TRANSCRIPT OF PROCEEDINGS

ENVIRONMENTAL PROTECTION AUTHORITY HEARING

OMV New Zealand
Marine Discharge Consent Application

HEARING at
QUALITY HOTEL PLYMOUTH INTERNATIONAL,
CORNER OF COURTENAY AND LEACH STREETS,
NEW PLYMOUTH
on 4 September 2018

DECISION-MAKING COMMITTEE:
Mr Greg Hill (Chairperson)
Dr Nicki Crauford (EPA Board Representative)
Ms Sheena Tepania (Board Member)

Hearing Proceedings

Day 01 Tuesday 4 September 2018

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[9.00 am]

MR TE RUKI: (Māori content)

MIHI WHAKATAU

MR CASSIDY: (Māori content)

MS TEPANIA: (Māori content)

MR HILL: Just very briefly before you go, thank you very much for welcoming us here. I really appreciated this idea that we are all one. The DMC - the Decision-making Committee - are not from here, Pōneke or Te Whanganui-a-Tara, Tāmaki Makaurau for both of us, so we will do the hearing, we will make a decision, and then we will leave and the impact of that will be left here in Taranaki. So, we take our role very seriously and to have the way cleared and to welcome us is most appreciated. Thank you.

MR TE RUKI: Tēnā koutou.

MR HILL: So, welcome, everybody. Before we get into the rest of the hearing, we are going to take a break now and have a cup of team and a cup of coffee and then we will come back and we will then start the formal part of the hearing procedure. So, we will take a break. We are slightly ahead of schedule, so if we come back at about 9.30 am to 9.35 am, that would be great. Thank you.

ADJOURNED **[9.15 am]**

RESUMED **[9.31 am]**

MR HILL: Good morning everybody. This is a hearing for a marine discharge permit for trace elements of harmful substances from mobile unit.

Just very quickly, can I introduce the Decision-making Committee, DMC to everybody here. To my right is Dr Nicki Crauford and to my left is Ms Sheena Tepania, and my name is Greg Hill, and I'll be chairing this hearing. We have been appointed to hear and make a decision on this application on behalf of the EPA, and that's what we'll be doing. We'll be having the hearing, as we pointed out in the whakatau, for two days.

The way that these hearings run, just very briefly for those of you who may not be familiar with the hearing, we have a couple of these openings. I'll come to the health and safety provisions in a moment. We've got some of the EPA staff here who'll run through that, so we've got Saioa Polin here who is the hearings manager, effectively running

the hearing. If you have any questions, administrative issues, evidence, can you see Saioa? Then we've got Gen Hewett here, as well, sitting next to her. I'm not sure of your title. You're kind of the manager of the bigger process.

MS HEWETT: Senior advisor.

MR HILL: So, again, if there are any administrative or things that you need clarified could you see either Saioa or Gen, that would be very helpful.

The process will be we'll hear from the applicant first, and we've got a schedule and we've got some timetable. There should be copies of the schedule that we're working on. So this morning and early this afternoon we'll be hearing from the applicant and we've got, as I said, some times scheduled. We'll just see how we go with that and the DMC will be asking questions of the witnesses. No parties have actually asked to ask other questions or cross-examination, so there isn't any.

Once we've heard from the applicant we'll then come to the submitters. Again, we've got the times of the day and how long people might want to speak for, so we'll run that. Then, after the submitters, we have the EPA experts. We've got Dr Robert Lieffering here and Ms Tone - and I apologise if I pronounce her name wrong - Carmona-Noklegaard. She has written the key issues report. Then following that we'll have the applicant's effective close essentially to sum up what's been said in the hearing.

At that point the DMC will most likely adjourn the hearing and we'll consider all of the evidence and decide, when we close the hearing, and then issue the decision. Once the hearing is closed there is 20 working days in which to get a decision issued and then of course that will be available to all the parties here, to the applicant and all the submitters.

So is anyone unclear on the process? That's how we'll be running the hearing.

Can I just say too that there are formal rules to these hearings but I'd like to run this as informally as possible to make sure that we've got all the evidence, so hopefully that people can feel a bit relaxed and not too uptight about it? So I'll hand over to you for health and safety please.

[9.35 am]

MS POLIN: Morning everyone. My name is Saioa and I'm the hearing manager. I work for the EPA. If you need anything I'm the person to come to with documents, PowerPoints, presentations, anything like that. So the emergency exits are marked up there in that corner, through that door, or they are where you came in, going through the reception and outside

to the carpark. That's where the meeting point is. If there is an earthquake, although you don't have many here, just drop, cover, hold.

The toilets are also coming out to the main reception area, going down the ramp, and you'll find a sign in there to go to the loo.

We started at 9.00 am today, probably tomorrow we'll start at 9.00 am too, and finish around 4.00 pm or 5.00 pm, but maybe a bit earlier.

When it's your turn to speak make sure you talk into the microphone so everything can be recorded and transcribed. If you have any other questions just let us know. Thank you.

MR HILL: Thank you very much. Just a couple of other things. Just so you know, this is a public hearing. The media are here and able to report. The hearings are being recorded for the record and certainly for us involved in terms of decision making. All of the material that has been provided, all of the applicant's impact assessment application evidence, submissions, all the reports that have been prepared are all on the EPA website. I think we have some copies here for those of you, if you want a hard copy. I think that's all we need to do in the meantime.

I'll hand over to OMV and Mr Winchester. But just to let all the parties know, the DMC have read all the material, read all the expert statements, so we're not expecting witnesses to read out their statement. Certainly an executive summary or whether they do have summaries of statements, or you just want to hit the high points and we'll go to questions.

So unless there's anything else from any of the DMC, I'll just hand over to you.

MR WINCHESTER: Good morning, Mr Chairman, members of the DMC, EPA staff and members of the public. My name's James Winchester. I am a partner at Simpson Grierson and I'm counsel for OMV. With me is Mr Hamish Harwood, also of Simpson Grierson, who's assisting me on this matter.

I'd like to first of all acknowledge the karakia from Ngāti Te Whiti. It was an excellent way and set the tone to open proceedings.

Just in terms of some administration, there is a witness order in this schedule and we are proposing to vary that, with your leave. Essentially, to have a slightly more logical order of witnesses. Mr Forrest was intending to go first. The reason for that was around the impending birth of his first child.

MR HILL: It's good to get your priorities right.

MR WINCHESTER: That's happily happened quickly so, congratulations to Mr Forrest, so he can now go back into the correct order. So what we propose to do is have Mr Selischi first, then Mr Park, then Mr Hollinger, Mr Forrest and Mr Govier. So I hope that doesn't disturb matters too much.

MR HILL: No problem.

MR WINCHESTER: Each of the witnesses will, as you've indicated, read a summary of their evidence, just to hit the major points and assist the DMC, and will be available for questions.

So I'm happy to commence legal submissions now, if you're ready.

MR HILL: Yes, thank you.

MR WINCHESTER: They're in two parts, sir. The first part is, essentially, the narrative legal submissions through until about page 16, and then there is an appendix A, which is derived from the EPA's conditions report and at that point I'll hand over to Mr Harwood, who will take you through the conditions and the suggested amendments from OMV's perspective.

MR HILL: Just on that, so appendix A is a set of conditions which OMV are satisfied with it. If the DMC were to grant consent this is the set that you're suggesting would be appropriate?

MR WINCHESTER: It is.

[9.40 am]

MR HILL: Just for the other parties who are here, who are not the applicant, we probably, throughout this hearing, will be talking about conditions of consent because we need to understand what they are in terms of how they might address some of the concerns of people. So often people get concerned when you start talking about conditions they think it's a fait accompli, it's already done, the decision's made, it's just sorting out conditions; it isn't. But we do need to be able to discuss them and to work out whether they're appropriate. Of course for submitters who have got a copy of these, can also make comments on them when they come to present their own submissions. Thank you.

MR WINCHESTER: Thank you, sir. Starting from the beginning. OMV New Zealand Limited is applying for a marine discharge consent under section 38 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act. The consent is to permit the possible discharge of trace amounts of harmful substances from deck drains and activity associated with an exploration and appraisal drilling programme in the Taranaki basin.

The application is being made out of an abundance of caution. It is OMV's intention that the EAD programme will take place without any harmful substances being spilled on the decks of an MODU at all. As such there may not ever be a need to rely on this consent or an event that would result in a discharge. If a spilled deck does occur it will be cleaned up immediately.

After clean-up procedures have taken place, trace amounts of the substance may remain on the deck that cannot be detected by the human eye. Those trace elements would ultimately be washed into the deck drainage system where they would possibly be removed or otherwise substantially diluted and then discharged into the sea. OMV has conservatively assumed that a maximum volume of harmful substances from a spill that was then washed into the deck drainage system, would be 250 millilitres or approximately a cup.

This consent application is unique in that on a conservative worse-case scenario whereby a spill to a deck of a harmful substance occurs, following clean-up procedures one cup of the harmful substance is left on the deck and then washed into the drainage system and the substances are the most harmful substances that could potentially be used in the EAD programme. The potential effects on the marine environment from the ultimate discharge would be negligible or de minimis.

Turning to the scope of the application. This is important because it defines which activities are subject to consideration and decision and which activities are not. Although this application is part of the broader EAD programme that is subject to other marine consent applications the sole focus of this application is the potential discharge of the trace elements from the deck drainage system and of an MODU.

Activities outside the scope of this application are relevant only to the extent, if any, that they provide context of this application. This approach has been adopted previously by the EPA for other similar applications under the EEZ Act.

As far as the trigger for consent is concerned, not all aspects of the EAD programme require a marine consent. However, under subsection 20B(2)(b) of the Act, the activity that triggers the requirement for a marine consent is the discharge of a harmful substance into or on to the continental shelf beyond the outer limits of the Exclusive Economic Zone or into the sea above that part of the continental shelf from a structure, other than a New Zealand structure, involved in a mining activity.

I'll stop to draw breath after that. Under section 20B(3):

"A person may discharge a harmful substance if the discharge is a permitted activity or authorised by a marine consent or sections 21, 22, or 23."

The discharge of harmful substances through deck-drainage systems is a discretionary activity under regulation 16(1) of the EEZ and Continental Shelf (Environmental Effects: Discharge and Dumping) Regulations 2015. Just to put this application in context, I've included a footnote there, a footnote 1, which identifies discharge of the same harmful substances from other aspects of petroleum extraction activities are non-notified activities under the regulations. So it's a quite discrete trigger for consent here in relation to this activity only.

The upshot of this is this requires a notified marine consent for this activity only. This position appears to be anomalous in comparison to other activities which require non-notified marine consents, but it's accepted that the EEZ Act and regulations are clear on the need for consent in this instance.

[9.45 am]

The purpose of the Act is fundamental to decision-making under the Act. It guides the interpretation and application of the Act, including the decision-making sections. Section 10 of the Act, which sets out its purpose, is set out in full. I'll take that as read, I believe, sir?

MR HILL: Thank you, yes.

MR WINCHESTER: Moving to paragraph 13, central to the purpose of the Act is the definition of sustainable management. The definition envisages a balancing exercise whereby provision for economic development is balanced against environmental considerations. The definition of sustainable management in the EEZ Act is different to the equivalent definition in the Resource Management Act. The EEZ Act's definition of sustainable management refers to enabling people to provide for their economic wellbeing, whereas the equivalent differentiation in the RMA refers to enabling people and communities to provide for their social economic and cultural wellbeing and for their health and safety. I believe, from reading the High Court's decision in the Trans-Tasman Resources matter, that distinction has been recognised and acknowledged.

Parliament's deliberate exclusion of social and cultural wellbeing and health and safety in the EEZ Act definition indicates that sustainable management for the purposes of the EEZ Act has a greater economic focus and that fundamentally the EEZ Act is a resource and economic development statute. It also indicates that the focus of the decision-

making process should be on economic and environmental considerations.

This discharge is a minor component of the EAD programme. Although there will not be any direct economic benefits from the discharge of trace amounts of harmful substances from the deck drains of an MODU, the overarching EAD programme will provide substantial economic benefits to New Zealand and will therefore enable people to provide for their economic wellbeing. Those benefits will be fully assessed in specific detail by an independent economist commissioned as part of the subsequent marine consent applications for the EAD drilling and associated activities.

The essential point there, sir, is that in relation to that mandatory consideration under section 59(2), it isn't really activated by this proposal and it's not relied on in any way by the applicant.

The adverse effects of the potential discharge are relevant under section 10(2)(b) and (c). In summary, the uncontested evidence before you is that the adverse effects, if any occur, will be negligible even if worst-case assumptions are adopted.

Section 10(3) lists two mandatory directions to decision-makers, which are expressed to be, "In order to give effect to the purpose of the EEZ Act". It is submitted that a decision-maker cannot simply rely on complying with subsection (3) to give effect to the purpose of the EEZ Act. The decision-making criteria and information principles must be taken into account and applied but do not of themselves encapsulate the EEZ Act's purpose. Instead it is submitted that a decision must reflect the promotion of sustainable management as defined in section 10 of the EEZ Act.

Turning to relevant decision-making principles, section 59(2)(a) of the EEZ Act sets out the matter that the EPA must take into account. This section states that:

"The EPA must take into account: (a) the matters described in subsections 59(2) [(a) to (b) and (d) to (m)]; and (b) the effects on human health of the discharge of harmful substances if consent is granted."

The importance of each consideration will vary depending upon the facts and evidence relating to each application. I've set out, for the Committee's convenience, the relevant parts of sections 59(2), (3) and (5), which is really the engine room of your decision-making in terms of mandatory considerations or matters that you may not consider.

I'll turn to paragraph 22 and address information principles. The EEZ Act requires a decision to be based on the best available information and to take into account any uncertainty or inadequacy in the information available. Best available information means the best information that, in the particular circumstances, is available without unreasonable cost, effort or time.

[9.50 am]

The individual circumstances of any application in the EEZ are a fundamental consideration in determining what best available information is. However, the EEZ Act does not require 100% certainty about every single aspect of a proposal.

Under section 61(2) decision-makers are to favour caution and environmental protection where information is uncertain or inadequate. It is submitted that although there is a small degree of uncertainty associated with this application - that's in relation to the type of the MODU substance and concentration - in the circumstances section 61(2) is not engaged by this application.

I note in a footnote, and I suppose it's an important point in light of the TTR High Court decision, that there is a preclusion on an adaptive management approach because this is a marine discharge application. For that reason it's simply not a feature of this application.

Turning to actual and potential adverse effects, under section 59(2)(a), the effects of the activities need to be considered in the context of the existing environment and existing interests, as those collectively make up the receiving environment for effects. We outline the nature of the existing environment and existing interests below and then summarise the evidence about the potential effects upon them.

In particular, despite the obvious relevance of spills to deck of harmful substances in terms of potential effects, it needs to be emphasised that spills to deck are an unplanned activity. As already noted, OMV actively plans to avoid spills to deck, reducing the already low probability, and plans to minimise the amount of harmful substances entering the deck-drainage system through clean-up procedures.

The context in which OMV's activity would occur includes the existing environment and existing activities in the Taranaki Bight area. The focus in relation to this application should be on the effects that arise due to the potential discharge only, not those that occur as a result of the wider EAD programme.

I've set out, again for the convenience of the Panel, the definition of existing interests, and I'll take that as read and there's no particular point I want to highlight there.

I'll turn to paragraph 29. With the exception of fishing activities, there are no other activities that occur within the direct vicinity of the well locations associated with the application. As such, the impact assessment concludes that groups that have an existing interest within the zone of influence around each of the wells are the deep-water commercial fishers and iwi that hold customary fishing rights and the associated quota holders.

The assessment of the activities against section 59 matters is comprehensively set out in the evidence of Mr Daniel Govier. In summary, it is submitted that the risk of the activity on the environment will be negligible and the potential effects of any discharge of trace amounts of harmful substances through the deck drainage will also be negligible. Given that the potential risks and effects on the environment from the discharge are negligible, the potential effects on existing interests, which are dispersed throughout the Taranaki Basin, including the potential effects on commercial fishing activities, will also be negligible.

The potential for cumulative effects from the discharge will also be negligible. Given the large geographic spread between the MODU, which is 5 kilometres, and the conservative zone of influence identified, any actual physical effects of the discharge would be limited to the direct vicinity of one MODU. Given that any adverse effects will be confined to the immediate vicinity of each well location, any effects will also be temporary. The proposed operational procedures, mitigation measures and conditions will ensure that the biological diversity of marine species, ecosystems and processes in the Taranaki Basin are protected.

This application is for an activity that sits within the wider scope of the EAD programme. OMV is required to comply with a number of other legislative regimes that relate to health and safety and environmental protection. Although not all of these legislative requirements are relevant to this application, the implementation of these additional measures and approval requirements provide further environmental protections and minimise potential for discharges to the deck and discharges to the environment.

[9.55 am]

MR WINCHESTER: OMV will follow industry best practice in relation to this application and the wider EAD programme. The set of proposed conditions included in appendix A to the IA, and indeed as modified in these legal

submissions, will manage the potential effects and risk from the proposed activity. The potential pathways for any human health effects to occur from the activity are limited to direct exposure from any discharge of harmful substance or from the consumption of fish caught that have been exposed to and contaminated by the discharge of a harmful substance. No vessels can enter closer than 500 metres, limiting the potential for any physical exposure, and the distance offshore with large-scale mixing and dilution means that any harmful substance discharged is very unlikely to reach the shoreline. There is also a very low risk of any commercially caught fish species being exposed to harmful substances that are at concentrations high enough to have any effects on human health from the consumption of those species.

Dealing with information and uncertainties, it is submitted that there is a considerable amount of information before you, bearing in mind the potential environmental risk associated with the proposed activity. The impact assessment and associated reports are comprehensive and detailed, as is OMV's evidence and its responses to the EPA's requests for further information. Bearing in mind the potential discharge that is the subject of this application and the comprehensive and detailed information and evidence provided by OMV, it is submitted that OMV has provided the best available information for your decision. As has been acknowledged above, there are two potential sources of uncertainty associated with this application, namely the MODU or MODUs have not been selected yet so the details of the deck drainage systems have not been specified and the particular harmful substances of which trace amounts may be discharged are not yet known. It is submitted that in the circumstances of this case the level of uncertainty relating to the discharge is low. We discuss both matters in turn below.

Before I do so I will just interpolate. Essentially what I'm saying is that the uncertainty is not around the effects or consequences. They have been assessed in a worst case scenario based on relatively well known factors. The uncertainty is around, I suppose, operational matters but not on consequences. I suppose, to use a RMA concept, the application has been deliberately framed as a black box style of application whereby the outer limits of the activity and the worst case scenario in terms of effects and impacts has been assessed and, therefore, there is some degree of confidence that what will actually happen will be well within the outer limits of that black box. I am happy to take any questions on that concept but I think it is just a useful way to characterise what is before you.

Turning to the selection of the MODU or MODUs, as part of its tender process OMV has defined environmental and operational requirements that any MODU suppliers must comply with. OMV has also proffered condition 7 which sets appropriate requirements for the deck drainage

system that will ensure deck drainage runoff which might include trace amounts of harmful substances goes into a settling tank with a minimum capacity of 5 cubic metres and passes through an oil and water separator before discharge. It is submitted that both of these measures will ensure that the final MODU or MODUs will have appropriate deck drainage systems. We note that Stantec has concluded that not knowing the exact details of the deck drainage system is not critical and that condition 7 addresses the uncertainty.

[10.00 am]

It is submitted that not knowing the precise harmful substances that will be used does not create an unacceptable or even an unknown risk. The volumes of any discharged substance are so low that even if the most ecotoxic substances are used and then discharged in very small amounts via the deck drainage system, the adverse effects would be negligible. However, and as part of OMV's usual business practices, it will use the least ecotoxic substances wherever practicable.

Regardless of which harmful substances are used, OMV will implement systems and procedures to reduce the risk of those substances spilling to deck in the first place, and I refer to Mr Hollinger and Mr Park's evidence in that regard. In the unlikely event that a harmful substance spill to deck occurs, it will be cleaned up in accordance with systems and procedures specified in the emergency spill response plan. The EPA will have an opportunity to review the ESRP before the activity commences.

With regard to other marine management regimes, under section 59(2)(h) decision-makers are required to take into account the nature and effect of other marine management regimes when considering an application for a marine consent and submissions on the application. Marine management regime is defined in section 7 of the EEZ Act and includes the regulations, rules and policies made and the functions, duties and powers conferred under an act that applies to the territorial sea, exclusive economic zone or continental shelf. The regimes are regulatory in effect and several of them require the approval of the relevant regulatory body before an activity can proceed. The EPA is entitled to rely on the marine management regimes and the expertise of the bodies that administer them to address the matters covered by those regimes. The regulatory regimes are discussed by Mr Park and Mr Govier and are also set out in section 2.4 of the impact assessment.

As far as conditions are concerned, the Act provides specific powers to impose marine consent conditions in sections 63 to 67. These sections are set out in appendix A to Stantec's conditions report dated August 2018. In paragraph 5.2 of its report, Stantec has set out the principles that it considers must be adhered to when developing consent

conditions. OMV broadly agrees that these are useful and appropriate principles. It is submitted that the DMC's principles for conditions in its decision report for OMV's V01 exploratory drilling campaign are also useful and appropriate for this consent application. That application concerned a similar exploratory drilling campaign noting, however, that that was for the entire suite of activities as opposed to this very discrete activity. We have set out the key paragraph from that decision below and I am happy to take it as read if that would assist. It is simply, in my submission, a useful starting point or at least touchpoint for thinking about condition writing and the purpose of conditions.

Turning to paragraph 48, it is also submitted that the scale of the proposed discharge and the negligible nature of the potential effects must be kept in mind when drafting conditions for this application. OMV volunteered a set of conditions with its impact assessment, which has been discussed by Mr Govier and reviewed by Stantec. OMV largely accepts the suggestions made by Stantec and acknowledges that in places they are an improvement. That said, there are several matters in the Stantec amendments that OMV respectfully submits are unnecessary and Mr Harwood will explain those particular points to you shortly.

OMV will call the following witnesses: Mr Selischi, Mr Hollinger, Mr Park, Mr Forrest and Mr Govier and their qualifications and expertise are set out there for your convenience.

That is the first part of the submissions. I am happy to break for questions or do you want to perhaps hear from Mr Harwood and then --

MR HILL: I think we might take questions now on the broader level issues and then we will come to the conditions. Do you have any level questions for Mr Winchester?

[10.05 am]

MS TEPANIA: I do. Mr Winchester, bearing in mind your legal submissions that you have made which essentially, as I understand it and not to put words in your mouth, is that the DMC cannot consider the possible effects of the future applications that OMV has indicated that it intends to make as part of the EAD programme. Notwithstanding that point, one of the matters that Dr Lieffering points out in his conditions report, and it was a matter that came to mind for me in reading the evidence of your witnesses and certainly the impact assessment. So I'm happy to ask the question of you and if you prefer Mr Govier to answer that is fine. I can ask it of him later.

But it stated that as part of the wider EAD programme, OMV have committed to ongoing engagement with existing interests and iwi in particular. I wondered too whether there is a condition subsequent or whether OMV are proposing conditions as part of future applications to deal with iwi interests?

MR WINCHESTER: I'll try and take the question in parts.

MS TEPANIA: I think the first question is: are you proffering conditions to address the concerns that iwi have raised regarding the future non-notified applications that you intend to make?

MR WINCHESTER: The current intention is not to as part of this particular application but the applications for marine consent for the subsequent programme have been filed and lodged and they are on the record, so it is a matter of public record what is in that application. There is a commitment in that application to continue engagement with existing interests. So, from a strict legal perspective there is a preference to keep matters --

MS TEPANIA: Separate?

MR WINCHESTER: -- I suppose clean and separate, but there's no shying away from that commitment on OMV's part. As I say, it's clearly stated in the applications which have now been lodged.

MS TEPANIA: Okay, all right. Thank you.

MR HILL: There's just a couple from me and it's really just a clarification. Just thinking about other regimes, New Zealand Coastal Policy Statement, are you able to make a comment on whether we need to consider that given what you've said in your submissions about the level of effect and certainly the location? Is there any sense in terms of OMV's position that we need to consider that policy basis?

MR WINCHESTER: My response to that, sir, would be you're entitled to have regard to it and then it would be a question of weight. Given the, I suppose, prospective basis on which the consent is being sought and the assessed level of effects, it's difficult to say that it would have any particular relevance. I'm not suggesting you can't have regard to it, but I can't identify what assistance it would provide in your decision making because I cannot imagine you would give it much weight. I think Mr Govier should probably ponder that issue as well and have a bit of time to think about it and give you an answer from his perspective as an expert, but that's my answer from a legal perspective.

MR HILL: No, that's helpful. Thank you. Again, I suppose a slightly broader question: in terms of what I'm just calling the TTR2 High Court decision - putting aside the adaptive management which we accept is

not open to us in this process because this is a discharge - is there anything else that you see coming out of that decision which is particularly germane to the way that we might need to approach decision making on this application? It seems to me that the court confirmed a lot of previous decision-making committees and how the EPA has interpreted the Act has been confirmed, but I would just really like your view whether there is anything you think we particularly should have regard to that might lead us in a particular direction given what the court said.

[10.10 am]

MR WINCHESTER: No, there's not and I say that for two reasons, sir. The first is that, as you pointed out, the High Court quite firmly applied a fairly orthodox interpretation of I suppose the relevant decision-making criteria and how they were applied. It did so obviously in a fact-specific sense because that was the nature of the appeals that were put to it. I would have thought that in the normal course of events the findings around existing interests would probably be the most relevant, but again applied in the context of this application, because of the nature and severity and extent of effects, again it is very fact specific.

MR HILL: That's helpful. Thank you for that. Nothing else for Mr Winchester? No, so I think we'll go on to conditions.

MR WINCHESTER: Thank you, sir. I'll hand over to Mr Harwood and he will take you through those.

MR HARWOOD: Yes, thank you. So, our approach to making comments on the submissions was to take the table that was annexed to the Stantec report and simply add our comments in a separate column to the right there. In appendix A the first three columns from the left are simply from Stantec's table and then we've added some extra comments on the right, so hopefully that will be a convenient way for you to have all the material about the conditions in one place as you work through and make your decision.

I only have a few comments of substance, but the first submission there is about stylistic preference. OMV's position is that we're quite happy with stylistic changes provided there's no actual underlying meaning changes or new ambiguities. So, we're quite comfortable with that.

Turning over the page, condition 2 is in the same position, and then 2(a) is a new condition proposed by Stantec that essentially creates a fixed lapse date as opposed to relying on the standard statutory precision. Of course, under the Act the lapse date or the time period starts from when essentially the High Court appeal period closes. Now, OMV is content with the statutory wording. However, it is also content

to include the proposed condition 2(a) but if that is to be included would simply ask for an extra year to be added to allow for the possibility of any High Court appeals taking place. How the Stantec condition is drafted is that it takes that five-year period and starts from December, which would only give a small period to allow for any High Court appeal. So, it's a minor point.

Turning over the page, condition 3, we have no concern about that; same with condition 4 and also condition 4(a), which is a new suggestion to keep a record of instructions that are given to contractors about how to comply with the consent. That is also fine, and no particular comment on the changes to condition 5 either.

New condition 5(a), this is a suggestion that OMV would write to the EPA before the activity starts. In OMV's submission that's not particularly practical or necessary for this application but could be something that's included in the subsequent marine consent application. I suppose the underlying reason for that is the activity that's being proposed here is the discharge of trace elements of spills. It has no intention of those occurring, so OMV cannot 20 days in advance predict when a spill to deck might occur and then a discharge might happen. So, it's quite impractical from that perspective.

[10.15 am]

In any event, we would also say that there's unlikely to be a real basis for monitoring visits of an activity that produces only trivial effects, but again this condition might be something that's suitable to the next marine consent application.

No comment on condition 6 there, and then condition 6(a), that's a new condition essentially about protecting the hazardous substances in their storage areas. All OMV has to say about that is that's business as usual. It's part of the impact assessment and Mr Hollinger discusses that from paragraph 43 of his evidence. So, while the content of that condition is already wrapped up in condition 1 that requires the applicant to comply with its impact assessment application, we're content for a separate condition on that point as well.

Moving to condition 7, which is the condition that sets the minimum requirements for the MODU, we've got two points to make about that. The first point is for Stantec's opening, the new words in the opening clause and then new subclause (a), we simply say those additions just add extra words that lengthen the condition without really offering any sort of benefit in terms of clarity and substance. What we've proposed is something simpler.

The next point relates to clause (d), and that clause is about analysing the oil and water content of the discharge prior to it going into the sea. You can see there that Stantec has added:

"For the purposes of this condition, 'continuous' shall mean analysis at least every 30 seconds."

In essence, our response is that monitoring oil and water content is something that does not relate to the subject of this consent application, which is harmful substances. So, there's really no need to monitor something else for some other purpose and that will be picked up in the subsequent discharge consent application for the broader project.

Also, there's a comment there on page 23 that that suggestion to analyse oil and water at least every 30 seconds, that's actually inconsistent with regulation 18 of the Discharge and Dumping Regulations, which deals with that very matter. I've set out there that regulation for ease of reference, but you can see the operative part of it is at subparagraph (b) at the bottom of page 23, which says:

"The oil content of the discharge, without dilution, does not exceed 15 parts per million."

The regulations are focusing on the output as opposed to the particular measuring requirements, so that's that point there.

On page 24, you'll see that we have revised condition 7 and what's set out there is a simpler version that OMV says covers all the right bases. It requires full containment of deck drainage runoff to go into a settlement tank, then specifies the minimum size to get the levels of dilution that form part of the impact assessment, and then it does require that it passes through an oil/water separator. That's simply because depending on the harmful substance and its density, some of those get picked up as a sort of accidental mechanism.

Moving to condition 8, that was Stantec's suggestion - in fact 8 and 9 - that both of those are better at being advice notes and OMV agrees. There's just a minor change to condition 10 that is stylistic. Again, in condition 11, Stantec suggested adding the MPI to the list of authorities that need to be notified, and OMV completely agrees with that.

MS TEPANIA: Mr Harwood, just while you're on that condition 11, I just had a quick question. In terms of, "shall liaise with the EPA to determine whether monitoring is likely to detect any environmental effects", don't you normally do the monitoring first, before you decide the likelihood? This seems slightly chicken/egg.

[10.20 am]

MR HARWOOD: This condition is about an accidental spill of a harmful substance directly into the sea so if you know the volume of what went over, if it was only a litre or something, there may be nothing to monitor because it is such a small amount and the dilution is so great that monitoring would be pointless because, on any sort of reasonable basis, you'd know that the effects were going to be negligible. That's really why that's there.

MS TEPANIA: I understand the intention, I'm just not sure whether it might be helped by determining, "shall liaise with the EPA to determine whether monitoring is necessary in the circumstances", and so you look at the circumstances of the spill first and then you determine the likelihood. You need to decide whether there's a potential effect. I'm not sure, I think there's slight words missing of some sort.

MR HARWOOD: We'll think about that and come back to you.

MS TEPANIA: I do understand your point around the intention.

MR HARWOOD: Thank you for that. The next condition is condition 11A, which is related, and this is a new condition proposed by Stantec, essentially about notifying the EPA of any unexpected effects that are picked up through monitoring.

You can see in Stantec's comments there, the reason that condition has been added is because it's used in other marine consents. We say in response the condition is unnecessary for the proposed activity because on a worst-case basis the activity is only going to produce trivial effects. OMV does not consider it necessary or appropriate for it to carry out monitoring of this activity, which does not produce any effects other than trivial effects.

Because we're not proposing any monitoring of essentially nothing, this condition doesn't really work because there's going to be no monitoring to pick up anything additional anyway. So we say that's unnecessary, but again that's something that might be useful for the next set of consent applications.

Moving to condition 12. This was a condition initially offered by OMV and then modified by Stantec, that essentially specified the times and reasons for an EPA to conduct a review of the duration and conditions for this consent. On reflection, and having looked closely at section 76 of the Act, it's submitted that this condition simply is unnecessary because it just replicates what section 76 says.

I just note there that under section 76(1)(a) the EPA can initiate a review of the duration of the consent or any conditions at any time to

deal with any adverse effect on the environment. That's exactly what this revised wording seems to do, except with some added specificity around the times and notification periods. We simply say it's unnecessary. It's just duplicating the Act.

Moving to page 28 and advice note 1. OMV is happy to accept that. The same with advice note 2, except we just note that there were a couple of words that were missing in the reiteration of that condition, which is now an advice note, which is that OMV's commitment to using the least harmful substances is on a "where practicable" basis. So we've simply just added those words back in there to ensure that accurately reflects the impact assessment.

Those are our comments on the conditions. We're certainly very happy to take any questions.

MR HILL: Any questions of Mr Harwood? I suppose the only comment I make, Dr Lieffering, when you present tomorrow you will have already had an opportunity to have a look at those comments and you might have comments on the comments. Thank you. We've got no further questions on that. Thank you very much for that. It's quite helpful to have taken us through those though. So thank, Mr Harwood. Mr Winchester, we'll move on to your witnesses.

[10.25 am]

MR WINCHESTER: Thank you, sir. The first witness is Mr Selischi. So I ask him to come forward.

MR HILL: And we're not swearing witnesses in or anything. We'll just take their evidence and qualifications as read.

MR WINCHESTER: I think this is possibly the first time Mr Selischi has given evidence, at least in New Zealand, so be kind to him.

MR HILL: I think we're going to be kind to everybody.

MR WINCHESTER: Thank you, sir.

MR HILL: Good morning.

MR SELISCHI: Good morning, Chair.

MR HILL: I'm happy for you just to proceed. Do you just want to go to questions or are you intending to read your executive summary? How do you want to proceed?

MR SELISCHI: I was intending to highlight a couple of points on the executive summary and then be available for questions.

MR HILL: Thank you.

MR SELISCHI: Before starting I would like to say that I understand the requirements of the code of conduct. I understand that whatever statement I do I need to support in the decision of the Decision Committee and that I'm not here to represent the company. Also whatever statement I do I need to limit whatever it is, based on my expertise and my knowledge and whatever I would rely on my colleagues.

I will start by saying that --

MR HILL: Can we just clarify? Some of these are employees of OMV and strictly speaking the code doesn't apply in that sense. I note that they say they will and they're not here to represent the company but it's very difficult to divorce themselves from being an employee. I'm happy to accept this is evidence from a corporate witness and any issues we can address through questioning. So just for the witnesses who are employed by OMV, I'm pleased to see that you understand the code and what that means but I think it's fairly difficult to comply with that when you're an employee.

MR WINCHESTER: Yes, sir, I would observe that the evidence-in-chief isn't expressed to be subject to the code, particularly this witness.

MR HILL: Exactly.

MR WINCHESTER: But thank you for that indication. It is a bit of a tightrope at times.

MR HILL: Exactly.

MR WINCHESTER: It's understood, thank you.

MR SELISCHI: Okay, thank you, Chair. Then I will reformulate. This is I express my conflict of interest clearly explaining that I am an employee of OMV. I have been working in this company for more than ten years and I'm the managing director of OMV New Zealand here.

Regarding the statement I would like to make, I will start by saying that this application is made by OMV New Zealand, not by OMV AG, which is the mother company, and we are functioning in New Zealand for close to 20 years. We will actually celebrate 20 years next year, so we are not here a newcomer, and we are not here a company that comes, performs, works and goes. We are here in order to establish a sustainable business and to be fully integrated into the economic environment of New Zealand.

As a company, we are an affiliate of an international company, listed company, OMV AG, that is specialised in the production of hydrocarbons, energy solution and petrochemical solutions. We have a large number of employees, more than 25,000 employees. We activate in more or less all the continents and our business, it's our reputation. So for us it's very important what we do and how we do because this is how we manage to be sustainable.

I'm directly reporting to the board member in charge of Upstream, so there is a direct connection between the board, which is the highest responsibility body in OMV, and the management in charge here in New Zealand.

Second, I would like to say that in New Zealand we have currently seven exploration blocks. This is a dynamic process. We have been having about nine just one year ago - 1½ years ago - and out of the 100,000 square kilometres, which is very often mentioned by the different fabric authorities, we are currently holding 35,000, approximately. We are performing these activities in joint ventures so we are the operator in the majority of the oil permit but we are not doing this business alone. The fact that we are working joint venture gives you an additional guarantee that whatever we do it's highly reviewed and it's also subject to technical and also managerial review by our partners.

[10.30 am]

Among the partners, with the majority of the blocks we have we are partnering with Mitsui. We have a long-term partnership with them. They have been present in New Zealand also for quite a significant number of years. More recently we have been attracting another company, which is Sapura Energy from Malaysia.

Part of our exploration activity, it's our wish to ensure the sustainability of our presence in New Zealand. We are currently operating one asset, which is the Maari asset, but also you know that we have been having an agreement with Shell to take over their assets. These assets are in decline. In order to ensure the sustainability of our presence and production, and to give to New Zealand the energy that the country needs, we need to perform exploration. This is linked to the scope of this application.

Like many international companies, we have a number of milestones which we use and which I hope are fully embedded in our operation. One is a number or set of core values. They are universal values so I will not tell you anything new that we put a lot of emphasis on teamwork but also accountability which is key for any application or

anything that relates to the environment, passion, pioneering. So all these are part of our DNA. We also have a very strict code of conduct and in everything we do we comply with the United Nations basic principles, the ten principles of the United Nations.

Also at the corporate level we have very clear rules with regard to stakeholder engagement, HSSE, so the protection of environment, people and assets, and also a clear requirement in terms of governance. Part of the assumed commitment with Crown when we took this exploration permit and there are a couple of years since then, is to perform a number of commitment vows and if you are looking to the seven permits actually the scope of the current application is directly linked. So we have until 2022 an obligation to drill a number of wells and this is more or less the first batch of wells, the six. Then we have, contingent on the success of the six, eventually another five.

Talking about exploration, this is an activity which is not like engineering or building an infrastructure. It depends very much on the success. This is where we see potential but whether this programme will be executed, this is very unlikely, so most probably there will be a couple of wells. In some statements we have been talking about half of them. We don't know so far. It depends very much on the needs from the market but also on the success we have. What we want to tell you is that irrespective of the number of wells, whether it is one, two, three or four, we will apply exactly the same rules and we will comply with the legislation and with the commitments we give you irrespective of the number of wells we will drill.

Finally, I want to emphasise that we believe it makes sense to produce here locally the energy that New Zealand needs. We believe that we employ a number of people and it is quite significant. So figures in different studies are showing that more than 5,000 people are working directly for the industry in Taranaki. If you consider our contractors, this number is much higher. Some people are talking about 10,000 people, 11,000 people. It is very difficult to determine. What is certain is that if this exploration campaign is a success, there will be more jobs that will be generated through the development and through the exploitation of the potential hydrocarbon reserves.

We also contribute significantly in terms of royalties and taxes. In my evidence I have been quoting a number, which is quite a recent one, of NZ$1.5 billion, which is the amount of royalties the industry has been generating in the last four years.

[10.35 am]

If you are looking to OMV New Zealand, just to OMV New Zealand, in the last ten years if you are taking the royalties, taxes and

investments, we talk about more than NZ$2 billion, so our economic contribution is quite significant in the scale of New Zealand.

My last statement is I believe that also this discharge consent is a minor component of our exploration and appraisal drilling programme. I strongly believe that overarching programme will provide substantial economic benefits and we will continue to engage in the dialogue with stakeholders. My colleagues, especially Matiu Park, will tell you the number of interactions we have with the iwi and hapū and I think we are quoting 26 iwi that we consulted and we consulted also with 7 fisheries. So we will continue this.

That was all that I wanted to emphasise.

MR HILL: Thank you very much.

DR CRAUFORD: Thank you for that, Mr Selischi. First of all, I note that you are in a joint venture and I assume that your application, while it is made by OMV, is on behalf of the other parties in that joint venture.

MR SELISCHI: That is correct. We are the operator, so the fact we are the ones responsible for carrying on and keeping the liability of everything we do in the immediate instance. The joint venture is established in order to finance and to get the benefits and to be shared. Meanwhile, the joint venturers rely on more or less a two-tier approach: the technical committee, which approves the programme at the level of detail, and the OCM, which is the decision committee. These are non-incorporated joint ventures.

DR CRAUFORD: Okay. Thank you.

MR SELISCHI: Sorry, I should have maybe started by saying that.

DR CRAUFORD: No, that's fine. Also in paragraph 51 of your evidence I note that several MODUs could be used or a single one. Can you just tell me what factors would determine if you use one or more MODUs? Is that solely about availability or are there any other factors that would be taken into consideration?

MR SELISCHI: There will be a number of -- it will be a multi-criteria decision. In case there is an economic interest to accelerate the programme, we could consider to use several mobile drilling units but in principle most probably we will start with one and, according to the progression in the campaign, we could eventually apply and get another one.

DR CRAUFORD: Okay. Finally, I'd just like to make a comment on your code of conduct and values and note that it is very comprehensive and a useful document. Thank you for that.

MR SELISCHI: Thank you.

MS TEPANIA: Thank you very much for your evidence. I just have a quick question and it is probably better directed to Mr Park but you talked in your evidence about having a relationship with local Taranaki iwi which you're proud of. Do you specifically have a direct relationship or interrelate with any of the chief executives of those iwi entities?

MR SELISCHI: Yesterday I have been attending actually a meeting. The extent of our engagement has been very much shaped by the activity we've had so far, which was around the Maari asset. The Maari asset is situated rather south from New Plymouth and it is more or less attaching one iwi and the interactions were quite limited because we don't have an activity onshore. Meanwhile, as part of the integration process with Shell, we are now getting in touch with all the traditional and all the existing agreements and all the existing relationships. So I have to say that this is a point on which I intend to do personally more. In this case, for this application, due to the fact that it is exploration, it is covering a large surface or a large area, the number of stakeholders to be involved is very high.

[10.40 am]

MS TEPANIA: In your evidence in describing that relationship, you point to Maari and specifically one iwi. Is that the Te Kāhui or Taranaki iwi otherwise defined?

MR SELISCHI: Matiu, can you help me? I think Matiu Park will describe it to you. I am definitely sure it is not a Taranaki iwi. Yes, it is not a Taranaki iwi.

MS TEPANIA: Thank you. Thank you for those answers.

MR HILL: Just one question from me and again it might go to another witness. One of the information requests was where OMV was at in selecting an MODU. Is there any update on that? I know that it came back and said maybe it would be in September and it certainly hadn't been done. Is there any update on selecting a model?

MR SELISCHI: I will propose that Mr Hollinger replies to you in detail. As we mentioned in the application, we are considering more or less three types of drilling equipment. Again, some targets could be reached by some types. There might be an advantage with the other. Availability might be another one.

MR HILL: Thank you. It is really contextual in that sense. I accept what Mr Winchester was saying. The case being brought, no matter which one you select, the effects in their view are negligible. It is just

interesting context whether they will be selected or not. We will come to Mr --

MR SELISCHI: One of the challenges we have in New Zealand, Chair, is the level of activity is quite small. If you are looking at the number of exploration wells that have been drilled by OMV New Zealand - we were trying to list yesterday night - in 20 years is about three wells, so it is quite small. If you are looking to the number of wells that were drilled since I have been here in New Zealand, there was none. I'm talking about the offshore wells. So that is part of our idea with Shell and creating this stronger operator in order to have enough scope of work to be able to have a comprehensive programme with a clear start and a clear end. So part of the uncertainty is the fact that we need to start up an activity and for this we need to go through a tender. This will come most probably with mobilisation and demobilisation and this needs to be carefully considered because the financial impact is quite significant.

MR HILL: That is helpful. Thank you. Thank you very much.

MR WINCHESTER: Nothing further?

MR HILL: Thank you very much. In terms of the order outlined earlier, sir, members of the Committee, it is probably convenient to call on Mr Park.

MR HILL: Sure.

MR WINCHESTER: So I will ask Mr Park to come forward and read a summary of his evidence. I do note in terms of our discussion about the code of conduct or the Environment Court code of conduct as opposed to OMV's one, Mr Park has included a paragraph in his evidence-in-chief and I would suggest that that is struck, just to avoid debate about it.

MR HILL: Thank you. I don't think it's of any great moment, I just wanted to make sure everyone was clear.

MR WINCHESTER: Thank you, sir, I appreciate that. It's a useful reminder.

MR HILL: Good morning.

MR PARK: Good morning. Again, I'm going to just go through a couple of pretty brief speaking notes just in summary of my statement. My full name is Matiu Corrigill Park and I'm currently employed as Health, Safety, Security and Environment - HSSE - Manager for OMV New Zealand.

My principal role at OMV is to implement the OMV HSSE management system into the OMV New Zealand branch office, and to ensure that OMV New Zealand is fully compliant with New Zealand

legislation relevant to HSSE. I am also responsible for working with the relevant regulatory authorities, including Maritime New Zealand, the EPA, regional and district councils, and WorkSafe, most notably the High Hazards Unit.

In addition to its compliance with New Zealand's regulatory regime for offshore oil installations, OMV has a comprehensive management system that either meets or goes above and beyond the statutory requirements in New Zealand. These measures are designed to ensure environmental protection and to minimise the potential risks of adverse environmental effects of operations on the environment.

[10.45 am]

OMV has a number processes and procedures in place to identify all environmental hazards associated with ongoing activities and operations. As part of good operating processes, OMV has implemented various risk treatments and mitigations to minimise the risk of an unplanned incident from occurring during drilling operations. Again this is set out in the application.

I agree with the findings and recommendations raised in the EPA's key issues report and Stantec report around uncertainty and OMV's approach to adopting the "as low as reasonably practicable" - ALARP - concept to reducing environmental risks. In this regard, I support the recommendations of that the conditions proffered by OMV will provide the appropriate mitigation or control mechanisms around managing these uncertainties as well as around the storage and use of harmful substances on the mobile offshore drilling unit.

As set out in OMV's deck-drainage consent application, if that consent is obtained, the one we're here for today, it will not, of itself, permit OMV to undertake the proposed exploration and appraisal drilling activities. A large number of other approvals and consents are required to undertake the activities, including, firstly, a marine consent. As we heard today, that is currently with the EPA, the completeness check. An emergency spill response plan that will come further on once better definition about the rig and harmful substances have been agreed. An oil spill contingency plan, which is managed through Maritime New Zealand and the Marine Protection Rules. Again, that's got a lot of information around spill capability and training and controls, including requirements to have an approved supplier on board for mitigating those risks and that response, should there be an oil spill.

A well-controlled contingency plan, again regulated by Maritime New Zealand, which requires contingencies around well control and potential blowouts and having one of those on hand, as well as the safety case regime, which is well documented in my statement of

evidence as well, which again is regulated through WorkSafe. If OMV cannot obtain all of the necessary consents and approvals, then any exploration and drilling programme cannot proceed.

I note that the activities set out in OMV's deck-drainage consent application are very similar to those that have been implemented successfully by OMV for many years operating the offshore Maari Field in the Taranaki Basin. Similarly, these have been successfully implemented during historic exploration and appraisal drilling operations undertaken in the offshore Taranaki Basin. Again, as Mr Selischi pointed out, we've had three quite successful drilling campaigns before.

OMV has a good history of environmental compliance in New Zealand and works hard to ensure that it maintains its reputation as an open and transparent operator in the offshore oil and gas space. OMV's ongoing success as an oil and gas operator and explorer in New Zealand relies on establishing and continuing to develop and maintain the trust and respect of a wide range of stakeholders, including iwi and hapū groups, community representatives, as well as local and central government regulators.

OMV has consulted extensively with a range of stakeholders as part of the Taranaki exploration and appraisal drilling campaign. To illustrate the extent of the engagement undertaken specifically for this application, we have engaged with more than 40 bodies, including regulators, regional councils, iwi and hapū groups, a range of fisheries organisations, the Department of Conservation, including regional offices, and a number of others.

OMV is continuing to engage with all stakeholders with existing identified interests in the wider Taranaki Bight where the exploration and appraisal activities are planned. OMV recognises the long-term importance of investing in building trust and maintaining these relationships, regardless of the complementary legislative and regulatory requirements to engage and consult with stakeholders.

I'm happy to take questions.

MR HILL: Thank you for that. Any questions?

MS TEPANIA: Thank you, Mr Park, for your evidence. I've got some questions around engagement and I wasn't sure whether to put them to you or Mr Govier, given he prepared the application, so if you can't answer, feel free to defer.

In the evidence that you've provided, you talk about stakeholder engagement. What does engagement with iwi in particular look like to you?

[10.50 am]

MR PARK: Again, you've seen the code of conduct associated with Gabriel's evidence. It's really about building meaningful relationships where you're not constantly going and asking for something, but to sort of recognise that you are having effects and are having activities in these areas and making an impact, and sort of going some way towards reducing that impact.

For example, in the areas OMV does operate internationally and in New Zealand, we'd look at doing some interesting campaigns. For example, we have a really long-running restoration - a wetland and sensitive ecological area restoration - project on D'Urville Island at a place called Moawhitu, a highly culturally sensitive archaeological site. Again, the intent of that is we do have some impacts associated with exploration activities when we have offshore vessels coming in and unloading or putting down anchors within that rohe.

We sort of support that in the long run to go some way towards addressing these impacts. Again that's a long-running programme that's resulted in nearly 10,000 plants going in. OMV staff will go down and attend to the planting. I've attended myself on numerous occasions, and working with Ngāti Kōata and the Department of Conservations and other community representatives. That's one of a number of examples where we do really try and work closely within the community.

MS TEPANIA: In terms of Taranaki iwi and the relationship that you've established under Maari - and you confirmed from the floor but we'll put it into the record - that that's with Te Kāhui o Taranaki Trust, is that right?

MR PARK: There's a number of -- I guess a number of ways of doing it. We have a very long-running relationship with Ngāti Ruanui and some of the iwi to the south, particularly Ngāti Kōata. The Maari Field is equally placed between Farewell Spit and Taranaki Bight. We have always gone out and engaged quite comprehensively with Māori through managing the effects of the old discharge management plan regime, which are now run through what we call the Maari marine discharge consent. That involved quite extensive consultation from North Taranaki right through to Wellington and up the Kapiti Coast and the upper South Island. Again, that's going out and sort of consulting on key activities, but that has been long standing.

MS TEPANIA: In terms of this application, you talk about 26 iwi and hapū organisations that have been engaged with. Can you describe for me that engagement?

MR PARK: Yes, and a lot of the detail. The engagement really started for the exploration and appraisal campaign back in 2016, following the award of those permits. As a responsible operator we wanted to go out and meet with those communities and iwi and hapū groups just to go through. So we'd go out and we'd turn up with a -- senior staff would turn up, and environmental staff, and we'd arrange a meeting and sit down and take the iwi and hapū groups, as well as fisheries groups, through the nature of the permits, where they were located.

We'd hand out maps showing the location and then we'd step through the various activities proposed in each of the permits, stepping right through. Managing expectations but saying, "We needed to come and talk to you around exploration activities, seismic surveys", and a rough timeline for what those permit commitments are that we'd signed up for with the government, with New Zealand Petroleum and Minerals, and give the iwi and hapū groups a bit of an understanding of where some of those key milestones would be in terms of progressing from an exploration campaign into exploration drilling and one day potentially a production facility.

MS TEPANIA: Okay. So a lot of the engagement that's occurred is actually within the context of the wider EAD programme and OMV's programme there. That's fair to say, isn't it?

MR PARK: Yes.

MS TEPANIA: That context is really relevant, because one of the themes that comes through the submissions of Ngāruahine, Ngāti Ruanui and Te Kāhui o Taranaki, Taranaki iwi, is that there are inabilities, according to their submissions, to actually comment on this application and its effect, given the context. They're uncertain about where it sits within the context of the EAD programme.

That rings true for all of the submissions. There's a clear flavour of that, so I'm concerned about the extent to which you have engaged specifically, relating to this application, and where that actually sits in terms of trying to understand the effects and the impact on them.

[10.55 am]

My question, then, in terms of the impact assessment and the cultural receptors that are in there, etc, has your engagement with those iwi groups, in particular those that have submitted, carried through to your

impact assessment and determination of effects on those receptors? Is that what's set out in the table?

MR PARK: Yes. You'll see in the next -- the application is currently with the EPA, so that consultation - to your earlier question to Mr Selischi - is ongoing. We were meeting with Te Atiawa yesterday and as of last week we were up in Maniapoto going right through the next stages of that campaign. Again, we did respond quite early on. It's quite a detailed sort of information pack that we present and leave with the iwi and hapū groups just around how this application does fit into the wider exploration and appraisal campaign, including those other statutory requirements and consents.

But I agree, I think again we did go back and feed back some of the comments from that engagement to the EPA, including the AKT team, just to explain I think more about the process and how this regulation 16 is a bit of an anomaly, being outside of the scope of the wider exploration and appraisal drilling activities. We've been very clear at those series of engagements that this is the case.

I guess, taking it a step further, some of the assurances we gave to particularly iwi that were concerned or interested as part of the marine consent application, prior to lodging it with the EPA we shared advance copies with all of those iwi and hapū groups and we've assured those iwi and hapū groups that any of those questions or comments or concerns they have we'll be raising through our application with the EPA through a different means.

MS TEPANIA: Did you get a sense that there's a real fear of their involvement or future involvement in those applications or do you think that you've established enough of a relationship now through this process and your ongoing process to have clear pathways of communication between you?

MR PARK: Again, I think the biggest frustration we've seen is the sheer volume of stakeholder demand and fatigue because it's a large programme. It is very complex and the way the regulations are drafted, at every step of the way -- I talked before about the emergency spill response plan, oil spill contingency plan. Each of those is a whole other package of consents that come with different obligations under maritime transport or the EEZ Act to engage with existing interests or stakeholders.

So, to address that, again we talked about it with the EPA applications team as through the rest of the proposal with the resource consent. We will be wrapping it up into one package to really minimise the effects of that engagement, because it is a burden. Every time we're at these meetings -- one of the engagements we were at with Te Atiawa hapū was nearly three and a half hours with half a dozen of our experts; great

questions and a range of discussions but, again, you're very conscious of the time you're taking up and what's involved.

MS TEPANIA: You just picked up on another question I had there. So your experts were at all those meetings and able to answer and respond?

MR PARK: Yes. So most of those we'd have Mr Govier present in terms of the environmental effects as well as OMV's environmental expert, who's been working with Mr Govier to prepare the application.

MS TEPANIA: Okay. Thank you for your answers. I found that really helpful.

MR PARK: Thank you.

DR CRAUFORD: I just had one and that was that you've given us quite a lot of information in relation to the policies and framework for HSSE. Can I just confirm - and I'm assuming the answer to this is yes - that you will be following all of those policies and frameworks in relation to the EAD programme?

MR PARK: Yes. Again, I think we've demonstrated that through historic campaigns in terms of the compliance with others, yes.

DR CRAUFORD: Sure. Just moving into the future, I'm just ensuring that that is your intent.

MR PARK: Yes.

DR CRAUFORD: Thank you.

MR PARK: As Mr Selischi said, it is mandatory.

DR CRAUFORD: Yes, good, thank you.

MR HILL: Thank you, Mr Park.

MR PARK: Thank you.

MR WINCHESTER: Now, sir, I assume you're just happy to keep rolling through?

MR HILL: Yes.

MR WINCHESTER: That's fine. Thank you. The next witness will be Dr Hollinger and you'll also note that there is a paragraph in there about the Environment Court code of conduct, so that too should be struck from the evidence-in-chief.

[11.00 am]

MR HILL: Good morning.

DR HOLLINGER: Good morning. My name is Gerald Hollinger. I'm the Well Engineering Manager for OMV and I'll just go through the executive summary, if that's fine.

MR HILL: Thank you.

DR HOLLINGER: So, in principle, there are three types of mobile offshore drilling units first. There is a jack-up and a semi-submersible and a drillship, and I'll come back to your questions later on anyway. All these MODUs as far as I know have in principle a similar deck drainage system, so that is separated into hazardous and non-hazardous deck drains. They have a water treatment system on board which is IMO certified and in accordance with the MARPOL standard and that usually is made to treat and separate oil from water and treated to 15 ppm oil content for discharge.

It has to be noted that these water treatment systems do not remove or they are not designed to remove hazardous chemicals or anything else. They're really made for oil/water separation. That's what they're designed for.

That's why harmful chemicals are only stored in a dedicated area on these rigs, so either in the safe store or in a designated chemical storage area. Not all MODUs treat the fluids from the non-hazardous deck drains. Some of them have direct discharge to sea because from these areas usually there shouldn't be any oil expected. That's why they have a direct discharge from these decks. There are no chemicals to be stored in these areas, of course, as well.

In OMV we will definitely select our MODUs through a very strict process. We do have a requirement, for example, to do a pre-hire audit before we contract any MODU. So before we sign a contract this will be already subject to audits and we will definitely evaluate it against OMV's operational requirements and against our HSE standard because, like I said, this is mandatory.

So, this is it basically for me and for your questions I can answer.

DR CRAUFORD: Thank you for your evidence. Have you finalised the tender documents for the MODUs?

DR HOLLINGER: We have sent off the tenders and we had the deadline for submission on 31 August. We have received the confirmation of waybills but we haven't opened the submissions yet because we haven't received the physical paperwork.

DR CRAUFORD: Right, okay. One of my questions was how competitive is that process. How many bids would you expect to receive and how many of those would you expect to be compliant?

DR HOLLINGER: When we started it, it was very competitive. We had actually, I think, five companies confirming that they would submit. As the process went along, some rigs went off the market; they were tendered. We've had now two confirmations, so we have two companies that have submitted a bid.

DR CRAUFORD: Okay, and you don't know what is in those yet?

DR HOLLINGER: No. From one I think it's pretty evident which rig it would be, but we haven't opened it. The other one we don't know.

DR CRAUFORD: Okay. I noticed that you do talk with previous operators. Do you seek references from previous operators as to their experiences with the MODU?

DR HOLLINGER: Yes, we do. If we know them and if we can contact them, we definitely do. If it's a Russian company, it may be a bit challenging but, for example, we will definitely align with the operators here in New Zealand and we will also look -- what I'm used to is that we align our auditing processes for these MODUs because every operator does its audits and it makes more sense to share the experience because then we can tailor-make our audits to the things that have not been covered. We already have discussions here even if we don't know which MODU it will be.

DR CRAUFORD: Okay. Thank you very much.

MR HILL: I suppose on a similar vein - this is really just out of interest - I presume these other companies have these units which they're being used and then suddenly they're free or potentially going to be free at the timeframe that you want. I'm presuming it's not just a matter of going on to Trade Me and looking at what's available. It's kind of known. There must be a handful around the world which then are moved into different locations.

DR HOLLINGER: The way we usually do it, we choose companies we know of, which we have worked with or which we are familiar with. We also check with our partners if they have any other companies they want to see on the list, because usually this is part of the joint venture agreement that this has to be aligned, how we go on the market.

[11.05 am]

Then we send it out to all these companies which were chosen and they will come back and say, "Yes, we are interested and we will submit a bid" or, "No, we don't". Before I came to New Zealand, we have done I think a market request for interest already to get an indication how many companies would be available. Because, of course, it does not really make much sense if I know that one company is on the other side of the world because the mobilisation costs are not justifiable.

MR HILL: Mr Selischi told us that there might be more than one, but is it more efficient to have one which you can move over or it doesn't matter? It really is what's available and how quickly you might want to undertake the activity?

DR HOLLINGER: No, it's a fully aligned process, I would say. It needs to match everything because we have long-lead items for the campaign. So it wouldn't make sense for me to have a rig starting in one month's time here because I simply couldn't start the operation. We need to do our engineering work. We need to order the long-lead items which we require for this so it's tied up. So what we state in the tender is the timeframe when we want this rig to be available and that's subject, of course, to the operations taking place before us or ahead of us.

The way it's usually done is you have a broad idea because companies have options. So we know that there's two firm wells before us, for example, and then maybe one operator decides to call a contingent option, but as we go along to our time window it narrows down usually and we plan on the P10 case which we get from the rig contractor by that time, which is the quickest we could get this rig because we need to be ready on the shortest timeframe.

MR HILL: Understood. Thank you very much. Nothing further? Thank you very much.

DR HOLLINGER: Thank you.

MR WINCHESTER: Sir, we're running through quite swiftly, so that would bring us to Mr Forrest now, so I'll call Mr Forrest.

MR HILL: Isn't that the advantage of pre-circulated evidence?

MR WINCHESTER: Indeed, yes.

MR HILL: Good morning.

MR FORREST: Good morning.

MR HILL: Now we do confirm the code of conduct.

MR WINCHESTER: Yes, for this, correct. And the next one, sir.

MR HILL: Thank you.

MR FORREST: My name is Reid William Forrest. I'm currently employed as an associate consultant with SLR Consulting based in Nelson. I've held that position since 2014.

In regards to harmful substance dilutions, the HSNO Act classifies substances into class 9.1 if they're considered harmful to the aquatic environment, that being ecotoxic. Within class 9.1 there's further subdivisions into classes A, B, C and D, based on their ecotoxicity, A being the highest, D the lower ecotoxic amounts.

After reviewing the harmful substances used during previous drilling campaigns for OMV and those that were used in the Maari Fields and by approved by the EPA, OMV chose several representative ecotoxic substances from classes 9.1A to 9.1D with which to attempt calculations on the expected concentrations that might be in deck drainage discharges, following the assumptions mentioned earlier of a maximum discharge amount of 250 millilitres following a loss of containment and a clean-up.

My calculations on these substances were based on the best available information at the time, based mainly around what was available on the safety data sheets for each of those substances.

As shown by the Stantec Uncertainty Report, there was other information available. That information was mainly confidential information, mainly regarding the 9.1A substance. But that was provided to the EPA by the manufacturer on a confidential basis.

As we said before, dilution calculations assumed a maximum total volume of 250 millilitres following a loss of containment to deck, as a residue on the deck of a mobile offshore drilling unit. It was then assumed to be immediately entirely entrained within the deck drainage system of the MODU. It was also assumed that the selected MODU would have a deck drainage system settling capacity of at least 5 cubic metres.

[11.10 am]

From my understandings with Mr Hollinger and Mr Park, from OMV, that under normal situations that 5 cubic metre tank would only reach around half capacity before it would start discharging into the ocean. So our amount for dilution calculations was calculated at 2.5 cubic metres.

When we perform those calculations, the concentration of the most ecotoxic substance, so the class 9.1A, which is a substance called CI-111, for shortness sake, the maximum of concentrations were 106 milligrams per litre in a 2.5 cubic metre discharge in the settling tank, at the point of discharge. We assume this to be based on the concentration of the active ingredient that was listed in the STS. There were several active ingredients listed and their concentration within the substance is given as a range. For example, the 2-mercaptoethanol that we used in our calculations were said to have a range between 10% and 30%. It's given as a range to protect the IP of the manufacturer, so no one can essentially go out and make their own version of the same substance.

Whereas it's shown in the Stantec report the information that was provided - the confidential information provided to the EPA - gave ecotoxicity information about the other active ingredient in there, which had a higher concentration that was anywhere between 30% to 60%. So in our calculations we've always assumed the concentration to be at the highest level of that provided by the manufacturer. So for 2-mercaptoethanol it was at 30% and for the other substance, which the Stantec report commented on, which was at 60%.

The concentration that we calculated, so the 106 milligrams per litre, was for the entire amount of the CI-111 class 9.1A substance. For the active ingredient 2-mercaptoethanol, because it's present at 30% of that it would be 31.8 milligrams per litre, or 63.6 milligrams per litre for the 60% active ingredient.

These concentrations were above the known Lethal Concentration, or LC50, values or Effects Concentration, EC50, values, and also above the Predicted No Effects Concentration value, which was calculated during the Maari Field application for discharge consent that Predicted No Effects Concentration value was 0.047 milligrams per litre. So the concentrations that were calculated were well above these values but these are within the discharge itself before it would leave the MODU. This concentration then would only be present at the very point of discharge and assumes no dilution. So as soon as you hit the receiving environment, being the ocean water, your concentrations begin to rapidly decrease.

These LC50 and EC50 ecotoxicity concentrations also assume that your test subjects are subjected to that concentration of a substance for an extended period. Most of these tests you range between 48 and 96 hours of exposure at that concentration, whereas in reality upon a discharge event your concentration would only be at that high amount at the very discharge and then immediately be diluted in the surrounding environment, and further diluted with further time in mixing.

The other section of my evidence related to rainfall data. Due to a lack of available rainfall data for locations in the offshore of Taranaki environment we used ten years of rainfall data that was provided by the Taranaki District Council at representative onshore locations, where they did have long-term data available. From those we calculated average daily rainfall over the ten years, average frequency of when rain occurs and then 90th percentile daily rainfall values. So meaning 90% of daily rainfall values were below that level. So it was your heavy rain events, and that extent.

Calculations then of the total possible rainwater discharge, based on those rainfall events, for the MODU were based on the surface area of the largest MODU that was going to be in the rig selection process, in this case 5,826 square metres.

[11.15 am]

From those we used three possible drilling length scenarios, so either a 30, a 40, or a 50-day drilling period to calculate your total rainwater volume that might be captured and then possibly discharged over that period.

For those drilling programme length scenarios, 90% of the time OMV were expecting that the drilling would be completed within 30 days, 50% of the time it might take you up to 40 days and for 10% of the time, so your low probability values, that it might take up to 50 days to complete the drilling programmes.

The highest calculated rainwater discharge volumes occurred when drilling. Obviously, we take 50 days and then we'd, in our calculations, assume that drilling was completed in near torrential rainfall every day of those 50 days. For that calculation that came down to producing around 75.7 cubic metres per day based on the highest values, which were for the northern area of interest.

The more likely scenario where rainfall occurs at your average rainfall intensity, so millimetres per day, and they're also at the average frequency. So in that case for the northern area of interest you're looking at 47 days out of 100 that rainfall would occur. That's your average frequency. Under that scenario it drops down to around 11 cubic metres per day.

As I understand it, from discussions with OMV, a typical oily water separator, which the rainwater discharge would have to pass through before it was discharged, has the ability to treat around 10 cubic metres an hour. So if we are looking on our average intensity of being around 11 cubic metres per day, or the maximum being 76 cubic metres per

day, the ability to treat that is well within the parameters of the typical oily water separator.

So when we came back and used all that information and tried to look at a zone of influence around the MODU for harmful substances within the deck drainage discharge, conservatively we estimated this at being around 200 metres, and this was based on the modelling that was undertaken for the discharges in the Maari Field around production water from the floating production storage and offloading vessel. Maximum daily discharge for that area, from the FPSO, is around 10,300 cubic metres a day, so considerably more volume of water being discharged. So around 140 times more than what we might expect, even under the highest rainfall events for any of the areas that the MODU may be operating.

We conducted water sampling in February this year in regards to the marine discharge consent for the Maari Field. They were required to conduct receiving water sampling there. Based on those results, we sampled on board the FPSO and at set positions downstream and from those -- the sample was collected on board the FPSO by 50 metres downstream. Almost all constituents within that were below analytical detection limit. So you were looking at the ones that weren't below analytical detection limit were very low and you were looking at around 5,000 times dilution by 50 metres from FPSO. So if we applied a similar level of dilution for any discharges from MODU, even a 50-metre zone of influence is still very conservative.

When we make comparisons to existing consented discharges, the most ecotoxic substance that we're basing our calculations on, that C1-11 substance, was previously used and is consented for use within the Maari field by the EPA. As part of that discharge consent application, OMV was approved to use that substance at a concentration of 8,000 milligrams per litre, so far higher than what we expect to see here. Also they were permitted to discharge up to 250 litres of that substance up to five treatments per year. The EPA considered the effects from the discharge of this substance at those levels to be negligible, so you are looking at 100 times greater volume at over almost 1,000 times greater concentration than what we might expect -- sorry, over 100 times greater concentration than what we might expect from any deck drainage discharges from the MODU.

[11.20 am]

So I would assess that any risk to marine organisms around the MODU beyond a zone of reasonable mixing or influence is likely to be trivial.

MR HILL: Thank you for that.

DR CRAUFORD: Thank you for your evidence, Mr Forrest. I have a question in relation to the total volume of any harmful substance left as residue on the deck of the MODU and the assumption that you've made of a cup or 250 millilitres. Would you like to comment for me, please, on the appropriateness that you see of that assumption and why you make that assumption?

MR FORREST: Sure. The assumption there was based on discussions with OMV around their code of conduct and standard operating procedures around the clean-up of any spills that occur. Their standard procedure is that anything that is stored or would be stored is in a way that if it did spill it could be contained and that anything that was spilt would then be cleaned up to the best available extent. But even if you clean to everything that you can see, there may still be some residue left on the deck that might not be visible to the human eye and so there would still be some residue left that would have to be -- would be washed away at some stage that would not be completely removed and thus it would end up in the deck drainage system. In those discussions even conservatively that's where we came up with the value of 250 millilitres. It was just a conservative assessment of what might be left that wasn't visible to the naked eye.

DR CRAUFORD: Okay. Thank you.

MS TEPANIA: I just have a quick question on rainfall and it might not necessarily be related. It is more a bigger picture thing. You talk about in your evidence, your words, "due to the lack of available rainfall data" and you talk about caution should be applied when using those calculated parameters because it is based on onshore monitoring stations, etc. I know Dr Lieffering agrees with you that that is the best available information, but who is responsible for getting better information? Is there a gap there that needs to be filled and who would fill it?

MR FORREST: Yes. That was raised by one of the submitters that it would be great to have offshore information. There are, for example, wind meters that are based out on the Māui A and Māui B platforms and there is some record of wind data from those areas but at the moment there is no rainfall meters that exist anywhere in the offshore environment. The predominant weather systems in Taranaki here come in from the west to the southwest, so a lot of the rainfall that you would get onshore here is likely to be pretty similar to what you'd experience out at sea. It might be slightly different if we were coming from the other direction with the predominant weather systems, but it tends to be quite heavy squally systems that will hit anywhere and a similar amount. Obviously getting closer to Mount Taranaki you get a lot more orographic rainfall and, therefore, onshore meters close to the mountain will probably show a higher rainfall than what might be expected

offshore, but that is why we chose locations that were right on the coast as representative.

MS TEPANIA: Okay. I think that does answer the question but again does OMV -- you've given evidence and you've talked about the fact that this is trace amounts and you've talked about the volumes and there is a difference. So would there be circumstances where that type of data would be helpful in a situation where there is greater volumes of discharge and so forth?

MR FORREST: By all means. I mean, calculations are only as good as the data that you can put into them, so the better the data that is available of course then the better information and the better findings that you can base on those. Again, yes, there may be. There is definitely a good case in the future for rainfall data to be monitored at an offshore location but having any equipment out in an offshore environment is very difficult.

MS TEPANIA: By whom? Who would do that?

[11.25 am]

MR FORREST: I guess various -- whether it is a Crown institution or whether it is someone who is applying out there, I'm not sure. It's probably not my case to say who that might be. Whether it is a great idea that might be applied to someone like NIWA for a sustainable seas development funding ... they'd have some long-term weather monitoring buoys based out in that area that might provide that sort of data.

MS TEPANIA: Precisely. Thank you. Thank you for indulging me.

MR FORREST: That's all right.

MR HILL: Nothing from me. It is very clear. Thank you very much.

MR FORREST: Thank you.

MR WINCHESTER: That brings us to the final OMV witness, who is Mr Govier. I will get him on and see how we go in terms of the timetable but we should have -- we've got an hour until the lunch break.

MR HILL: Yes, we're doing well on the time.

MR WINCHESTER: Yes. So I'll call Mr Govier.

MR HILL: Welcome. Good morning.

MR GOVIER: My name is Daniel Govier. I'm the Asia Pacific Technical Discipline Manager of the Marine Science Team for SLR Consulting. I was

involved in the preparation of the impact assessment. I'll take it that my qualifications and experience has been read.

MR HILL: Thank you.

MR GOVIER: As part of the preparation of the impact assessment for OMV New Zealand, a detailed environmental risk assessment was undertaken. Through this process the risk to the different receptors in the main environment and the effects on the environment and existing interests from the proposed activity were assessed. This assessment incorporated the mitigation measures, the controls and operational procedures that OMV will implement. As a result, the overall risk from the potential discharge of a harmful substance was considered to be negligible.

Concern has been raised over two potential sources of uncertainty in the application, that being the MODU has not been selected and the particular harmful substances are not known. Given the MODU has not been selected, the precise details of the deck drainage system are unknown. However, OMV has included strict environmental and operational requirements that the contracted MODU must comply with. If these requirements cannot be met they would not have progressed any further through the contracting process. As a result, any MODU contracted will have a deck drainage system capable of processing the anticipated volumes of rainwater and deluge water that could occur during the EAD programme.

To reduce the level of uncertainty in relation to the MODU selected, OMV has proffered condition 7, which states the minimum requirements that the MODU must have for the deck drainage system. In my opinion, this condition addresses the uncertainty of not knowing the precise MODU at this time. I know that Mr Lieffering stated in his uncertainty report that the uncertainty associated with not knowing the exact details of the deck drainage system is not critical because OMV has placed strict environmental and operational requirements on the MODU supplier or suppliers and condition 7 specifies the minimum requirements of the deck drainage system.

The harmful substances that will be used and stored on the MODU are also not known. The determination of the harmful substances that will be used depends on the final MODU that is contracted and the design of the wells. In my opinion, the uncertainty around the final type of harmful substances that will be used is not significant for this application.

The assessment of effects has been determined using worst case scenarios. This includes selecting the most ecotoxic, harmful substance that could be on board the MODU and using minimum and

conservative dilution levels in the calculations. With the operational procedures in place, if a spill occurred following appropriate clean-up there is only potential for a residue to enter the deck drainage system. Low volumes of a harmful substance combined with large dilution rates within the deck drainage system would have negligible effects on the marine environment.

Mr Lieffering also stated in his assessment that the uncertainty of not knowing exactly which harmful substances are to be stored and used and, therefore, potentially discharged is not critical. Mr Lieffering also suggested that a worst case scenario assessment be completed. The environmental risk assessment was carried out using worst case assumptions and represents a worst case scenario as suggested by Mr Lieffering.

[11.30 am]

This marine discharge consent application is part of a number of required regulatory applications or approvals which OMV must be granted prior to commencing the EAD programme. I have been involved in OMV's engagement process with existing interests, government agencies and the iwi for this application and other applications and processes. OMV will continue undertaking engagement with existing interests and iwi groups throughout this process and beyond. I know that Mr Lieffering suggests at paragraph 7.12 in the Stantec conditions report that the DMC may wish to clarify as to whether OMV will be proffering any Augier conditions in the non-notified marine consent application.

For avoidance of doubt, it is my understanding that OMV's commitment to ongoing engagement is part of their internal policies rather than any proffered conditions for any of the subsequent applications. OMV has a long history of engagement throughout the Taranaki region through all of their exploration and production activities and this will continue for the permits OMV operate under.

As part of my preparation for this hearing I have reviewed the Stantec condition report. I agree with most of the suggested changes re wording of conditions in the Stantec report. However, I also agree with the response set out in OMV's legal submission in relation to some of the additional conditions proposed, which in my view are unnecessary in light of the negligible effects that the proposed discharge could have if a harmful substance spilled to the deck of an MODU occurs.

To summarise, the information outlined in my evidence, in addition to the evidence presented by OMV's expert witnesses, I consider that, subject to the adoption of the proposed conditions and the implementation of management procedures and mitigation measures

identified in the impact assessment, any adverse effects associated with the potential discharge of a harmful substance will be negligible or de minimis. The proposed discharge is consistent with the sustainable management purpose of the EEZ Act.

That's everything I've got. Thank you.

MR HILL: Thank you, Mr Govier. Ms Tepania?

MS TEPANIA: Mr Govier, you might have to bear with me because I've now asked questions of a couple of your other witnesses, so I don't really want to overlap.

In terms of existing interests, it would be helpful if you could look at the actual application, in section 4 where it relates to existing interests and engagement. I'm looking at page 48. I'm not sure if you picked this up in your response, but Te Kotahitanga o Te Atiawa has asked for -- one of the reliefs sought is that they are mentioned, or they're at least identified in terms of their settlement of their historical claims. Here Taranaki iwi are identified but Te Kotahitanga o Te Atiawa is not. Is their settlement something that you considered, their deed of settlement?

MR GOVIER: Yes, it is, and it's an oversight in here. It should be included. You're talking about -- can you just --

MS TEPANIA: In terms of their submission, the submission is that they're not referred to at all. Taranaki iwi is referred as in the Taranaki Iwi Claims Settlement, but the Te Atiawa Claims Settlement Act is not referred to, nor Te Atiawa. Their concern is that they're not referenced in here. They're an existing interest. They consider they're an existing interest in terms of their Treaty claims and the settlement of their claims.

MR GOVIER: They've certainly been considered as an existing interest through the process. They've been engaged with, they've been fully informed and taken through the process. We see them as one of the key groups that we've been working with closely, not only for this application but the subsequent applications as well.

[11.35 am]

MS TEPANIA: Thank you.

MR GOVIER: That's just an oversight. They've certainly been considered as part of the application and the engagement and ongoing process.

MS TEPANIA: Thank you, your confirmation and your evidence is helpful, thank you.

In terms of the list on the next page, 4.2, and the requirement to describe consultation undertaken, I was unsure there whether -- when you look at the Rohe Moana in terms of the northern AOI and where it overlaps, Ngāti Kinohaku is identified there but they don't appear to be identified in this list. Have you had engagement with Ngāti Kinohaku?

MR GOVIER: In terms of the engagement for this process, we kept it very focused in terms of the effects from the likely activity. Essentially, the application is for the potential discharge of trace amounts where we've identified a potential mixing zone in the application of 200 metres. We have kept it very focused. Basically we've only engaged with those groups that are listed there, just because that's who we considered were the potential interested parties and existing interests in that region.

MS TEPANIA: Moving forward as part of the wider programme, is there an intention to engage with Kinohaku?

MR GOVIER: Yes, absolutely. As we move forward -- and it's largely going to come down to -- we've had the next round -- the engagement is ongoing. As has been notified earlier, the marine consent application has been submitted. Again, that application is for occupational space, disturbance of the seabed, disturbance of the water column, etc.

Subsequent applications to that are going to be the marine discharge consent and the oil-spill contingency plan and emergency-spill response plan. Developing those plans, that's when we will be engaging even further afield, because the oil-spill trajectory modelling is used to effectively determine who we engage with. Wherever oil -- if worst-case scenario and a spill occurred and it was uncontrolled and it reached the shoreline, that will determine who we engage with.

Obviously within the water column and on the surface, oil spreads with the liberty of the currents, the sea conditions and the waves at that time. That's all been incorporated into the model, which has determined our engagement. As the next phases of the application process go through, effectively the engagement process widens and we go further and further afield, effectively, from the top of the South Island, all through the top of the South Island, all through the lower west coast of the North Island, up through the Waikato.

MS TEPANIA: Thank you for that clarification. I've got lots of little stickers, so every time I have a question I'll remove a sticker. If you see them getting fewer and fewer, you can feel more relieved.

The other question I have is around the receptors. Again, I already asked Mr Park. Some of the concerns that are raised by Te Kotahitanga, Ngāti Ruanui and Ngāruahine -- sorry, it actually relates specifically to Te Atiawa. They're concerned that they don't consider

they've had any input at all into the impact assessment and in terms of this model, this criteria for assessing your potential consequence levels, etc, and there's a cultural receptor. When I look at table 25, you've got scale, duration, recovery, etc, and there's cultural receptors there. Te Atiawa is concerned that they haven't had any input.

MR GOVIER: Our environment assessment approach was based on the guidelines developed by NIWA and MFE. We used basically their protocol for the likelihood, the consequence approach that we used. So that's been developed as forming the basis of it.

[11.40 am]

We've undertaken a couple of rounds of engagement and run them through the activity and the process, etc. They were also provided a copy of the application before it was submitted, for their review. But as far as I'm aware, no feedback has come through in terms of those receptors in our risk assessment table.

MS TEPANIA: They were provided with a copy of the application for their review?

MR GOVIER: Yes.

MS TEPANIA: And for comment and feedback?

MR GOVIER: Yes. Just to clarify that, it is a very big document and I can understand if not all of it has gone through.

MS TEPANIA: That's another further issue raised by Te Kāhui o Taranaki Trust in terms of their existing Taiao, Taiora, their environmental management plan. They're concerned that the application hasn't actually been assessed against that plan. I wondered, and I need to understand, how some of the aspirations and the kōrero and the relationships and values - certainly the values that are identified in those plans - are reflected as part of this assessment.

MR GOVIER: I'd probably need to go away and look at those plans and provide a written response on that. I can't, off the top of my head --

MR PARK: (off mic conversation)

MR HILL: Mr Park, do you want to come up and we might do the joint questions and might cross over. Are you all right with that?

MS TEPANIA: That's fine.

MR PARK: At the time of the application being submitted, it was a draft environmental plan still in development, and it was finalised I think maybe six weeks ago.

MS TEPANIA: Not 2016? I can look at their submission. That's two years ago.

MR PARK: Yes. I'm pretty sure the current plan has replaced that version. It is the formal one, approved by the board.

MS TEPANIA: The formal one that existed in 2016, I think it is - I can look at their submission to get the date - did you look at that plan and how is that built in?

MR PARK: Again, the nature of the effects traversing such a wide range of rohe and iwi groups, with having reference to those documents, and I guess wanted to really reflect that concept of management throughout. It was very big, huge areas, as Mr Govier said, of interest along that coastline. So I guess the intent was to kind of address those cultural interests broadly through the consultation process and through the specific assessment of effects on those ecosystems.

MS TEPANIA: There's a clear -- you'll be familiar with the fact that cultural values are different for each iwi and each iwi has its own relationship, if you like, with the wana and how they describe it. Certainly, each will value differently the mauri that attaches to the moana. When I read this impact assessment, I can't see the values as articulated by those iwi. I don't hear their voice in the description of mauri and I don't understand, albeit that you say there are trace amounts, that there is a prior consideration before you get to there's a trace amount, there's little effect and, therefore, the extent of our consultation and engagement jumps off that or leaps from that.

It seems to me that there needs to be -- I seem to be relying on the fact that you have existing relationships with these iwi and that you're aware of them and that you understand them and you've engaged with them, but that is not the evidence before us. I'm concerned that there's no corroboration of that and I'm concerned that the submissions say something different, albeit I accept that they point to the wider context and more concern around the EAD programme as opposed to this and what's before us. I just wonder for me in terms of the cultural inputs and stuff the extent to which really the relationships you've had and the assumptions that you make on the basis of those relationships are reflected here.

[11.45 am]

MR PARK: I guess, to put it into perspective, over 22 iwi and hapū groups normally for an application, for example, with the effects on the Maari Field, for

example, or once we've got those exploration activities very pinpointed, that would be the time when we'd engage a cultural impact assessment. We have done that in the past historically with Ngati Ruanui on numerous occasions. For this one, because the extent of potential effects is for such a long distance and, as the experts have said today, the effects are very far out to sea, I think 38 kilometres from the coastline, so a big distance out, again part of our approach to the engagement has been to recognise the fact that this does have very differing cultural impacts and interests throughout, whether you had Te Ohu Kaimoana fisheries interests right through to, as you say, Ngāti Kinohaku on the coastline, which may have quite different interests.

What we've committed to doing is through that engagement we've been very open and expecting those iwi and hapū organisations to actually get involved and submit on the process and to make sure they're better recognised. As I said before, given that it is quite complex for these projects that do transcend various rohe and iwi boundaries, I certainly think that we probably need a better steer from the EPA on how best to approach that issue of cultural impact assessments. It certainly comes up in the engagement and we were in the risks of do we pick one particular iwi and hapū closest to the well and then that would contravene other associated policies and cultural values, so it was a very complex issue. Again, we have relied on submissions to raise that point.

MS TEPANIA: That's made more complex, though, if it's non-notified.

MR PARK: Correct, yes.

MS TEPANIA: There's a degree of comfort that the iwi obviously would require that they're going to be involved, because if they're not notified how are their views, how are their values, how are their interests to be --

MR PARK: Through the notification process, again, as Mr Govier said, we are going out widely. We continue to engage. As Mr Selischi said, we met with Te Atiawa yesterday and we will continue to engage and really keep them informed and as far as we can try and resolve any of the outstanding issues. We've given those commitments to the EPA. That's what the process will follow given it is a non-notified activity, and we're working with the EPA around making sure that notification, when they're getting hold of existing interests, informal notification is as wide as we've engaged and we will continue to engage widely.

MS TEPANIA: Okay, thank you. Thank you for your answers, both of you.

MR GOVIER: Sorry, I'll just add on there you just pointed out there that a number of the submissions are a bit wider than the scope of this application and with the wider EAD programme. That came up a lot in the engagement

process. We are there specifically to try and talk about the scope of this application and the trace amounts of discharge, but the conversations very quickly led to the wider drilling programme and the effects, oil spill, etc. Effectively, we were trying to talk about that but we ended up talking about a whole lot of things.

A large part of the process is about education. Some of the requests that came through as a result of some of the hui that we had was they wanted to know more information about the wider activities, what the effects of a drilling programme are, what the recovery is and subsequently, as a result, we ended up running a workshop, which we invited a number of the iwi around Taranaki to. We didn't get a full turnout from all the iwi, but there was a good representation there. It ran for half a day. It was held and we ran right through the process of a drilling activity, pre and post-drill monitoring, the effects, what drill cuttings look like, what critters are found in the seabed. We showed them videos of the actual monitoring and what's being undertaken and took them right through the whole process about pre-drill, establishing your baseline, what the effects are, how you monitor for a recovery, what you're looking for, the extent of the effects. As a result, we got some reasonably good feedback on it and it's a model that we're potentially going to take wider, or OMV is going to take wider. It's all about that education and that's going to become part of the next phase of the engagement as part of these additional processes. Some of these engagements don't specifically talk about the application that you're there about. It does go wider afield as well.

MS TEPANIA: Well, as you say, it's an ongoing -- that's been your evidence, it's an ongoing relationship, and half a day probably with 26 hapū and iwi is slightly ambitious, even for me.

MR GOVIER: Oh, we allowed for a full day but ...

MS TEPANIA: Yes, thank you for your answers. I think that satisfies most of my questions. Yes, that's fine, thank you.

[11.50 am]

DR CRAUFORD: I just have a question in relation to paragraph 68 of your evidence. This is regarding condition 7 and the MODU. There's a sentence in there that I can't quite make sense of, but I guess my point is at the bottom it says:

"This will ensure that the EPA will be able to review and question any of the systems prior to the EAD programme taking place."

I just didn't understand that paragraph and I just wonder if you could help me out here.

MR GOVIER: Sorry, paragraph 67 did you say?

DR CRAUFORD: Sixty-eight.

MR GOVIER: Yes. So that comes around the uncertainty of not knowing obviously both the deck drainage system and the harmful substances. Even though they're not known at this stage, there's another process where the regulator will get to review those and they have to be approved before they can be implemented.

DR CRAUFORD: Oh, I see. So that refers to that process, not to the MODU?

MR GOVIER: No, that's the deck drainage system on the MODU and the harmful substances is part of the emergency spill --

DR CRAUFORD: Okay, so it's a question of the EPA being able to review the harmful substances that are used?

MR GOVIER: Correct.

DR CRAUFORD: Okay, all right. Fine, thank you very much. My other question relates to an issue raised by Greenpeace of impacts on cold water coral. Now, I understand that your view would be that the impacts will be trivial so it doesn't really matter if there are any coral there or not, but can I ask you: has cold water coral been identified in the area?

MR GOVIER: No, it hasn't. From the records, there's a NIWA database of corals which are present around New Zealand. There's no record of any cold water corals there. As part of the wider EAD programme, SLR has also undertaken a baseline benefit monitoring programme at each of these well sites and that was to inform the existing environment as part of the marine consent application. That's part of the application which has just been submitted.

So a monitoring programme was undertaken at each of the wells. At each well station there were 15 grab samples and 10 video transects undertaken around a wide radius around each of the well locations. We undertook out of those grab samples sediment analysis of sediment composition looking at the different structure of the seabed and also visually from the video systems that we got. There was no reef systems. These cold water corals, they need some form of hard structure to actually grow on. Largely in north Taranaki it was more sandier-based substrate and in central and southern Taranaki it was more mud based. No hard substrate was identified and no cold water corals were visually identified from the assessment that we undertook.

DR CRAUFORD: Okay. Thank you for clarifying that.

MR HILL: Thank you very much. Mr Winchester, I think that's your case for now. We are a bit early so I'll just check. What we're going to do then, we will adjourn and take the lunch break now slightly early and come back. Is Ms Cheung or Mr DeVantier here?

DR DEVANTIER: Yes, we'll be ready after lunch.

MR HILL: Great. So it's 12.00 pm. Would you be ready at 1.00 pm?

DR DEVANTIER: Yes.

MR HILL: Perfect. All right, so we'll adjourn now and come back at 1.00 pm. Thanks very much.

ADJOURNED [11.54 am]

RESUMED [1.00 pm]

MR HILL: We'll reconvene the hearing for this afternoon's session. This morning we heard from the applicant and we're going to move on to submissions. Just before we do, just in terms of process tomorrow we talked about hearing from the EPA people, so in discussion over lunch -- Ms Carmona- Noklegaard - I keep pronouncing your name incorrectly but you know who you are - has written the key issues report and the two key issues are not in contention, so we've decided that we don't need to call you because there is nothing to add, we don't think. So we will take her off the list but we'll still hear from Dr Lieffering tomorrow.

That takes us into the submissions. Climate Justice Taranaki, you're here. Ms Cheung, you're representing both yourself and Climate Justice and then, Mr DeVantier, you're representing yourself. Do you want to present these individually?

DR DEVANTIER: Well, we were actually going to share them. We're both members of Climate Justice Taranaki so we were going to share the Climate Justice presentation, then I was going to give my personal presentation and then Catherine was going to round it off with her personal presentation, if that suits.

MR HILL: That's fine. That suits. What I would suggest is if you want to come up to the -- do the three of you want to come up? You're welcome to come up. We just need to get you another chair. You're okay. So if you want to come up here and we'll --

DR CRAUFORD: Three of them are going to come up. They need another chair.

MR HILL: Thank you. I'm happy for you to run the case in what order or how you want to run it. I know we've got time specified but we're not running short of time so if you need a bit -- and I think you've asked for a little bit more time anyway. So if you need that take it and I'll really hand over to you and you can introduce yourselves if you like and present your submissions. Thank you.

MS CHEUNG: Thank you, Chairman. Thank you, Commissioners, and good afternoon everybody who are here to listen. It's Lyndon, Catherine and Kate. We are all members of Climate Justice Taranaki. We are a community group, non-profit-making community group, working on raising awareness on climate change and the social justice issues associated with it. On that front we do a lot of submissions. This is the fourth or the fifth time we are on an EPA submission to do with petroleum drilling and discharges. We do submissions to try and help to influence policies at the decision-making levels and we also work with communities to organise events and also support actions on the ground that help to transition away from fossil fuels and towards more sustainable energy and also sustainable farming, which is a key part of climate action on the ground.

On this application and submission I guess the key points are the processing, the joint processing of the activities and also the cumulative effects that are so important in the decision-making process, and of course there is climate change. I am going to just go through it so I don't miss any points.

MR HILL: Okay.

DR CRAUFORD: Sorry, could you tell us which one you're starting with?

MS CHEUNG: The Climate Justice one with the neatly formatted front page.

DR CRAUFORD: Okay.

MS CHEUNG: Everybody can hear me? Nobody is doing this. Good. OMV plans to drill 12 exploratory and appraisal wells across 6 licensed areas in the Taranaki Basin. International experience has demonstrated that there can be devastating environmental and socioeconomic impacts across huge areas from exploratory drilling. Under its exploration and appraisal drilling programme, OMV will also discharge undetermined quantities of unidentified harmful substances at sea. On 27 March OMV lodged a single application with EPA for the discharge of trace amount of harmful substances as offshore processing drainage from the deck drains of one or more mobile offshore drilling units to be used for the programme. This application listed ten related documents still to be lodged, three of which to EPA, including the emergency spill response plan and applications for a marine consent and another

discharge consent. On 25 May the EPA publicly notified and sought public submissions on this single application.

CJT, our group, strongly objects to such a joint processing of closely-related applications, so on 25 June we requested EPA to determine the current discharge consent application so that it could be jointly processed with other applications associated with the programme. EPA replied on 5 July to say:

[1.05 pm]

"Section 44 of the EEZ Act applies if the EPA receives more than one application for a marine consent in relation to the same proposal. The purpose of section 44(2) of the Act is to align processing timeframes for applications lodged together. However, that is not the situation in this case and there are strict processing timeframes laid out in the Act and as such the EPA is unable to delay the processing of a lodged application."

That is the reply from EPA. Our interpretation of section 44 was that it is designed to enable joint processing and, therefore, comprehensive assessment of cumulative effects of related activities. It seems we were wrong. EPA has said it is to align processing timeframes and applies only when there is more than one application lodged at the same time. This is despite the fact that OMV had actually told EPA that it intended to submit an application for a marine consent to do with the drilling activities on 21 July. So I haven't seen that application that I think is lodged.

I'm going on to cumulative effects. Such joint processing of related applications prevents proper assessment of cumulative effects as required by the EEZ Act. Effects to be assessed must include any cumulative effect that arises over time or in combination with other effects. The effects of the current discharge in question should not be assessed independently of the effects from other inseparable activities of the programme.

The North and South Taranaki Bights are of critical importance to marine mammal conservation, notably the Māui's dolphin, blue whale and numerous other cetaceans, as we have noted in our previous submissions and you will hear more about later on. The recent unexplained deaths at sea, and subsequent beaching, of 13 male sperm whales in the area highlights both the lack of knowledge and perilous status of these threatened species. New Zealand has the international obligation to protect and promote the recovery of threatened species under the UN Convention of Biological Diversity and this is enabled by the EEZ Act.

We are particularly concerned with the impacts of cumulative effects from industrial activities combined with rapidly changing physical, chemical and biological oceanography of the Tasman Sea on these and other threatened species in the area. CJT submits that cumulative effects of climate change on the EEZ should be considered along with industrial activities. This will be explained in more detail in the presentation by Dr DeVantier.

Ocean temperatures have been rising at unprecedented rates, threatening marine ecosystems, fisheries and the life-supporting capacity of our environment as a whole. Temperature anomalies as high as 6 degrees Celsius above average have been recorded in the Tasman Sea. Such anomalies have cascading effects on food webs, biodiversity and threatened species, all part of the cumulative effects of human impacts on our ocean. In this respect, to be permitting yet more fossil fuel exploration and mining via this joint death by a thousand cuts approach to assessment at this late stage in the looming climate catastrophe is clearly not in the best interests of New Zealand.

The impact assessment being confined to discharges from deck drains on the drilling unit or units does not provide sufficient detail to enable EPA and persons whose existing interests are or may be affected to understand the nature of the activities and their effect on the environment and existing interests. The level of details provided in the impact assessment fails to correspond to the scale and significance of the effects as required under the EEZ Act. The information provided is uncertain, inadequate and not the "best available information" as defined in the Act section 61(5). The consent authority must make full use of its powers to request information from the applicant and favour caution and environmental protection; section 61(1) and (2).

Considering the scale of the programme, the inadequacy of the information, lack of proper cumulative effects assessment and the risks on marine biodiversity, ecosystem processes and New Zealand's international obligations to protect threatened species, CJT submits that the application be declined outright or deferred until all related applications are tabled and assessed jointly.

[1.10 pm]

If EPA or the Decision-making Committee insist that section 44 only applies if it receives at the same time more than one application, then it would appear to present an easy loophole for applicants to submit related applications separately to avoid joint processing and hearings.

DR DEVANTIER: Hearing in public of non-notified activities, paragraph 18. We are well aware that exploratory drilling for petroleum is classified as a non-notified activity under the Act. These regulations arose following the

amendment Act 2013 which was rushed through by way of a supplementary order paper thereby avoiding the select committee process and public submissions. The Ministry for Environment regulatory impact statement argued that the amendment would reduce costs to businesses and improve incentives to invest, a classic demonstration of how business interest trumps public interest and democracy. This amendment remarkably occurred only three years after the 2010 Deepwater Horizon exploratory drilling catastrophe in the Gulf of Mexico. That single incident cost 11 lives, billions of dollars in damages, and generational impacts to biodiversity and human health.

It is widely accepted that exploratory drilling poses much greater immediate risks than most other fossil fuel activities, at least at local to regional scale. These risks are amplified in the storm-lashed Tasman Sea and further amplified by New Zealand's lack of rapid response equipment.

The EEZ Act, section 52, enables the EPA to conduct hearings on non-notified applications, even if the applicant does not request one, if the EPA considers it necessary or desirable. Schedule 2(2) allows EPA to hold a hearing for a marine consent for a non-notified activity in public or in private.

In our letters to the EPA and the Minister for the Environment we also requested that public hearings be held on all the non-notified applications associated with OMV's EAD programme. On this, the Minister replied on 29 August that:

"For OMV's current marine consent application the Decision-making Committee appointed by the EPA will determine whether a hearing is necessary or desirable."

We reiterate here that OMV's proposed EAD programme is unprecedented. Twelve exploratory appraisal wells are to be drilled across six licensed areas spanning almost 9,000 square kilometres, not just one or two wells within a single licensed area, as in previous applications. Except for one well in the producing Maari Field, all the others are to be drilled in unknown, undrilled territories. Surely it requires in-depth assessment of the risks and impacts and thorough questioning through a hearing process. A hearing in public would at least provide some transparency, even though the Act does not allow public submissions on non-notified applications.

CJT is also well aware of the legislative restrictions placed on EPA by the Act and its subsequent amendments in respect of greenhouse gas emissions and climate change. Those restrictions stymie any effective action to address the major existential threat to our civilisation and,

indeed, Earth's biosphere more generally. OMV is a major part of that threat, being in the top 100 carbon majors globally.

CJT, along with other progressive future-focused organisations and individuals, remain confident that future amendments to the Act will redress these deliberate gaps.

The EEZ Act must be amended to include considerations of the effects of emissions on climate change and be brought in line with the forthcoming Zero Carbon Act, as indeed is required for the RMA and the Crown Minerals Act as well. New Zealand has the obligation to deliver its commitment to the Paris Agreement, which is designed to keep a global temperature rise this century well below 2 degrees Celsius above pre-industrial levels, and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius.

[1.15 pm]

At the nub of the issue is the overriding question: what is the point of more exploratory drilling given that there are already four times more known fossil fuel reserves globally than can be combusted if we are to have any hope of avoiding catastrophic changes to Earth's climate.

With multiple positive feedbacks on the climate system already in play, and more greenhouse gases pumped into the atmosphere last year than ever before, it is increasingly unlikely that targets set in the Paris Agreement will be met. This will result in trillions of dollars in economic losses and massive disruptions to weather patterns, coastlines, biodiversity, agriculture, human health and civilisation more generally. In this respect, the much-heralded royalty dollars and employment arising from this industry pale to insignificance. Its costs simply far outweigh its benefits.

The present economics of fossil fuels are false. So-called economic benefits fail to account for externalities. These are all the unaccounted issues that arise directly or indirectly as a consequence of fossil fuels that have an actual cost, even now or in the future. These are not properly accounted for, if at all, in the sale and use of fossil fuel derived energy. Nicholas Stern pointed this out very clearly more than a decade ago.

Fossil fuel exploration and mining must end while just transitioned to more sustainable energy, agriculture, transport, and economic systems beings in earnest. In this respect, industry spin re natural gas being a bridge fuel to a low carbon economy, is more hot air. A bridge to nowhere.

MR HILL: Thank you for that. Would you like to take questions for Climate Justice Taranaki before we move on to your other submissions?

DR DEVANTIER: Sure.

MS TEPANIA: I actually just have one question. You refer to at paragraph 23 the letter from the Minister. What did you take that response to mean, his reply, that the Decision-making Committee appointed by the EPA will determine whether it's necessary? Did you understand that to mean this committee?

DR DEVANTIER: I think so. I think the ball's in your court. That's how I would read it. I guess that can be explored further.

DR CRAUFORD: We're not the Decision-making Committee for that application, are we?

MS TEPANIA: I'm actually confused about that, so what I wanted to know was whether it was possible to obtain a copy of that letter that you've referred to. It's in your footnotes at number 13. Could we obtain a copy of that, so it's just clear?

MS CHEUNG: Yes, we can email that to Gen.

MS TEPANIA: I would need your initial letter and then the response.

MS CHEUNG: Yes. Personally, I think -- I have no legal background. I'm just interpreting things as --

MS TEPANIA: I am sure Mr Winchester will help us to see the wood from the trees.

MS CHEUNG: I think it means the Decision-making Committee who are responsible in assessing the other non-notified consent, is my guess. But how I see it, it means we have no say because we will never see it, so we don't know. The committee who deals with that consent application will decide whether there will be a hearing at all or whether there will be a hearing in public that we get to at this listen in, I think is my interpretation.

MR HILL: If you're happy to give us a copy it would be quite good to have a look at that. As I suspect, Dr Crauford, because we're not the DMC for any other hearing except this one, so clearly our delegations are to deal with this hearing and not any subsequent one.

It is clear, reading your submission, that level of frustration that you feel in terms of the process. I suppose our official response has to be we're bound by what the Act says. I think you know that. Section 44 has talked about if more than one, and only one application has been

lodged, so putting aside what we might think the structure of the legislation is, we're clearly bound by the law and I think we are in a space where we're having to deal with this application; it was notified, we're here, we're hearing from you, we have no influence then on the other applications, which will come. We certainly have no impact on what the outcome of those applications might be.

[1.20 pm]

MS CHEUNG: We understand from the Minister's letter that the marine consent application is already lodged.

MR HILL: Yes. OMV this morning have said to us that those applications are in and I think they're at the stage of a completeness check by the EPA. So you're probably familiar with that process where the application goes in. The EPA itself looks at the application, determines whether it's complete and therefore can go to the next stage of assessment in determining how it's going to be dealt with. So I think they're all lodged.

DR CRAUFORD: That application goes on the EPA website, doesn't it, so it will be publicly available? Is that right, Mr Winchester?

MR WINCHESTER: I believe so, Dr Crauford. Perhaps best put to the EPA staff about where that application's at and how it's treated. But it may be that until the end of the completeness check it may not be publicly available.

DR CRAUFORD: I think that's right. It doesn't go on the website until the completeness check is done.

MR WINCHESTER: Yes.

MR HILL: Do you have another question?

MS TEPANIA: No.

MR HILL: For me, I understand your concerns. I think it's more clarification of really understanding the role that we have to play, but I completely understand what you're saying.

So do we want to move on to -- Dr DeVantier, do you want to present your submission now then?

DR DEVANTIER: Absolutely. So I've got a few PowerPoint slides that I'd like to show as I go. I'm not going to read all of this. You're welcome to read it all but I'll leave out a few of the paragraphs. I'll note which paragraphs I'll refer to. I'll start off at the beginning of course, which I'm a marine scientist and my PhD is in marine science. The reason I note that is

because in a previous time that we were here with Shell Taranaki Limited, Ms Devine, acting for Shell, said that my PhD wasn't in marine science when, in fact, indeed it is. So I just wanted to clarify that for people in the room here.

As our CJT submission noted, we believe that it's incomplete at this point and that it would be a far more appropriate process if all of these notified and non-notified applications are processed jointly, but I understand the legislation is not necessarily going to allow that to happen.

I would travel down to the disjoint processing aspect, which again prevents proper assessment of cumulative effects on the environment and existing interests. The Act does make particular notice of that. The cumulative effects of the EAD programme, which the discharge of harmful substances is only one part, should not be assessed independently of the effects from other activities in the programme. It would also help to provide a better understanding of the cumulative effects of adding these activities to what is already a heavily industrialised region in a rapidly changing physical, chemical and biological oceanographic regime.

Cumulative effects, paragraph 7. EPA has permitted all fossil fuel mining applications in South Taranaki Bight under the Act to date, despite cogent warnings of the risks of cumulative effects on threatened species from independent cetacean specialists, including Professor Slooten and Dr Torres.

The South Taranaki Bight and eastern Tasman Sea region is of global significance for threatened species, for threatened cetaceans, and the cumulative effects on these and other threatened species are highly relevant under the Act. I'll just refer you to the first slide. It's actually old news now - the paper was published in 2011 - but it indicates that right offshore here and a point off the eastern coast of South America, on the Argentine border, are the two most diverse areas on earth for cetaceans.

That's a model but it's supported strongly by the data that DOC have collected over the years. This particular part of the world is the most diverse area. I think that's an important point and it's actually a remarkable fact and it's related to the incredible oceanographic richness that is driven by Cook Strait on the one hand, Farewell Spit on the other and the Tasman Sea in general.

[1.25 pm]

What is known about these cetacean species in STB waters, or globally for that matter? Do we have enough information about their biology

and ecology, including feeding, breeding and migration patterns, to be certain, or even confident, that allowing yet more industrial activity over a decadal time period will be benign?

According to the IUCN Red List, six species are endangered and one is vulnerable. I've put a table at the back of this presentation which actually lists the species that are of relevance here. You'll see that a number of them, bolded, are listed as threatened at a global level, and also on New Zealand's national assessment. There are some differences between the global assessment and New Zealand's assessment but they're relatively minor. The general agreement is that these species are at risk.

According to the Red List, six species are endangered and one is vulnerable. A further 18 species are data deficient on the Red List, meaning there is not enough known about them by the leading specialists globally or indeed nationally to enable a robust assessment. Furthermore, there are few if any reliable data on population sizes of cetaceans in the South Taranaki Bight prior to industrialisation on which to make useful comparisons, although we do know that the Māui dolphin population had crashed across its range, which includes South Taranaki Bight.

To date, assessments of cumulative effects for the various notified applications that have been consented under the Act have focused principally on those of the application at hand, not on the overall impact, including synergisms, of adding that application to those already occurring and predicted to occur in South Taranaki Bight. However, the Act states - and I'm not going to read all of these parts of the Act - in section 6(1):

"(c) Any past, present, or future effect; and (d) any cumulative effect that arises over time or in combination with other effects."

In section 33(3):

"(d) The importance of protecting the biological diversity and integrity of marine species, ecosystems, and processes; (e) the importance of protecting rare and vulnerable ecosystems and the habitats of threatened species; and (f) New Zealand's international obligations."

In section 28(1):

"Regulations made ... may identify and provide for areas of the exclusive economic zone or the continental shelf that: (a) are important or especially vulnerable because of their biophysical characteristics; ... or (d) are, or are likely to be, the subject of competition or conflict arising from the incompatibility of different activities; or (e) are

experiencing, or likely to experience, cumulative adverse environmental effects."

So I think that the Act provides for consideration of the cumulative effects that go beyond those of one particular instance, as is the case here with some discharges. It's actually, I think, here providing a very broad scope for interpretation of what the cumulative effects are and how that will impact on the environment.

At this point I'll continue. In respect of sections 6, 28 and 33, anthropogenic climate disruption to the EEZ should be considered under the Act as a major and growing cumulative effect. Our oceans are changing fast, with cascading effects through food webs.

I won't read the quote from Hoegh-Guldberg and Bruno that was published in Science in 2010, but I'll continue, if we can have the next couple of slides. This slide is illustrating some of these cumulative effects that we have happening offshore here right now. Over these last three summers we've had extreme heating globally, as you can see on the top left. That's an indication of the heat that was taken up by the ocean. This is actually last year, but similar patterns were prevalent in the previous two years, irrespective of whether there was an El Nino or not.

The Tasman Sea actually broke the records globally. It was the hottest anomaly for a period of time and, as we mentioned in the previous submission, more than 6 degrees hotter. What that means is there are significant cascading effects on food webs. That's showing what's going on with temperature.

[1.30 pm]

What that means, of course, is that there's more energy generally in the system. This is a recent graph showing the intensity of wind speed and frequency of extreme storms. This isn't going to turn around any time soon. These are going to get stronger, and they have been, and it's very clear now. There was some conjecture in the science literature a decade ago that we weren't seeing this pattern, but the pattern has now emerged and it's very clear and very strong.

Just to illustrate that locally, we've had in the last year here three ex-tropical cyclones that have charged down into the Tasman Sea and in fact pretty much ran over the top of the mining lease area, with, as you can see -- that's Port Taranaki there. I guess that's an image for the future, really, because that's just showing that our seawall defences are not going to stand up to what we're bringing on.

In my interpretation, and given what I believe is quite broad latitude under the Act, under those three sections, these are cumulative effects that we should be considering when we are thinking about allowing yet more mining offshore here.

I'll just go now to paragraph 16. South Taranaki Bight is globally important for cetaceans in large part because of its productivity, evidenced for the baleen whales by the occurrence of krill Nyctiphanes australis. Krill populations, and hence those of their predators, shift seasonally throughout the Bight, related to upwelling, sea temperature and the presence of phytoplankton. There are a number of references. I've given references to most of this. Krill are at significant risk from increasing sea temperature. This is a quote from Johnson et al, published in the PLoS 1:

"Reduced nutrient availability in warm years leads to reduced production and a shift to smaller phytoplankton species, resulting in a drastic reduction in the biomass of larger zooplankton, especially krill."

Sea temperatures from global warming, driven by fossil fuel combustion, are causing our ecosystems to collapse, and at very basic levels. That cascades up the system, such that we will no longer be having the food to supply our threatened species, which we have an obligation internationally to foster.

It's not just about temperature, though. Ocean acidification is another major threat and that is another cumulative effect that is being driven by fossil fuel combustion on the oceans. From Ocean Acidification, a paper in 2013:

"Unless CO_2 emissions are mitigated, the Southern Ocean krill population could collapse by 2300 with dire consequences for the entire ecosystem."

Yet another cumulative effect is seismic surveys. There is a large and growing body of peer-reviewed science that has demonstrated harm from seismic blasting to cetaceans. Intense noise from blasting travels for many kilometres. I know that DOC have a process in place where they have observers, but the conditions offshore here are very changeable and many of these larger whale species can stay underwater for significant periods of time.

If you note on the left of that presentation, the intense blasting is travelling for distances of up to about 5 kilometres underwater. The noise levels are up over 100 decibels, up to 160 decibels for 5 kilometres away. The actual received level is travelling for over 100 kilometres. Again, this is not directly relevant to what you are here to decide on, but it is a cumulative effect that we are putting into this

environment. We have just had the Amazon Warrior offshore here for three months.

A case in point: in May-June 2018 at lease 13 sperm whales, most if not all males, died at sea in the area, from presently unknown causes. Record heating of the Tasman Sea and months of seismic blasting from the Amazon Warrior in the preceding summer, along with other industrial activities, are obviously not conducive to a harmonious environment for these threatened whales. It is likely they were under significant physiological stress which may well have contributed to their deaths.

[1.35 pm]

Sperm whales and other toothed whales use echolocation in hunting, in a sense seeing with sound. Exactly what impact on feeding months of extremely loud, repeated blasts from the Amazon Warrior had is not known, but on balance of probabilities it is likely to have been detrimental. Obviously, I am speculating here. Why is that? Because the relevant studies have not been done. Sperm whales dive to significant depths for extended periods and hence may not have been sighted by the observers on board the Amazon Warrior, yet the Department of Conservation claimed in Stuff media that it was extremely unlikely that the seismic blasting caused their deaths, but this is not known for a fact. Indeed, it may well have contributed to them, although the exceedingly high temperature and related disruption of food webs, all part of the cumulative effects of human activities locally, regionally and globally, may also have contributed.

South Taranaki Bight is heavily industrialised with fisheries, fossil fuel exploration and mining, and with seabed mining previously permitted; now knocked back for the time being by the High Court and we're waiting to see whether appeals will happen on that, but it's still not settled. This is a slide from Elisabeth Slooten. She provided it at the TTRL hearing, the original one - no, the second one, I'm sorry - and you can see there that there's not a lot of the South Taranaki Bight or, indeed, the west coast of New Zealand that's not got some industrial activity happening.

Adding to these multiple impacts is the recently discovered fact that most marine mammals have lost the gene that provides the main defence against neurotoxicity from pesticides used widely across New Zealand. It's like what else can we do to these poor things? Given all these activities, in my view the regulatory approach to the ecosystems and threatened species of South Taranaki Bight is more akin to a sacrificial zone than a globally significant hotspot for marine mammals and other threatened species; this despite explicit acknowledgement of the precautionary principle. Climate disruption, along with all the other

cumulative effects, will increasingly impact this oceanographic setting, the food chains on which it is built and the trophic cascades that will follow, although I was unable to find any published work specific to South Taranaki Bight, another apparent research gap.

In the present case, OMV plans to drill 12 exploration appraisal wells across six licensed areas off the Taranaki coast and discharge undetermined quantities of unidentified harmful substances at sea. International experience has demonstrated that there can be devastating environmental and socioeconomic impacts across huge areas from exploratory drilling.

Just to summarise, I think there's been a failure of prudent governance in this case. I hold serious concerns re the legislative process that resulted in the EEZ (Amendment) Act 2013 and subsequent regulatory changes in 2014 that enabled non-notification of exploratory drilling. Use of a supplementary order paper, thereby avoiding the select committee process and public submissions, was not, in my view, good or prudent governance, particularly given that it occurred only a few years subsequent to the disastrous 2010 Deepwater Horizon exploratory drilling catastrophe in the Gulf of Mexico.

Exploratory drilling is inherently high risk as demonstrated by the Navigatus 2015 report to the Ministry of Transport. Drilling activity presents more risk than ongoing production activities. Given this, it is imperative that the required levels of assurance are increased before drilling commences to better reflect the potential financial implications. But my own view is that given that there are already far more known reserves of fossil fuels that simply cannot be burnt if we are to avoid catastrophic levels of climate change, no further exploration should be permitted to occur.

I'll leave it at that. Thank you.

MR HILL: Thank you, Dr DeVantier. Do you have questions?

DR CRAUFORD: No.

MS TEPANIA: No.

MR HILL: I have one. Wearing your submission hat here, clearly your expertise in this area -- and I know you're not putting yourself up as an independent expert here, but I'll put that aside. You sat through this morning. You heard OMV's experts and you probably would have read their evidence.

[1.40 pm]

What came up through most of that evidence was the effects of this proposal -- the words used mostly were "de minimis" or "negligible". Looking at it in isolation - and I'll come to the cumulative issue in a minute - do you agree with that? Do you accept in the narrow scope of this application that's true or do you have a different opinion?

DR DEVANTIER: I accept that it's true if all things go according to plan. If everything works as it should, then yes, there's only going to be a trace amount of an unknown toxic substance that's going to be captured. A question that I've always had in my mind: well, if it's captured, why do you have to put it into the sea? You've already captured it. There's only five cubic metres of it. Why not bring it back to land where it can be dealt with more appropriately? We've always had an issue -- we've always had an approach to the ocean that it's huge; we're never going to impact it. Dilution will be the solution to pollution, and that runs through our industrial world. If all things work, then it is only a very small part of this general issue.

MR HILL: That's just triggered another question. What Mr Winchester told us, and I think you were here when he gave his legal submission, says almost that this is a precautionary consent and they may not need to use it and they may be able to capture it and take it away, but in the event that they might need to discharge, do you accept that as a general proposition that that's how it might work if a consent were granted?

DR DEVANTIER: Well, I guess so, if everything goes according to plan. My concern is that things don't always go according to plan and unfortunately we've got a really wild environment offshore here. I think we've already had three small - thankfully - spills, one of which reached the Kapiti Coast from the Maari platform.

MS CHEUNG: It's in my ...

DR DEVANTIER: Sorry, Catherine is going to deal with that. It's kind of, "Trust us and everything will be okay" but often it's not.

MR HILL: Coming to the cumulative issue - and I'm sure legal counsel in the room can talk chapter and verse about cumulative effect - I think the way you've framed it, even though you might accept that the effects of this proposal if it goes to plan would be minimal, when you put it together with all the other effects there might be a cumulative effect. But do you want to give an opinion? There might be a cumulative effect but at what scale? Is it significant in your view? Is this the one that breaks the camel's back or is it more this position of it would be better not to have anything?

DR DEVANTIER: I think we're well past breaking the camel's back. I think the camel's back was broken maybe two, three decades ago. Certainly, around the

year 2000 was maybe the best chance that we had of actually slowing this thing down. So, I think the camel's back is long gone. We should not be sitting here doing this now, Commissioner, honestly. It is way past the time that we should be doing all these kinds of things, particularly when the big issues, the exploratory drilling, are going to be non-notified.

MR HILL: Right, so following that logically through, therefore, in your view, probably any additional effect of this cumulatively is unacceptable is the argument that you're really putting forward?

DR DEVANTIER: Absolutely, yes.

MR HILL: Okay, understood.

DR DEVANTIER: I think the fact that we lost 13 male sperm whales offshore here right in the very area this last summer is -- what more do we need to know? We don't even know what caused the deaths but, as I pointed out, they've been suffering through three huge summers of heatwaves. Krill we know collapse under high temperatures, so the food webs are unravelling before our eyes, yet we continue with business as usual. We have business as usuals come out today, and we can't afford it any longer. That's the reality, unfortunately. I wish it wasn't that way. We've had an incredible ride with fossil fuels. I'm not going to criticise the fact that it's given us the civilisation that we've got, but we have not moved on in an appropriate way.

MR HILL: Thank you for that. I think the position you're taking is very clear to me. Is there any other follow-up? No. That's great, thank you. Thank you very much. Ms Cheung, we'll come back to you.

MS CHEUNG: Thank you, Chairman. I'm no doctor but I am a mother and I do love the ocean and the world that it provides, life on earth and our daughter and for the future generations. While I have the floor, if I may I would just say one thing about dilution. If dilution really works, why are we having plastics in fish? Why? There's a whole huge ocean there. Why would we be finding plastics in fish?

[1.45 pm]

The other thing about impacts is we don't see it now; we don't see it next year; we might not see it in the six years that the drilling and discharge programme happens. It could be decades later the next generation will be -- I don't know what the consequence is. We just do not know and I don't think that we should be taking that risk. I'm sorry for digressing.

In my written submission, I asked that the OMV discharge consent application be refused outright or deferred until all related applications associated with the drilling programme were lodged and could be assessed together. Having read some of the OMV and EPA-commissioned reports and seeing that the EPA is unwilling or unable to defer processing of the current application, I am asking that the current application be refused in full and here are my reasons.

Fossil fuel exploration, mining and consumption is the key driver of climate change. The environmental, social and economic costs of climate change are enormous. New Zealand must fulfil its commitment to the Paris climate agreement and go beyond that to be a progressive and responsible nation. The uncertainty and lack of information is so serious that the application should be refused. Neither the mobile oil drilling unit or units nor the names and amounts of chemicals and harmful substances to be used and discharged have been identified. I can't accept the assessment presented in the Stantec report that uncertainty, "is not of itself a barrier to granting consent to this application". Under the EEZ Act, section 61(2), the DMC must favour caution and environmental protection if the information available is uncertain or inadequate. Under section 61(4)(a)(ii) an adaptive management approach cannot be considered for marine discharge consent.

These legal requirements are clearly stated in the EPA key issues report. The EEZ Discharge and Dumping Regulations require that an emergency spill response plan be submitted to the EPA for approval at least two months before operations begin. Section 24(6) requires the applicant to consult any person with an interest in the vicinity of the installation that is likely to be affected by a spill into the sea. That all sounds good. However, I don't accept the assessment in the Stantec report that the required ESRP procedures could provide key mitigation or control mechanisms around the storage and use of harmful substances. I can't buy into the "as low as reasonably practicable" - ALARP - approach to reducing environmental risk and providing mitigation or control mechanisms around managing uncertainties and harmful substances as advocated by OMV's witness Matiu Park.

Having done research for Climate Justice Taranaki focusing on the fossil fuel industry for almost eight years, I have no faith now in the ESRP process or indeed any government oversight on this industry. On the latter, the Parliamentary Commissioner for the Environment in 2014 warned, "Even without the potential for rapid growth, I have not found it to be adequate". Most recently, I have been shocked by the news concerning toxic chemicals in firefighting foam that have contaminated our groundwater, aquatic species and threatened people's health. It is outrageous for Shell to be using for years foam containing PFOS chemicals that have been banned in New Zealand since 2006.

Two streams in Taranaki are known to be contaminated. The level of PFOS contamination in eels in the Ōaonui Stream, which receives waste discharge from Shell's Māui production station, was reported to be 80 times the food safety trigger. Wood Group Training, another company that discharges waste into the stream, refused to reveal test results to the public quoting requirements of confidentiality.

[1.50 pm]

The groundwater at five Taranaki sites at least is also known to be contaminated. Radio NZ reported that the EPA was unaware of any banned chemicals being used in the country and the EPA had no comment as to whether Shell could or should be prosecuted. Is this level of government oversight and transparency sufficient to ensure that people and the environment are not harmed by oil companies and other industrial corporations?

I am dismayed by some of the statements made by OMV witness Gabriel Selischi. The witness wrote that, "OMV has an excellent track record in HSSE compliance" and that OMV had a vision of "zero harm - no losses", but in 2010 OMV had two oil spills from its Raroa vessel at the Maari field in just over a month, affecting areas as far as the Kapiti Coast. The cause was reported to be a faulty joint on a pipe. Then in February 2015 another spill occurred while transferring oil from the Raroa to a tanker due to a leak in the transfer hose. Then in November 2016 the Maari oilfield had to be closed down and staff evacuated as a crack was found on the wellhead platform. OMV reported that the crack was caused by fatigue and the combined action of wind and wave although it was also unable to reject the possibility of damage from the 7.8 earthquake that hit the country the week before. I think we have just heard that we are going to have more wind and wave and the time for another earthquake is probably not too far. No investigation was conducted by WorkSafe or Maritime New Zealand.

In the year that followed, at least four other dangerous occurrences and incidents were notified during OMV operations. Rather than earmarking huge money on drilling more wells in unknown territories all over the Taranaki Basin and discharging toxic chemicals into our ocean, OMV should be spending real money in maintaining its ageing infrastructure with climate extremes in mind and not just for Maari but the other assets that it has bought from Shell. The PCE explained:

"The bigger challenge comes once a well has been abandoned. The likelihood of an abandoned well leaking increases with its age."

If OMV is truly committed to responsible and sustainable business behaviour and building trust through stakeholder relations, it would also offer to pay for the full costs of decommissioning these

installations. Such installations overseas cost between NZ$100 million to NZ$1 billion to decommission. The New Zealand Government is liable for tax and royalty rebates equivalent to almost 50% of the total cost while it tries to play catch-up with the regulations. In terms of accountability, OMV has a dubious reputation overseas, notably in Pakistan where it allegedly misappropriated billions of rupees in 2014.

Here is the inconvenient truth. Fossil fuel companies are known to undertake the "divide and conquer" strategy when trying to gain access into communities and their land to drill for oil and gas. A similar strategy seems to be happening here as companies like OMV divide up their proposed activities on paper and apply for individual consents for related activities separately. OMV has this huge drilling programme but it only has to go through a single notified discharge consent application for some trace amount of harmful substances. Consent applications for the dangerous drilling activities and other toxic discharges are non-notified. The public won't know and has no say in these. Still I ask that these non-notified applications be heard in public as allowed by the EEZ Act. You'll probably tell me that it is not up to this DMC, which is only concerned with the current discharge consent application, and what I ask is irrelevant but I say: if I don't ask now when do I get the chance?

It is common knowledge that exploratory drilling is the most risky stage of all upstream petroleum activities. The Navigators Financial Assurance Review commissioned by MBIE and the Ministry of Transport emphasised that and Dr DeVantier made that quote.

[1.55 pm]

This review was based on 200 spill trajectories and it used Maari's crude proxy as the oil type. It also concluded:

"Deepwater Taranaki has the highest assessed damages. This reflects the more persistent nature of the modelled oil for this well, the estimated spill volume and the estimated volume of oil reaching the shore. Due to the persistence of the oil, the oil remains on the sea surface for longer, leading to larger fisheries closures which is reflected in larger damages. The estimated median damage is $926 million."

I put a graph from this review in the submission and you can see the damage in Taranaki. It is even bigger in places like Canterbury and the Pegasus Basin where they're thinking of exploratory drilling too.

The fact is that the environmental and socioeconomic costs of drilling a dozen exploratory appraisal wells across six licensed areas spanning almost 9,000 square kilometres and the associated discharges of drill fluids and production water are unavoidable and hugely significant.

The safest strategy for the company and a government under industry pressure is to make sure that applications for these activities are lodged separately and processed quietly without public scrutiny, as seems to be allowed for the EEZ regulations. The law and regulations have been written and amended to cut out the public. The EPA process we get to partake in now is nothing more than a token of public involvement and a rubber-stamping exercise for big oil. This is the inconvenient truth that I believe in.

I am utterly disillusioned by the law and how government agencies kowtow to industries and corporations rather than follow the principles of greater good and serve the people. I believe such disillusion is the reason why there are so few submitters here today to speak against the application, not because they are supportive of it. I speak here on behalf of them also to plea that you refuse OMV's current application. Taranaki has long been the sacrificial zone for the oil and gas industry. We are now facing an unprecedented crisis, dangerous climate chaos that is threatening our lives and livelihoods and those less privileged. It is time to do things differently, responsibly and sustainably for the sake of our future and the next generation's future. Thank you.

MR HILL: Thank you, Ms Cheung. I don't really have a question. I think you were clear. I suppose it is that comment you made, this is on page 12, "You'll probably tell me this is not up to the DMC to make that decision". I think we've covered that. I suppose the only thing I can say to you is I think you're clearly placed on the record that you are asking for whatever comes next to be held in a public forum. We are not able to make that decision but all I can tell you is on the record you've made that statement quite clear. The alternative approach is you can write to the chief executive of the EPA requesting it and then again it is clearly informing and part of the -- on the EPA record. So all I am saying is there are other routes but we can't guarantee that for you, sorry.

MS CHEUNG: Is there a possibility of legal counsel, that Commissioners might seek legal advice such as the interpretation of section 44?

MR HILL: That is why it would be quite useful to get that letter that has been sent to you and also in terms of 44, Mr Winchester might want to cover that in his closing statement. But as I read the section 44, it seems to me, and I'm not a lawyer, but it seems to be quite clear. It says:

"Joint processing of decision-making on related applications, this section applies if (a) the EPA receives more than one application."

I understand that they only received one application.

MS CHEUNG: But the EPA has received more than one now.

MR HILL: Now, exactly.

MS CHEUNG: Before the hearing. So I'll invite Mr Winchester, he might want to cover that off in his closing statement tomorrow, unless he wants to make a comment now. But as I read it, it seems to me that - and I know you disagree - that OMV has exercised a legal right that it has to lodge this application solely. Mr Winchester, do you want to make a comment now or do you want to make a comment later? Or no comment?

[2.00 pm]

MR WINCHESTER: I'll cover it in my reply, thank you, sir.

MR HILL: Okay, fine. So Mr Winchester will cover that when he gives his closing statement. Any other questions?

Thank you very much for coming in. Thank you very much for the presentation and the efforts you put into it. I know it's not easy. Thank you very much.

That's all the submitters that we had listed today. No one else has turned up that wasn't expected to be heard? No. What we're going to do, do we need to close today? No, we'll do that tomorrow. We're not closing. I'm just thinking about from the protocol point of view. Do we need to finish off today or we can just deal with that tomorrow?

MS TEPANIA: (Māori content)

MR HILL: Tomorrow's fine. I saw you sitting there and I thought you might be expecting me to ask you to do something. Tomorrow, very good. Thank you. Thank you, everybody. That concludes today's session so we'll adjourn the hearing and we'll reconvene tomorrow morning at 9.00 am. We have two submitters listed to be heard: Frack Free Kapiti, who are going to be coming in by Skype, and then Urs Signer, and then we'll go into the EPA, and then into reply statements. So 9.00 am tomorrow morning. Thank you, everybody.

MATTER ADJOURNED AT 2.02 PM UNTIL WEDNESDAY, 5 SEPTEMBER 2018