 28:25].

K TOOGOOD: Tēnā koutou.

NGATI HĀUA HAPŪ: Tēnā koe. It's best to get started.

K TOOGOOD: Yes, please do.

R POPE: Ka ū, ka ū ki uta, ka ū, ka ū ki tai. Ka ū ki tēnei whenua, ki tēnei wāhi nei, ki tēnei pae kōrero, ko Ngāti Hāua tēnei e mihi atu nei ki te pae, ki ngā pae kōrero, ki ngā pae whiriwhiri e whiriwhiri nei i tēnei take, tēnei kaupapa. Me tīmata pea ki tēnei kōrero, te kōrero a ngā mātua tīpuna e pēnei ana. Anā, Ko Tahu-a-rangi te waka. Rangi-tukutuku te aho. Ko Piki-mai-rawea te mata, ka makaea atu ki te moana e Māui, ka mau ki te ururoa o Tongonui. Nō runga, i a hāhā te whenua te ika ki rō warea ki ngā mai ki uta utaina ki runga rā, ko Papatūānuku, ka pāea ki uta. Ko Te Ika nā wai? Ko Te Ika nā Māui-tikitiki-a-Tara ana, ko Te Ika – nāwai? Ko Te Ika nā Māui i Kutikuti pekapeka, i tū mai haea, maunga nunui a maunga roroa. Hei whenua mō wai? Hei whenua mō te kaupapa tangata, he kaupapa tangata tēnei, he kaupapa whenua, he kaupapa moana tēnei, he kaupapa whenua e hae.

I'll start off like that and draw on some of those old kōrero from our people that make the connection between our maunga, between the ocean and the land. They say that there is no division in between and that kōrero talks about the great fish. I'm sure that all of you know about the story about the great fish being fished up out of the ocean, and here is the land.

The land that we have of course is the body of the fish, but of course, the papamoana, there's no discontinuation of that. It continues on. We see the bottom of the ocean to be the same as land. That is written through our submission, our comments, Ngāti Hāua, so instead of us sitting here talking to you guys for 20 minutes to half an hour, which I'm sure you've had over the last few days, perhaps we can start off with outlying or perhaps responding to some of your questions if you have any questions.

K TOOGOOD: Not right now.

R POPE: Not right now? Okay, kei te pai tira. Kei te pai tira. Well, there were some questions in the minutes that were put out. Of course, we haven't been able to prepare a presentation in the time that was given to us, so I guess what I'll speak to is the main part of our submission. I'm sure you've all read it, I'm sure it's all in front of you right now as you're sitting there, is the importance of the reefs.

Now the reefs, for us, we refer to them as mara. Once again, the word mara is typically used for a garden, and we use the term mara for our reefs. That signifies once again that connection between land and sea.

So, we have 16 reefs within our takiwa, within our region of Ngāti Hāua, and they all have their names, they have histories. They'll have connections to hundreds and hundreds of years of occupation throughout our takiwa and relationship to fishing grounds that extend far out into the EEZ and into the area that this project will impact on.

That has been our main concern as Ngāti Hāua, the impact that settlement plume, the impact that chemicals through the washing process, the impact of that coming into our reefs. It's our reefs that are so so important to us, so so important to us that we named them, and we refer to them as gardens because they are so important to us. We need to go in there, weed them and look after them as you would look after your own garden. That is our major concern, is the impact of these operations that we're talking about with TTR, the impact that they will have on our reefs, rocky reefs particularly. We also have one sandy reef towards the eastern boundary line of our area, so that's one of our main concerns.

There was a question in the minute about manaakitanga or rangatiratanga (all the tangas). I'm sure this has come up earlier throughout the days that this convention has been sitting. We have rāhui from one end of our coastline (within Ngāti Hāua's coastline I should say) to the other end. We've got rāhui that have been there for 15 years, and that's a result of declining stocks in our kaimoana. We aren't harvesting now from our gardens at the moment. Particular species, we are, because we're seeing an impact, particularly that over harvesting and over fishing has had on our reefs.

If the questions posed about rangatiranga or the exercise of that within our rohe, you're looking at people, the grey-haired people that are involved in setting down those rāhui to ensure that we will have kaimoana kai within our gardens for the next 15 years and the next 15 years and so on and so forth.

That probably just touching on one of the other things that we brought up in our submission or our comment was around the lack of consultation.

We haven't really been consulted on about the impacts, positive and negative, right? One thing that's been brought up as well is what economic impacts will we see being here for a very long time before all this and we'll be here for a very long time after this. That hasn't been brought to our attention. It's very hard for us to comment on the validity or otherwise of this project if we haven't been consulted on formally as a hapu who underneath sit under Ngāruahine Iwi, who of course settled almost 10 years ago. It's very hard for us to figure out whether or not and have a really clear I guess opinion on the validity of this project if we haven't been consulted on.

I'll perhaps leave you there for a second. Do you have any questions at all?

H GILES: In your submission, you described that some of the reefs are identified as significant natural areas in the Taranaki coastal plan.

R POPE: Yes.

H GILES: Would you be able to provide information about those that are not identified as significant natural area, just whether they were not recognised because of the criteria by the Council or whether there was a reason that you would prefer not to make information on?

R POPE: Yeah, we can provide that information with probably a little bit more time. We have an ongoing application through MACA through the Takutai Moana, so the slight concern of having to with prejudice perhaps to the Application, I'm unsure; however, we can provide that information in due course, and of course, if you would like to request that, for sure.

Do I know or have any particular reasons why they haven't been considered so? That's probably one thing that I guess from our perspective, from a Māori perspective, we name things because of events that happened. We have a particular idea on where a reef begins and means, not entirely because of the geology but because of what events happened at certain areas. Perhaps the Council might see one reef from one peninsula to another in one bay; however, we might have three.

- H GILES: I understand the criteria may have just not matched well.
- R POPE: Yes, so different criteria to summarise, but of course, if you're looking for the information, we can get that out.
- H GILES: We will probably include that in the RFI and then you can provide the level of information you're comfortable with.
- R POPE: Great.
- K TOOGOOD: Thank you. As your point initially, all of the reefs are of special significance and importance to you,
- R POPE: We wouldn't have named them up if they weren't. We wouldn't have fought and cried and many other things ... well, I'll put it lightly with euphemisms here (fought and cried – you can probably see where I'm going) ... over these reefs. Of course, they have a very special significance to us, and I guess the point I'm making about those criteria is it's different criteria.
- One thing as well to note about access is probably another thing we have access. We have access that other people don't, the general public don't, so we can access certain areas of our reefs that other people can't, whether it's fire, land that we have around our fishing reserves on the coast or for other areas of access that we know about that others don't.
- K TOOGOOD: Kia ora.
- G KEMBLE: Nothing from me.
- K TOOGOOD: I think that's from us. Thank you very much. Appreciate it.
- NGĀTI HĀUA HAPŪ: He korero anō?
- R POPE: Let me just double check. My cousin here is just reminding me that I should look through what we've written.
- [no dialogue 38:58 – 39:11].
- S MAKO: Tēnā koutou. Yeah, Rere's gone off script. Did Rere introduce us?
- R POPE: Ngāti Hāua.

S MAKO: Ngāti Hāua. Rere-no-a-Rangi Pope, Sarah Mako Kui Te Rau, Kui Barb, Kui te Rauorewea, aroha. Kui te Rauorewa, Kui Barb, Kui Ngāwai.

K TOOGOOD: Tēnā koutou.

S MAKO: I guess I just wanted to touch on one thing from the minute. There was a question around without prejudice to any opposition to granting of the Application. I think perhaps this response might cover off a couple of the pātai that were asked in the minute. It's actually really difficult to suggest what conditions could look like when you haven't been engaged.

So, just to reiterate what Rere spoke to, when you haven't been engaged, when a full description of the environment hasn't been, I guess, described efficiently and effectively. We form part of that environment and we haven't been included in terms of our ... as Rere mentioned, we are part of Ngāruahine iwi, so we fall under the Ngāruahine Deed of Settlement and the Ngāruahine Claims Act.

In the Deed of Settlement, there's quite an extensive description of our rohe in particular, so our rohe extends from the maunga, Hawaiki, Tawhiti Nui, Hawaiki Nui, Tawhiti Roa, Hawaiki Roa, Tawhiti-pāmamao, Hawaiki pamamao. Our rohe extends forever from the maunga, and we can't differentiate between or it's difficult to differentiate effects if something happens in our rohe. If something happens in Tangaroa rohe, it affects our maunga, our relationship with the maunga.

Just in relation to the question in relation to conditions, it's really hard when those conditions, the profit conditions, they've minimised our relationship with kaitiakitanga. They've minimised our relationship with the environment. I think I'll leave it there.

K TOOGOOD: Kia ora. It's good. It's a well-made point. Thank you.

R POPE: Probably just to finish, I imagine it's quite hard to assess on a panel here, but throughout the generations of our tūpuna responding or submitting against particular activities within the takutai moana, there's been a bit of concern about the spiritual impact on Tangaroa and maru and toi, and some of these taniwha that we have out in the moana. Ahoaho is another one that we have out there. That's probably one of the underlying

concerns that it carries through the generations is what is going to be the impact on these deities and the impact on perhaps the people that might be working on these boats or the people that might be working and living around the seabed. What potential spiritual and cultural impacts might we see as a result?

I'm not asking you to try and believe in another belief system, but I'm trying to get you to think about how we see these kinds of impacts and the impact on these guardians, as we've mentioned in our submission, these guardians that bind us to place and bind us to history. That's probably the last thing that I think we want to mention is consider that and how do we move forward in an appropriate manner. Nō reira. Tēnā koutou, tēnā koutou, tēnā tātou katoa.

[Waiata - Te Tai Whakarunga, Te Tai Whakararo]

K TOOGOOD: All right, we need now to hear from now Ngā Motu Marine Reserve Society.

[background chat/set up 45:00 - 45:44].

B HAMMONDS: Kia ora koutou. Kia ora. Ko Barbara Hammonds aho. I live in Ngāmotu in New Plymouth. This is Elise Smith, my fellow committee member from the Ngāmotu Marine Reserve Society.

What a privilege it's been to be here today to listen to the kōrero. I feel like it's a hard act to follow; however, so I'm just going to start off by going back in time, not as far as some of the speakers have, but in 1953, the year before I was born, in response to the recently elected US administration removing hard won environmental protections in order to benefit business at the expense of nature, ecologist Rachel Carson, well known for her groundbreaking 1962 work, *Silent Spring*, the bestseller that changed the course of US environmental history by focusing on the spraying of pesticides like DDT, wrote a letter to the editor, later picked up and published by the *Reader's Digest*, the equivalent of going viral back then. And I quote, 'For many years, public spirited citizens throughout the country have been working for the conservation of the natural resources, realising their vital importance to the nation. Apparently, their hard won

progress is to be wiped out as a politically minded administration returns us to the dark ages of unrestrained exploitation and destruction.'

Fast forward to today and seven of the nine critical earth system boundaries, according to Johan Rockström of the Stockholm Resilience Institute, have now been breached, with ocean acidification the most recent edition just in September. That means we are going beyond the limits of a safe operating space for humanity. We are not separate from nature.

Love of nature and a deeply felt connection to the natural world are the reasons I joined the Ngāmotu Marine Reserve Society soon after I returned to live in my hometown of Ngāmotu, New Plymouth, over 20 years ago. I hold an MSC in environmental science, and Elise has an MSC in applied plant science, and has expertise in geographic information systems. The society runs the experiencing marine reserves programme and a project monitoring local populations of Korora, the little blue penguins. We write submissions on issues that are likely to affect the health of our ocean ecosystems.

Thank you very much for this opportunity to highlight some of our key concerns. The society's vision is broader than our name might suggest. It is for Taranaki to have healthy marine and coastal ecosystems through science, education, community action and policy advocacy. The modelling of impacts undertaken ahead of any potential seabed mining is inherently uncertain due to the complexity of the marine ecosystems.

Given the scale of the proposed mining, we do not agree that this modelling is sufficient for evaluating potential environmental impacts. The Application describes a risky project that demands economic certainty for TTR and yet has the potential to disrupt organisms at all levels of the food web for 20 years plus within a large area of the Taranaki marine environment. We're concerned about the effects of direct extraction and the reduced light penetration and smothering caused by the sediment plume.

Over the large area affected by the sediment plume, it becomes problematic to identify sensitive habitats and threatened species and adequately assess cumulative effects and the wider ecological

consequences within marine food webs. The impact of direct extraction on benthic organisms (those are the organisms which live in or on the sea floor) will be destroyed by direct extraction in the proposed mining site. They're important food for many fish, including sharks and rays.

No studies have been undertaken of the recovery time of these under conditions in the South Taranaki Bight. The dominant benthic marine worms present in the mining site and surrounding areas are suspension feeders, which makes them susceptible to smothering by sediments within the plume. Benthic communities are also likely to experience reduced levels of prey due to the impacts of the plume on the plankton.

We note with concern D McDermott's statement stating one non-commercial species eagle ray may be affected to a moderate extent by the proposed iron sand recovery activities. Eagle rays are the main food source for orca in New Zealand.

The evidence presented is insufficient to allay our concerns about the recovery of benthic communities, and no adequate assessment has been seen of the impact on the species that feed on the benthic communities in the proposed project area and the areas under the plume.

Reduction in light is one of the biggest issues with this project. This figure shows the reduction in midwater visibility as a result of the sediment plume when mining at Site A. And just a note on scale, the plume is over twice the size of Te Papakura O Taranaki, previously Egmont National Park. The green shading is around a 50% reduction in light, and even 20km away from the mining site, there is predicted to be a 40% reduction in light. This is far further away than the 3km distance from the project area that TTR intends to survey. Over a substantial area of the plume, the increased sediment load will affect light penetration, resulting in reduced visibility, affecting the feeding ability of fish and aquatic birds and the redeposition of mined sand will smother benthic communities and have a choking effect on those organisms living within the water column. This significant reduction in light will also impact the primary producers, ie the phytoplankton, which are the base of the marine food web, and seaweeds like kelp, which provide valuable nursery habitat for fish and other marine species.

On this figure, I'd like you to just look at the two bottom diagrams. The modelling shows that when mining is occurring at Site A, the euphotic zone where sufficient sunlight penetrates for photosynthesis is mislabelled eutrophic zone in the diagrams. It decreases the shallower than the seabed depth at Site G. This means light is not sufficient for seaweed macroalgae growth, and this is over a significantly large area. The consent conditions just refer to suspended sediment, but light levels are just as important. That's a different measure.

G is Graham Bank, where the kelp at *Ecklonia radiata* is growing at 32m deep. When mining at Site A, the euphotic zone decreases to around 20m at Site G. That is nowhere near as deep as the seabed. The seaweed will not be able to grow.

As raised in our 2013 submission to the EPA on the first iteration of this Application, given that the water column in the affected area is generally well mixed, this also raises concerns in terms of impacts on phytoplankton productivity. It is likely that zooplankton within the plume will also be negatively impacted through clogging of feeding apparatus and reduction in prey availability. The overall impacts on phytoplankton and zooplankton will have knock-on effects in terms of food availability within the marine food web in general.

Reefs

TTR's previous applications described the South Taranaki Bight as sandy desert. Not only is this far from true for the stretches of sandy seabed, but there are numerous rocky reefs in the area, as many other presenters have described. These reefs support sponge gardens like this one.

I know previous speakers have mentioned this report, *Offshore Subtitled Rocky Reef Habitats on Pātea Bank*, South Taranaki by Dr Morrison et al, so I'll just orient you to the map. The green area is the land, the blue area is the sea, and it has revealed numerous rocky reefs, including linear ridges several kilometres long. 14 of these reefs were studied further, including Project Reef. At Site K, which is identified by the blue arrow, Project Reef K, and it's an area of outstanding natural character in the regional coastal plan.

Also note Site V, the small rectangle at the bottom just to the right of centre. This is Graham Bank, where *Ecklonia radiata* was present as healthy plants at 32m deep. The report also says the strong nursery values of the sponge garden and low reef habitat of Site V were a particularly valuable discovery. Habitats also included sponge gardens and soft [inaudible 55:12] fields. Sponges are slow growing, long-lived and sensitive to smothering by sediment.

There's another map. Again, the green area is the land, the blue is the sea. I won't read the quote. I think you've had that read already. This figure from the report just shows how small an area has already been surveyed so far. There's much more to be surveyed. It's based on just 30 hours of onsite vessel time, with a 250km track, which is the white lines. And 61½km of sea floor has been mapped.

Associated with these reefs are extensive areas of biogenic habitat dominated by macroalgae. These kelp forests, *Ecklonia radiata*, are a habitat forming seaweed that require sufficient light to grow and they're only present here due to sufficient light at these depths. In other words, the water is exceptionally clear.

This is a hydro tree. This is rare and decades old and quite sensitive to smothering. As other speakers have noted, there are lots of fish on these reefs. High densities of juvenile blue cod were found. The sponge gardens and macro algae are important nursery habitats. Ministry for Primary Industry's recent data corroborates what the fisher, Ali Brooks, told us before about trevally.

E SMITH: I think it's under request at the moment.

B HAMMONDS: Oh, it's under request, that MPI data. In the South Taranaki Bight area, there are large concentrations of trevally, and that's in this latest report from MPI. Again, I won't read the quote because I think maybe the TRC might've read that out to you on Tuesday. Basically, it's pretty special out there and very susceptible to suspended sediment being increased.

Okay, onto korora, little blue penguins.

- K TOOGOOD: Before you move on from there, Barbara, may I interrupt you?
- B HAMMONDS: Sure.
- K TOOGOOD: There were a couple of maps that you showed in your PowerPoint that I couldn't find in your comments.
- B HAMMONDS: No, I think these are maps directly out of the Mark Morrison report.
- K TOOGOOD: All right, so we've already got those in that report?
- B HAMMONDS: Yeah.
- K TOOGOOD: All right, thanks very much.
- B HAMMONDS: Cool. I believe you requested that from TRC, didn't you, or you're getting it?

Cool, so korora, in partnership with Ngāti Te Whiti and Ngāti Mutunga, the society has been monitoring korora (little blue penguins) in North Taranaki since late 2020. We have a large and growing database of information, including breeding success, videos of nighttime activities and significantly GPS tracks of where korora forage, how far out to sea, and how deep they dive. The images on screen include the one on the left. The one on the left is a bird carrying a GPS tracker returning to the nest. This is nighttime videos. The one on the right is a parent bird who has returned to feed the chicks, and it's sitting outside being fed. The ones in the middle are a parent bird with a small chick, and at the bottom, two very fat looking chicks not far from fledgling. They've still got fluffy down but their adult feathers are coming through.

Okay, now here's another map for you. The grey area is the land. It's Taranaki, South Taranaki Bight, Marlborough Sounds, and then the little dots are tracks of little blue penguins that were studied in 2015 by researchers from Te Papa. The research was published in 2017. They came from Motuara Island, which is the small white square near the bottom in the Marlborough Sounds there. Please note they go well offshore. 11 of the 14 birds tracked swam to South Taranaki. They're visual feeders and need clear water to see their prey. One of the birds travelled over 200km, not a day trip. The reason that they'd be travelling

this far would be availability of food. We know that the South Taranaki Bight is highly productive, so all areas of ocean are not equal.

We presented this data to the 2017 TTR hearing in New Plymouth, and the responses by TTR's seabird expert to our comments do not all allay our concerns. TTR effectively dismissed the relevance of this research. The lack of systematic surveys of seabirds in the South Taranaki Bight and the adjacent coastline is a serious knowledge gap which remains unaddressed.

Keeping that map in mind, note that the Application states that korora are less likely to extend offshore and that they feed inshore because most of their dives are only 2m deep, and that further out to sea, they could suffer predation. Just have another look at that map.

[laughter].

This is another version of the map that Elise prepared. It just shows the lilac area is the area that TTR hold current mineral permits over. Project Reef is the red cross.

Right, now I'm just going to move on to some of our results. Our GPS tracking since 2021 shows the same story. Korora forage well offshore, as these 2024 tracks show. This is while birds are taking turns to incubating eggs and then are feeding chicks when distances they can travel are somewhat constrained by needing to return to the nest every few days. Some of these return trips are well over 150km.

Just one example of one particular bird, it just shows that this particular bird has an average dive depth of 10.6m, maximum depth 23m. We've recorded over 63 tracks over the four years of doing this, and of those, only three had average dives of 2m or less. The average maximum dive depth tracked was over 18m.

One reason for korora going well out to sea when they're feeding is because the predation risk is actually highest closest to shore, contrary to the information in the Application. Foraging well offshore is typical behaviour. Korora are strong swimmers and will travel long distances to forage. TTR has undertaken no korora monitoring.

It's not known if there are other colonies along the coastline of the South Taranaki Bight, and if there are, it is not known where those birds forage. It seems unlikely they would not forage in the same area as korora are from the Marlborough sounds. Remember, only one such study of 14 birds in one season has been conducted. Absence of evidence is not evidence of absence. There's so much we don't know. For example, recently a korora marked on Matiu/Somes island in Wellington Harbour was picked up dead on a highway beach near Hawera. Who knew a korora would travel like this. It is likely that korora are already under pressure due to climate related impacts, like marine heatwaves, which impact their preyed species, and the increasingly severe storm events and associated increased turbidity. Adding another stressor into this situation for a bird that is endangered would be unwise.

Given all of this, the statement in the Application that the closest breeding colonies are over 50km away from the extent of the sediment plume and the area potentially affected is less than 0.1% of the area available is far from evidence that potential effects will be negligible.

Just a little bit of information on orca, the documented reports of orca presence in the South Taranaki Bight have been consistently downplayed by TTR. Statements in the Application about the orca are based on almost no survey effort. TTR's response to these figures that were included in our comments to you has misconstrued the information we presented. The response states that these figures show data collected over a 29 day period and appear to be of the same small group of killer whales moving through the region. Our comments actually state 84 sightings in just one year from the beginning of November 2015 on 29 different days, which is a very different statement from data collected over a 29 day period. It is unlikely that these sightings were indeed of the same small group of orca, but of course, it is correct that we don't know how many unique individuals these sightings represent.

Now just a note on the proposed scale. Again, the map, the grey area is the land, the white area is the sea. The red line is the 12 nautical mile limit. This is a large scale of unprecedented activity in a marine environment. The 65 square kilometres or 6,500 hectare area of direct extraction proposed is the outlined area within the lilac coloured area on

the outside of the 12 mile limit. That's approximately the area of urban New Plymouth, which is the 7,500 hectares in purple outlined within the purple dotted area. The larger area for which TTR has a mining permit, the whole of the lilac coloured area is approximately four times the area of the current marine consent application and the area for which they hold an exploration permit. The orange hatched area is approximately 10 times the area of the current application.

In conclusion, the society believes that ongoing evidence continues to highlight that the Application is not based on the best available information. For seabirds and marine mammals, to date, there have been no targeted standardised surveys. The species present, along with their ecology and behaviour, are not fully known. Until robust scientific research is carried out, it is not possible to assess the environmental effects of the proposed activities.

This is not the kind of activity that can be controlled by consent conditions. The scale of it is just too large and there are too many unknowns. TTR has not provided confidence around being able to adequately manage those risks. Ngā mihi nui.

K TOOGOOD: I just have a technical question for Elliott. There is a link to the PowerPoint in the schedule which I have, but I'm not able to access it in that way. Do we have the copy of the PowerPoint in a form which you can send to us separately?

ELLIOTT: Yeah, I think that was updated today, so I'll send you the updated version.

K TOOGOOD: Thank you. Thank you very much, Barbara.

L LOVELL: Thank you, Barbara. Just a quick question. I was wondering whether TTR had engaged with the society to tap into the knowledge that you have of the local area?

B HAMMONDS: No.

K TOOGOOD: No questions for you. Thank you. Again, another succinct, very clear and very helpful presentation. We really appreciate it.

B HAMMONDS: Thank you very much.

K TOOGOOD: Now we're scheduled to have afternoon tea at 2:45 following this presentation, but is Te Kāhui o Taranaki ready to make a presentation now?

J KING: We are not.

K TOOGOOD: Not yet? How soon can you be ready?

J KING: I'll find out when he's arriving.

K TOOGOOD: Okay, because I think it would be helpful for us to move forward as quickly as we can. We could take a break now for afternoon tea and then meet here in 15 minutes. Would that be sufficient?

J KING: Ka pai.

K TOOGOOD: Ka pai. All right, we'll do that. We'll adjourn for 15 minutes.

[background chat 1:8:45 – 1:9:01].

[End of Recorded Material: 1:9:01].

[Start of Recorded Material: 00:00]

[background chat 00:00 – 1:25].

K TOOGOOD: Thank you everyone. Te Kāhui O Taranaki. Tēnā kōrua.

D RITAI: Ka pai. Tēnā tātou. Tēnā tātou me te mohio anō rā tēnei tō tātou kaupapa. Ko Damon Ritai taku ingoa. Ko taku tiamana o te kahui o Taranaki, ko Jacki King. Tēnei atu rā e mihi ana. My name's Damon Ritai, newly appointed Tumu Whakarito for Te Kāhui O Taranaki – two weeks, four days in.

[laughter].

D RITAI: I will be responding on behalf of Te Kāhui O Taranaki, with our Chair, Jacqui King. Te Kāhui O Taranaki is a PSGE.

Firstly, I'd like to acknowledge our whenaunga, our whole te a waka whenaunga, Ngā Rauru, Ngāti Ruanui and Ngāruahine. Please treat my

comments as a response to the information request from the panel pursuant to Section 67 of the FTAA.

In response to the expert panel, I would like to front-foot my presentation by responding to our question C that speaks to our Taranaki Iwi Deed of Settlement and Coastal Association from Paritutu to te Rawa o Turi and out to the outer extent of the EEZ. Our Taranaki Iwi Deed of Settlement has been in existence since 2014. We are now in 2025 and are actively working to rebuild our Taranakikanga as envisioned in the deed.

As with all Te Tiriti settlements, these are envisioned as inflexion points, where past modes of operating dropped away and more fulsome relationships between the Crown and Taranaki Iwi ensued. These are the assurances of our deed. Taranaki Iwi is not in a post-settlement position, where our responsibility to advocate for and ensure that these arrangements are implemented to meet their original intention. These responses stretch into some of the other questions. Here are examples of how this is expressed offshore in practise.

A rāhui was placed along our Taranaki coast by kaumatua in January 2022. A successful temporary fisheries closure in Western Taranaki under Section 186 A of the Fisheries Act 1996. Our iwi and hapu requested the closure to allow more time for further population recovery, collect data over a sufficient timescale and to establish a longer term protection strategy. This remains ongoing and is a substantial investment of our people to practise their kaitiakitanga.

On the 25th of October 2021, a tūpuna kuia, tohorā, ko Te Karu o Kōteoteo was washed upon our shores. We applied Taranaki tikanga and kawa to process our taonga. We had the support of our Ngāruahine, Ngāti Hawera whānau who brought their experience and knowledge to this kaupapa. The other associated hapu connected to this kaupapa were Ngāti Kahumate, Ngāti Tara, Ngāti Tamarongo, Haumia, Ngai Wetenga, Ngāti Maru and of course our taitokerau whānau, Ngāti Wai. Our Taranaki Iwi Management Plan Taiao Taiora speaks to the Māori reciprocity kotahitanga rangatiratanga manaakitanga values that imbue us and our landscape. That document looks to communicate the unwavering force of

whanaungatanga between people, taiao, the Atua, to apply these to contemporary situations. Mai Taranki ki uta, ki Taranai ki tai.

In response to question H, this is not the first activity that looked to exploit resources in the marine environment. Our most recent experience has been with the Tui Oil Field, which involved offshore company that established temporary infrastructure.

J KING: Cameron.

D RITAI: Sorry, Cameron shipped the produce offshore and then departed, leaving a mess for this country to deal with and a bunch of broken promises – no jobs, no investments in the local Taranaki coastal community. It is my understanding that the Taranaki VTM proposal makes many of the same promises with respect to benefits for the region and community. This is viewed with considerable scepticism and the basis of our experience with similar arrangements.

These modes of operating are the antithesis of the intentions of our deed and of the principles that I have expressed above. Whilst the project area is squarely in the rohe moana of our Aotea waka whenaunga, our concern is the potential for the precedent that this Application may set, both in terms of how it seeks to exploit resources derived from our tūpuna maunga and the marine environment and in terms of what is acceptable behaviour and processes with respect to the assurances and commitments in our Deed of Settlement.

For clarity, Taranaki Iwi received one letter a month prior to this Application being lodged, which has been the extent of the consultation, or to be blunt, a lack of consultation. We are in a new process, incumbent on all parties to understand deeds of settlements and their arrangements. Kia ora. Tēnā koutou katoa.

J KING: Kia ora, I'll just finish off to Damon's fabulous kōrero. I want to be really clear that Taranaki Iwi supports our Aotea waka opposition to this, alongside of course Te Tōpuni Ngārahu Trust, who just submitted. We come here today not just to stand in opposition alongside our whenaunga, but to also highlight how much we believe this to be an environmental risky project. It has the potential to undermine not only the rights and

interests and our relationships guaranteed to us under Te Tiriti, but also our obligations as kaitiaki over our moana.

While it's not clear from what's been presented thus far around the reach and impact of the plume, the evidence that was just provided to you all from some of our scientists in our communities highlights that that plume has the potential ability to reach far wider than just where the activities are occurring. For us, that runs the direct risk of impacting the mauri of our moana, which is unacceptable.

That goes to the heart of our obligation to be kaitiaki in our own spaces, and we do that daily. As Damon has demonstrated, this isn't just something that's airy fairy that we talk about. It's not just an occasional trip down to the coast for a kai. This is true activity on the ground, on the daily, doing some serious preservation and protection.

You've already heard from one of our hapu today that we seed these spaces. If there's an area of kaimoana that is under stretch or under strain, we'll make sure that we seed further along the reef to make sure it recovers. We've had to enact this rāhui legally because our customary one wasn't getting sufficient acknowledgement from our community. We had to implement it under Section 186A, which was partly available to us because of our settlement arrangements. It's been a long time. It's been a long time in place, but that is our obligation because that is what we do on the daily. We have an obligation to make sure we protect and we preserve our spaces.

The potential impact of this project, we find it just doesn't support our role as kaitiaki, and there's been no engagement with us to understand the context of that. We're not opposed to development. I just want to make that really, really clear. We support development that's evidence-based, that's sustainable and consistent with the mauri of environment and the wellbeing of all of our communities. We don't believe this project meets that test.

The Fast Tracked Approvals Act, under which this proposal has been advanced, compounds our concerns. It removes the very checks and balances, including iwi partnership obligations, that have been built through decades of Treaty settlement and environmental law. We're quite

conscious that we're here today because we dropped tools to be here to support our whenaunga, but to also let you know our position.

There are many, many of our hapu (Damon listed just a few) who came together to work on the harvesting of our beautiful blue whale Te Karu O Kōteoteo. I'm sure all of them would have something to say about this Application too, but there just hasn't been the time. For us, those checks and balances were hard fought for. We fought for them through decades of settlement negotiations, research and work, and we fought for them environmentally as well through the range of environmental practises and under the Resource Management Act.

For us, this process is not partnership, which was promised to us under our Treaty settlement. It's regression. It's a regressive process, so we ask this panel if it's in your power to oppose the Application that's being presented.

K TOOGOOD: Kia ora.

TE KĀHUI O
TARANAKI: Ka pai, tēnā tātou.

G KEMBLE: Thank you. Okay, I have one. You spoke about the ... was it terranets or something?

J KING: Tamarind.

D RITAI: Tamarind.

G KEMBLE: Can you provide a wee bit more detail about what happened there?

J KING: For some of the people in the room, we know that there was some offshore drilling that occurred literally off the coast of Taranaki. Sorry, when I say Taranaki, I mean the rohe of Taranaki, so pretty much out from a little down from between Rahotu and Ōpunake.

There was the two oil fields that was being mined. It was quite deep sea, and obviously the iterations of ownership over time, especially as the well started to be depleted and started to come towards its end, ended up in the hands of a company called Tamarind. Tamarind was essentially a shell company that was there to wind it up. I mean this type of drilling and

this type of mining is the first time in our country's history where we've had to go in as a country, aka the Crown, together with us. We partnered with the Crown because the environmental stakes were far too high for us not to be involved, but we partnered with the Crown to go in and clean up the mess, what was left, cos essentially Tamarind went into liquidation and exited the country, leaving all of the kit basically, an unsealed well on the seabed and all of the infrastructure there that goes with it.

That has cost, I believe, the country, multimillions of dollars, hundreds of millions to do the decommissioning. We've worked with the Crown to do that. We've engaged with the community so that they felt they were part of that decommissioning process, but fundamentally what it highlighted for all of us is that unless there's some really clear protection measures in play before these companies come in, make their money and run, none of us will be safe from this kind of activity.

G KEMBLE: When was that?

J KING: Good question. That was roughly probably 10 years ago.

D RITAI: Two years.

J KING: No, sorry, two years we decommissioned, but it was about 10 years ago that I believe the decommissioning became a requirement because of the company exiting. My numbers may be off, so I'll get the final detail to you.

G KEMBLE: Thank you.

K TOOGOOD: All right, thank you. Thank you, Jacqui. That's helpful. I suppose the Applicant would say, and I'm not advocating for them, I'm just wanting to put this in context, that what they're proposing to do is different from drilling and having permanent manmade structures left in the environment when they complete their project, but we take your point. It's an important one

J KING: I get your point too. While it's not a permanent infrastructure that's been drilled and left in the ground while they undertake a particular thing, I guess the similarities are so much so for us that it's about what they could do to the environment around us.

K TOOGOOD: No, I understand that point.

J KING: Therein lies the similarity.

K TOOGOOD: Also, I think you're perfectly entitled to draw on past experience to say we need to be cautious about a project. It's a fair point.

J KING: Thank you.

K TOOGOOD: Kia ora.

[Mōteatea]

Anei rā te kawē i te poi o ngā mātua tupuna o Taranaki iwi o Pariaka, e ono tāngata e kī rātou i te wā i a rā.

E noho nā e rere nei te maunga. E tai patari ngā tūpuna. E tae pā ki tō mana noho ana te mauna. Tūia tū mai o taua nei rā. I te roa ki wēnei te tika mana. Kāwana pō ahau tō ariki. Ko e taku pononga e te kui mana.

K TOOGOOD: Kia ora. Well, before I make just a few closing remarks and then ask Ngāti Ruanui to complete the conference for us, Mr Eggers has asked to be permitted to say a few words to you, and Alan, would you do that now please?

A EGGERS: Thank you. I'd just like to make a few comments - very brief. The first is to acknowledge and thank Ngāti Ruanui for your welcome and hosting this conference within your rohe and whenua. We do appreciate that.

I'd also like to thank the expert panel for the invitation and the opportunity for TTR and my team to attend. We appreciate your time and the consideration shown to all the presentations.

I'd also like to thank EPA staff and Elliott. Thank you for organising and facilitating the technology, etc, to run it all so smoothly. Thank you.

All commentators and all submissions are important. They've been excellent and we'd like to thank each of you, all of you, and of course, a lot of them aren't here right now, but that goes for all three days.

It's been a useful and very valuable process for the TTR team. We have been listening, and we've taken your comments on board. We will respond to the expert panel in the coming days, and I thank you all again and just wish you all safe travels home. Thank you.

K TOOGOOD: Thank you, Alan. Tēnā koutou Ngāti Ruanui me ka iwi. Ka mihi mō tō koutou manakitanga i tēnei wiki. Ka mihi ki a koutou katoa mō te taenga mai ka kōrero. We are very grateful to all of the participants who have attended and presented to us this week. It's clear that you have all worked hard in a short timeframe to get your very helpful comments to us and then this week to speak to them here in what, as I say, we know has been a very tight timeframe. We do not underestimate the amount of work and commitment that was involved in putting together these presentations, and we are very grateful to you. This has been, for us, a very illuminating and helpful experience. I think Haimona referred to this week as being a wānanga, and we certainly feel that we have learnt a lot here in the last three days.

Tonight and tomorrow, and then beyond that, the panel will be concentrating very much on what we've heard and not just on the substance but on the matters that you have raised concerning procedure. We hear your request for hearings. We understand that and we will consider all of those submissions that you've made about that in deciding how we move forward from here.

I also acknowledge TTR's presence. It's helpful to us to know that they're here and hearing what you've had to say and we have given them an opportunity to respond, not to cover old ground, but just to respond to some of the new material that has been presented this week. It's only fair that they should have that opportunity, and also it's important to us that they should have that opportunity because we have a statutory obligation to receive the best available information. That is why we're doing that.

I expect that we'll let you know early next week how we propose to move forward obtaining further information from you and with our deliberations. Ka mihi nui. Kia ora koutou.

I'd ask Ngāti Ruanui please to close. Thank you, Haimona.

H MARUERA: Tēnā koe. Mr Toogood, tēnā koe. Koutou ko te panel tēnā kōrua. Koutou, otirā ki a koutou nei, ehara i te manuhiri kua hoki mai e rua ngā wā, kua hōhā tēnei taha, te manako nui kua ea tēnā... ēnā kōrero. Ki a koutou i pī ai [25:02] tēnā koutou me te manaaki o tēnei taha tātou, otirā ki... ki te poari nā koutou te mana, anei kua kōrero ngā iwi. Ehara noa ko Ngāti Ruanui tēnei ko Aotea waka, ko Tokomaru, ko Kurahaupō i karangatia nei i roto i Ngā, i a Ngā Rauru Kītahi inanahi rā. Ka rongo ai i a Tank me āna kōrero me te ngākau tangi nei, anā te rangi nei ngā reo irirangi kua tae mai, kua horahia ngā kōrero o te wananga. E tika ana, anā te mokopuna o Tūtaua Waonui e tū kākā ana ki tōna mauri whenua nei, haramai ki roto i a tātou. Haere mai, kia tītia te raukura ki te Nōta, kua tītia te mana whenua. Mana moana, takutai, takutai roto nei, taiwaho tēnei e mihi ana ki a koutou. Nau mai, engari haere me te aroha, haere i runga i te... ngā karanga nei a Tāwhio, kua kōrero nei i ngā Pū i tēnei rangi, tō tātou koroua e manaaki nei i a koutou i tā koutou hokinga, kia pai ai. Engari, me mutu, me mutu tēnei te pōuri, anā me te poroakitia nei mō ake tonu, mō ake tonu e tai. Nō reira tēnei te iti. Kāore takaroa ngā kōrero engari nō tātou nei te maringa nui i a koutou haramai nei, e Ketī koutou ko ngā mātanga o tēnei kaupapa, tēnā koutou, Ngāi Tahu. Hoki pai atu ki koutou me ngā tātai hononga o koutou katoa ki tā koutou haukāinga.

It's on behalf of all of us that I sit here today. Thank you for the works, but we don't want to hear them again.

[laughter].

Come with love, go with love, but the welcoming one might not be as warm next time. Mr Toogood and the panellists, please travel safely in your mahi. I know it's not an easy one, but you felt the talk and the sound and the heart of our people over the last three days.

To our helpers, ngā mihi. I just want to say thank you for the wānanga. Taku kōrero te timatanga he wānanga tēnei, nā reira i puta ai tērā kaupapa. Definitely showed that our people are able to come in and out, bring our babies, have a Subway. Thank you. Thank you very much.

[laughter].

It's not usual practise in the courthouse that you [overspeaking].

K TOOGOOD: That's very true.

H MARUERA: We were very open to any more of that consultation, so e mihi ana ki a kaoutou. Please go with the warmth and the love of our people.

Aotea waka tēnei, a Kurahaupō, a Tokomaru e hoe tahi nei. Ki mua i te aroaro o tō tātou taueke kua kōrerotia nei, anei a Ruanui Pōkewewa e whakakapi nei i ngā kōrero, nō reira kei ngā iti, kei ngā rahi. Tēnā koutou, tēnā koutou. Kia waiho mā tō tātou pāpā e whakakapi.

NGĀRUAHINE ELDER: Ka whakakapi tō tātou hui, ka puritia mai te tauru o te rangi kia tīna, kia tīna, kia tīna tuku te manawa ora, tēnā piki te mana ora ki whea, tēnā. te manawa ki Ranginui e tū nei te papatūānuku e Takato nei, kia rarau iho are ngā tapuwai o Tāne tēnei te pō, nau mai te ao, kia whiriwhiria, kia wāna. E. Whakarongo ki te Ki ngā tā katoa, haere ake. Anei. Te atua, te oranga. Kia ora.

[Waiata - He Honore].

NGĀRUAHINE ELDER: Tuturu whakamaia kia tina!

KATOA: Tina!

NGĀRUAHINE ELDER: Hui e!

KATOA: Taiki e!

NGĀRUAHINE ELDER: Tēnā rā tātou

K TOOGOOD: Kia ora

[End of Recorded Material: 30:19]