

**BOARD OF INQUIRY  
WATERVIEW CONNECTION PROPOSAL**



**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of a Board of Inquiry appointed under s149J of the Resource Management Act 1991 to consider applications by New Zealand Transport Agency for resource consents and notices of requirement for the Waterview Connection Proposal.

**THE BOARD OF INQUIRY**

Environment Judge L Newhook

Commissioner R Dunlop

Alan Dormer

Susan Jackson

Sandra Hardie

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**Transcription of HEARING  
Day 11 – Wednesday 9 March 2011**

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**COURT RESUMES ON WEDNESDAY 9 MARCH 2011 AT 9.35 AM****THE COURT: JUDGE NEWHOOK**

Ms Gruger you're going to present your representation to us this morning I think.

5

**MS GRUGER READS REPRESENTATION – SPRINGLEIGH RESIDENTS' ASSOCIATION**

"...the Oakley Creek."

10 **THE COURT: JUDGE NEWHOOK**

How many members do you have?

**MS GRUGER:**

15 About 45, but some are family so it's – but I would say 45, yeah. I haven't got my folder with me, sorry about that.

**MS GRUGER CONTINUES READING REPRESENTATION**

"When we do... on community participation."

20

And I would like to say at this stage that we've slightly shortened our submission by five pages because a number of concerns had been raised already.

**THE COURT: JUDGE NEWHOOK**

25 That's good, and I think you've gained an understanding that we have been making a point of reading everybody's submission that was lodged last October and reading everybody's evidence that's been filed. So we think we're pretty much up to speed with what you've been lodging with us, and I appreciate your comment about the five pages because you'll also  
30 understand, even though you haven't been here, perhaps you're looking at the website and following our progress that there's been a great deal of work

been happening in this courtroom and I think it's probably fair to say and I'm going to watch their faces as I say this. I think the representatives of NZTA might actually have found that their witnesses and their legal representatives hadn't had a necessarily easy time as we have been going into things very  
5 closely. So you'll forgive me if once or twice during your presentation I do interrupt you and say, "Well actually, that issue we've driven a long way down the road, dragging further information of the concessions and the like out of witnesses." We've been working pretty hard. So do continue.

10 **MS GRUGER CONTINUES READING REPRESENTATION**

"The applicant bases... Westgate Shopping Centre."

**0945**

**THE COURT: JUDGE NEWHOOK**

15 Can I just interrupt you there Ms Gruger?

**MS GRUGER:**

Yes.

**THE COURT: JUDGE NEWHOOK**

I am just struggling with one thing and I'd like to give you the opportunity to  
20 address it.

**MS GRUGER:**

Yes.

**THE COURT: JUDGE NEWHOOK**

It is this, I know that one of the things of which you are very critical in terms of  
25 this application is the sheer size of the information contained in the application, the AEE.

**MS GRUGER:**

Yes.

**THE COURT: JUDGE NEWHOOK**

The evidence and the like, there are many, many, many volumes. Surprisingly they fit into a little electronic gadget like this which some people find helpful and other people can't access, but that's the way of the world at the moment. But what intrigues me a little bit is that, is that while you are critical of the, of the mass of information that has been provided, that you appear to be saying to us that what the applicant should do is provide, I infer, another enormous mass of information that has got to turn around and justify the economic basis for all of the industries that it, in a general sense, identifies as potentially able to benefit from a road like this. Now, wouldn't we wind up instead of with about 60 to 70 volumes of material, perhaps double that, and what would that do for people like those who are parties, let alone ourselves?

**MS GRUGER:**

It would increase the volume, that's no doubt, but the economic factors are critical to the argument of the Owairaka community and, as such, then the applicant repeatedly states that the Owairaka community has to make sacrifices for the sake of the national interest. That it is very small compared to the national interest. So we've looked into the economic reports and found that the national interest is actually not reflected in them as such.

20 **0955****THE COURT: JUDGE NEWHOOK**

All right well we'll note your answer, I'm not quite sure that it addresses my problem, but anyway we'll factor it all in, we can promise you that. Do continue, sorry to interrupt.

25

**MS GRUGER CONTINUES READING REPRESENTATION**

"The effects of... from the application."

**1005**

30 We repeat this because it is a recurring theme for the application, that the applicant considers that, where the borders of SF20 stop, Owairaka starts

and it's something completely different when in effect Owairaka will now be encircled by SH20.

**MS GRUGER CONTINUES READING OPENING REPRESENTATION**

5

“The legal opening... of amenity value.”

**THE COURT: JUDGE NEWHOOK**

Can I just get you to pause there and help me with something again?

**MS GRUGER:**

10 Yes.

**THE COURT: JUDGE NEWHOOK**

Would you like to go over to the map that's on the wall across there and indicate with your hand please the area of Owairaka that you have described in your paragraph 7 in particular, the streets, and identify the streets in particular, that you say are impacted in this way? Can you just stand back a little bit so I can see through you, thanks.

**MS GRUGER:**

Right, it actually only comes through here.

**THE COURT: JUDGE NEWHOOK**

20 Yes.

**MS GRUGER:**

And basically this extension of the park, of the neighbourhood –

**THE COURT: JUDGE NEWHOOK**

There's Alan Wood through there?

25 **MS GRUGER:**

Yes, well no, it would be situated next to the motorway, with the main road off-ramp being here, which is kind of sandwiched between –

**THE COURT: JUDGE NEWHOOK**

Yes, now just look at the map there, you see down to the bottom of the project you can see Maioro Street?

**MS GRUGER:**

5 This one here?

**THE COURT: JUDGE NEWHOOK**

Yes, yes, now that's the current terminus of State Highway 20, as formed pursuant to the Environment Court's decision.

**MS GRUGER:**

10 Yes.

**THE COURT: JUDGE NEWHOOK**

And then to the north west of that, you agree that's, that's part of the present project, you can identify that?

**MS GRUGER:**

15 This part of the Owairaka project?

**THE COURT: JUDGE NEWHOOK**

Yes, yes. Now, now I want you to indicate with your hand please on the map, the area that you have been describing in your representation to us, as being the area of streets in Owairaka that will be impacted?

20 **MS GRUGER:**

There's a wall on this part of New Windsor.

**THE COURT: JUDGE NEWHOOK**

Yes.

**MS GRUGER:**

25 This will be impacted on because (inaudible 10:10:59) so rising above the motorway. Then these areas, some are including those areas along the

(inaudible 10:11:13) because the (inaudible 10:11:14) property, that they are sort of overlooking (inaudible 10:11:23) considerable noise pollution.

**THE COURT: JUDGE NEWHOOK**

We, we are well aware of the act, of the nature of the concerns, yes you have  
5 made those points very strongly in a number of places and we are very familiar with, with what you have been writing to us, but I just wanted you to have the opportunity to go to the map to identify geographically these areas that you are currently talking about as being impacted, so thank you for those indications.

10 **MS GRUGER:**

There's also, talking to the sort of really small residential streets that are normally quiet and (inaudible 10:12:01) amenity value (inaudible (10:12:03) that were largely sort of located there in the vicinity of the (inaudible 10:12:10).

**THE COURT: JUDGE NEWHOOK**

15 All right, yes thank you for that help. Do continue, I think you were on page 12, the top of page 12.

**MS GRUGER:**

I thought I was on page 13, point -

**THE COURT: JUDGE NEWHOOK**

20 You tell which paragraph you wish to resume at.

**MS GRUGER:**

Point 43.

**THE COURT: JUDGE NEWHOOK**

Forty three, sorry you are right.

25

**MS GRUGER CONTINUES READING OPENING REPRESENTATION**

“The Owairaka town ... the wider society.”

- 5 And I am stressing these things a little bit because the – one system is so overpowering that nation – matters of national significance are so important that in reality Owairaka makes, and it takes huge steps to overcome issues societies generally fight with.

**1015**

10 **THE COURT: JUDGE NEWHOOK**

Are you telling us that alcoholism is greater problem in Owairaka than it is in other parts of Auckland?

**MS GRUGER:**

- 15 No but it does occur in parts that are, for example, connected to the writing of the school, like it is at (inaudible 10:15:35) school and often in these areas associated with lower unemployment, alcoholism and to degree they do occur, but in Owairaka there's a distinctive sector of the community that tries to overcome –

20 **THE COURT: JUDGE NEWHOOK**

I see, yes.

**MS GRUGER:**

- issues.

25 **THE COURT: JUDGE NEWHOOK**

I understand what you're saying.

**MS GRUGER:**

It is to sort of identify what kind of community it is.



**THE COURT: JUDGE NEWHOOK**

Yes, but that will be found, won't it, in other parts of the Auckland community and in other towns and cities and rural areas of New Zealand? It's not a special characteristic of Owairaka is it, in comparison to say parts of South Auckland or West Auckland?

**MS GRUGER:**

I'm not familiar with these parts but Owairaka (inaudible 10:16:19) organises itself around religious lifestyles and...

**10 THE COURT: JUDGE NEWHOOK**

Yes, yes we've observed that in our visit to the community. Thank you.

**MS GRUGER CONTINUES READING REPRESENTATION**

15 "The migrant communities... as H20 wasn't."

Mainly it is not required under the statute but in the case Owairaka it could have helped the community considerably.

**1020****20 MS GRUGER CONTINUES READING REPRESENTATION**

"There are effects... of the proposal."

**1030**

And we do realise that the applicant has made a suggestion in this direction in the recent supplement.

**MS GRUGER CONTINUES READING REPRESENTATION**

"The lengths of... and rock crusher."

**30 THE COURT: JUDGE NEWHOOK**

Yes, I might just offer you a thought here Ms Gruger on this important matter of noise just by way of example of some of the work that's been taking place

in this courtroom. And it's been on the basis as I've been outlining to the parties that nobody should assume that consent is forthcoming, but it's important to work away on aspects of mitigation and draft conditions for consent as part of working out whether consent is capable of being granted, and if it is to be granted then on what terms. And this area of noise is an example where we've been undertaking a lot of work. Now I'm making an assumption that you've been following our work on the website where a transcript of the hearing's been published and other documents like directions and so on have been published. But whether or not you have, yesterday afternoon an extensive piece of work occurred in here that isn't yet appearing on the website and that you may not have heard about. We went to the lengths of swearing in all three noise experts, one called by the council, one called by the applicant and Mr Malcolm Hunt who's the Board's section 42A advisor. And they all sat over there in the witness box and a technique that the Australians call "hot tubbing" of expert witnesses. And we had provided them with some questions some days ago and we expected them to answer them, and we finished in here quite late actually. We had an extensive session grilling closely about these very things. And I can say to you that, and again this is not so as to pre-empt any question of whether consent can be forthcoming for this big proposal, but on the issue of noise we believe that we managed to establish a number of things that move significantly beyond what you'll find in the AAE and even in the rebuttal statements of evidence and even, to a degree, in the section 42A report from Mr Hunt. So we've been endeavouring to drill down extensively and at times, some parties might think, quite aggressively into some of these issues. And I wanted you to know what happened yesterday because you mightn't have caught up with it.

**MS GRUGER:**

No, no I probably went to the copy shop.

**30 THE COURT: JUDGE NEWHOOK**

Yes okay. All right no I don't think this stuff's on the website just yet. It'll be there later today. All right, I just wanted you to know this. Good, thanks. Do continue, we're up to accumulative effects.

**MS GRUGER CONTINUES READING REPRESENTATION****1040**

“It was first... the single components.”

5

And that’s what I tried to somewhat explain at the map that where it’s currently quite a residential small suburb, it will be dissected by motorways.

**MS GRUGER CONTINUES READING REPRESENTATION**

10

“In addition the... authorises the process.”

**THE COURT: JUDGE NEWHOOK**

Well Ms Gruger, you need to understand and I thought we’d communicated this, that the process has not occurred under section 142. It’s an application that was lodged with the EPA under section 145 and matters have proceeded in accordance with sections 145 and following, and not in terms of section 142. I just have to say to you that this is a major misconception that you have about the process. You should also understand that we have no control over the minister, equally the minister has no control over us. The EPA has no control over us and we have no control over the EPA. We are a completely independent body, and I know that – I think it’s in section 6.9 of your own statement of evidence, you make the assertion that you are not satisfied that there is sufficient independence between this (inaudible 10:43:04) Court of Inquiry, the Minister of the EPA. So an examination of the important parts of section 6AA of the Act pursuant to the 2009 amendment. In particular, section 145 and on through sections 149, 149(l), 149(p), we almost have them travelling through our minds in our sleep, makes it very clear that we once the application goes to the EPA, the EPA has the task that we don’t control because we don’t exist at that time, of making a recommendation to the minister, the minister then has the task of deciding whether the matter will go to a Board of Inquiry, and then the minister starts looking for members for a Board of Inquiry. Once found, they’re appointed and the process is underway from the time of public notification. And we are, like the Environment Court,

should the matter go there as an alternative route, a completely independent body, that is completely free of any direction from the minister. We're sitting here with our own thinking as the parties have experienced in the work that's gone on in this courtroom, but you just need to understand that these processes are expressed rather elaborately in the Act, but they're there and they're quite understandable and they're all quite separate.

**MS GRUGER:**

In this case I jump straight to point 91.

10

**MS GRUGER CONTINUES READING REPRESENTATION**

"From some of... the Owairaka community."

**THE COURT: JUDGE NEWHOOK**

15 Sorry I don't want to interrupt too much, but I want you to know that we're also listening carefully to what you're saying and I want to offer you this, in relation to paragraph 91, open space is another area where we have been, I'll put it in a very colloquial sense, giving the applicant a particularly hard time.

20 **MS GRUGER:**

Yeah I've seen that in the supplementary records, yep.

**MS GRUGER CONTINUES READING REPRESENTATION**

25 "However we're still... a territorial authority."

And our concern is really that a large sector of the community is just not able to enter this process.

**THE COURT: JUDGE NEWHOOK**

30 Well we're very aware of your concerns about this. You have written about them extensively and we have been paying close attention to them, but you do need to take on board my comments about the extent of this Board's

responsibility. We didn't even exist, the cordon process happened and it was the responsibility of in part the EPA, in part the minister's and it occurred and we came into being later as a Board. So we hear what you say but you need to understand that that wasn't our responsibility, there's no control over it that we can offer you or the applicant or anybody else and that is what we, along with you, have had to cope with since. That's how the legislation is.

**MS GRUGER:**

The next points that I can shortcut here are 95 to 97, apply on a similar level to the Auckland City Council, which we tried to repeatedly gain representation on behalf of the migrant community, which it did not enter. It may mean the Board needs to be aware that there are communities out there and they're just not represented in this process.

**THE COURT: JUDGE NEWHOOK**

I'll offer you two thoughts there. First, that we made a particular point of asking the applicant's witnesses about steps that they took during the consultation process, during the meetings in the community and the distribution of written materials and so on to address people for whom English isn't a first language and who are of different cultures. So we grilled them on that and we have a set of answers, we don't know what our answer will ultimately be as yet but we made a point of finding out about all that. And the second thing that I will offer you is that the council representatives are aware perhaps a little painfully for them, of concerns that we expressed a few days ago in here about the extent of some aspects of the council involvement in the case. Those are on record and so we are very aware of them.

**MS GRUGER CONTINUES READING REPRESENTATION**

"Is the designation... NZTA are declined."

30 **1050**

**THE COURT: JUDGE NEWHOOK**

Thank you very much for that representation which you have presented in a skilled way and, indeed for myself and I think probably for all of the members of the Board, I want to commend you for your extensive consideration of the quite voluminous materials that we have all had to get to grips to with, and indeed, clearly from reading your evidence and from hearing you today also, clearly extensive research and reading and build of knowledge to bring to us, even well beyond the quite voluminous materials that, as I say, we've all got to grips to with. So we commend you for all that.

10 **MS GRUGER:**

Thank you.

**THE COURT: JUDGE NEWHOOK**

Now do members of the Board have any questions in elucidation of any matters for Ms Gruger?

15 **QUESTIONS FROM THE BOARD: MR DORMER**

Q. On page 20, towards the top, just at the end of paragraph 74, you say that the use of the ramps will only ever be very short term in nature and I, sorry, I can't get my head round that?

A. They will be used to deliver ventilation equipment and then for the maintenance, but they will not be, as far as I can see, used on a regular or daily basis.

Q. I'm with you, right thank you.

**QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP – NIL****QUESTIONS FROM THE BOARD: MS HARDIE**

25 Q. Just one question Mrs Gruger, just with regards to on, on page 12 you have made a comment, "Mt Albert received the full mitigation of environmental effects from State Highway 20." Can you just tell me what you mean by that?

A. I mean the –

**THE COURT: JUDGE NEWHOOK**

The tunnels.

**QUESTIONS FROM THE BOARD CONTINUES: MS HARDIE**

A. Sub – yes.

5 Q. The tunnels.

A. Yes exactly, thank you, thank you very much, exactly yes. That parts of the community did receive mitigation, where Owairaka was somewhat left out and considered separate from the proposal, just somebody who lives in the area –

10 **THE COURT: JUDGE NEWHOOK**

Mt Albert did rather well really didn't it?

**MS GRUGER:**

They did, yes.

**THE COURT: JUDGE NEWHOOK**

15 In comparison, and I'm not trying to be funny about that, I genuinely see the differences.

**MS GRUGER**

I mean, I myself live in the part that does receive the tunnels so in this respect, but being closely involved with Owairaka, it is obviously that  
20 Owairaka has caught the short straw.

**QUESTIONS FROM THE BOARD: MS JACKSON**

Q. Ms Gruger of your members, are they elderly people, are they people with young families, or are they mixture, I'm just trying to get an idea of the community that you live in?

25 A. They are a mixture, a number of families and, but a number are members and some will speak here, like Dorothy Maddock will speak she told me yesterday. So she's – I would have had also with a family, so I suppose a typical residence association that, yeah, just people who

live in an area. There is a Mt Albert Residents' Association which is more on the other side of Mt Albert, I was really consolidated in this western part of the volcano and there's a lot of sort of recreational think I suppose, yeah, tree plantings. Does that answer the question?

5 A. It helps, yes. The information that was sent out by NZTA to advise residents about the proposal that was in different languages, did you see that? Was one delivered to your letterbox or did you read it in the local paper, how did you –

10 Q. Notes in different languages, no, I saw information material that referred to a translating service being available, but I didn't actually see any in different languages, no.

**MS JACKSON:**

15 Sir, will we be able to get a copy of some of that information that was sent out to the local people?

**THE COURT: JUDGE NEWHOOK**

I think at this juncture we've got, we, you will recall that we made a point of asking about that.

20 **MS JACKSON:**

About different languages, yes.

**THE COURT: JUDGE NEWHOOK**

25 About that, if we feel there is a shortcoming in the amount of information that we have before us we can call for it but I would prefer to review the evidence from that part of the case which was now some weeks ago, if you don't mind.

**MS JACKSON:**

No, that's all right.

**QUESTIONS FROM THE BOARD CONTINUES: MS JACKSON**

30 Q. Just one very small other question, those millennium kauris that you planted in Harbutt Reserve?



A. Yes.

Q. Are any of those trees affected by the proposal?

5 A. No that was just an example of the community involvement in the parks, and there were tree plantings in Alan Wood Park as well, as the same as weeding out of wattle trees was a problem along the Oakley Creek, where just on Saturday mornings, people gathered and the pull down trees and the weeds, but it was an example of the community involvement that it was already there before the proposal came.

**THE COURT: JUDGE NEWHOOK**

10 Thank you very much Ms Gruger.

**MS GRUGER:**

Thank you.

**THE COURT: JUDGE NEWHOOK**

15 Now our agenda shows that Ms Gruger and Mr Andre have tabled evidence and I've assured you that we have read those statement of evidence and know of none of the other parties have indicated that they wish to question you or Mr Andre about those statements, I will just need to check with members of the Board as to whether they have questions that they wish to ask you or Mr Andre on those statements. No we feel that we have been into  
20 the matters in great detail and they will be a part of the rather extensive collection of documentation gathered in from all sources and they will be considered closely, so we thank you for your participation.

**MS GRUGER:**

Thank you.

25 **WITNESS EXCUSED**

**THE COURT: JUDGE NEWHOOK**

Now there was an indication that the Tree Council would appear through Ms Haines this morning but I think that she will now be coming tomorrow, so we can turn to the council case again Mr Lanning.

**5 COURT ADJOURNS: 11.00 AM**

**COURT RESUMES: 11.19 AM**

**MR LANNING CALLS**

**ANDREW FRASER BEER (AFFIRMED)**

- 5 Q. Is your full name Andrew Fraser Beer?  
A. Yes it is.  
Q. And have you produced a statement of evidence for this hearing dated 17<sup>th</sup> of December 2010?  
A. Yes I have.
- 10 Q. And do you have the qualifications and experience set out in paragraphs 1.1 through to 1.3 of that statement of evidence?  
A. Yes I do.  
Q. And do you have any corrections you wish to make to your evidence?  
A. No I don't.
- 15 Q. So can you please confirm that your evidence is true and correct?  
A. Yes it is.

**MR LANNING:**

Sir I just have three supplementary matters which I want to ask.

20 **THE COURT: JUDGE NEWHOOK**

Yes. Just before you do that Mr Lanning, Mr Beer welcome to the witness box. You've been most patient and thank you for that patience.

**MR BEER:**

25 Not a problem.

**EXAMINATION CONTINUES: MR LANNING**

- 30 Q. The first question Mr Beer relates to the, I think it's 6 Barrymore Place property which was referred to yesterday in the hearing, and comment was made about what the council's position is in relation to that property. Could you just explain to the Board what the council's property is in relation to that property?

A. Yes through the council submission it does state that council would like a first right of purchase off (inaudible 11:21:04) at the end of the project when it's no longer required for NZTA and does see value in retaining that site as open space.

5 Q. The next question, next issue I guess, is the – questions have been raised around what the ratio of local parks for open space to residents in this, in the local Board area and this case is, and I understand you've done some research on that and have you produced a table summarising the results of that research?

10 A. Yes I have.

Q. Have you got that in front of you?

A. No I don't, I need a copy thank you.

**MR LANNING:**

15 Sir this has been circulated so some of the parties... And we may as well do it at the same time, sir Mr Beer has also produced a map showing the Albert Eden Local Board area which I think was also a question raised by someone on the Board so I can hand that up as well.

**EXAMINATION CONTINUES: MR LANNING**

20 **WITNESS REFERRED TO TABLE**

Q. So Mr Beer can you just confirm that the table I've just handed you is the results of the research you've done?

A. Yes that is correct.

25 **MR LANNING:**

And it's probably not worth a question sir, I will draw the Board's attention to the notes on that table where Mr Beer has pointed out what areas are actually covered in that table, and particular it does not include all open space, it only includes certain parts.

30 **THE COURT: JUDGE NEWHOOK**

Yes that's the note at the bottom is it?

**MR LANNING:**

Yes.

**THE COURT: JUDGE NEWHOOK**

5 Include only local parks and exclude regional parks, parks containing a volcanic feature, privately owned open space and open space not administered by councils. It was DOC land and Cornwell park. Yes thank you. Now we'll produce this as an exhibit.

**EXHIBIT 11 PRODUCED – TABLE**

10 **EXHIBIT 12 PRODUCED – MAP**

**1125**

**EXAMINATION CONTINUES: MR LANNING**

15 Q. The third matter I wanted to ask a question about Mr Beer was the decision of the Henderson Massey Local Board in relation to the pony club lease on the land at Te Atatu. If I could refer you to, do you have Ms Linzey's – find out which supplementary – second supplementary evidence dated 26 February, do you have that. Annexure I. You're familiar with that?

A. Yes I am.

20 Q. That document. Now first of all, can you just confirm that the council has received legal advice that the local Board has the delegated powers to make decisions such as that set out in this annexure?

25 A. Yes I can, that is a matter where I sought clarification from council's legal team and my understanding is that for local parks, of which Harbour View, (inaudible 11:26:16) Park is one, the local Board has the power to decide on leases.

**MR LANNING:**

30 Sir, if it's any assistance I can provide it by way of memorandum, a summary of the law on that if that's of any assistance.

**THE COURT: JUDGE NEWHOOK**

No, if the point becomes a contested one then we might ask for that but at the moment I don't think we'll seek (inaudible 11:26:39) further paperwork.

**EXAMINATION CONTINUES: MR LANNING**

5 Q. And secondly Mr Beer, can you comment on what the effect of the Board's decision is in relation to the proposed amendments to the construction yard area?

A. Yes, the matter considered by the Board was an extension of the pony club lease area northwards, which the pony club had sought to offset  
10 some of the land that will be required by NZTA for its construction yard. The Board declined the request to extend the lease area but the intention of the Board was that the pony club can remain within its existing lease, so it would obviously be on less land than it was before but it will remain in the area around the construction yard.

15 **THE COURT: JUDGE NEWHOOK**

Q. And am I right inferring from the materials in exhibit I to Ms Linzey's 26<sup>th</sup> of February supplementary statement, that the pony club's existing lease arrangements are monthly in their term?

20 A. Yes that's correct they're on a month by month lease.

**THE COURT: JUDGE NEWHOOK**

Now Ms Janissen, you've been put at the head of the list for the purposes of questioning this witness but I wonder whether in fact parties asking questions in-chief ought to go ahead of you before you cross-examine.

25

**MS JANISSEN:**

Certainly.

**THE COURT: JUDGE NEWHOOK**

So Albert Eden Local Board, Ms Devine.

**CROSS-EXAMINATION: MS DEVINE**

Q. Just want to talk briefly about the two ventilation buildings before putting to you some other questions. What is your view of the impact of the current base proposal of the southern ventilation building including the smoke stack and the above ground section of the motorway, on the perception of the quality of open space in that vicinity?

A. Yes I do consider it will have a negative impact on the perception of quality in the adjoining open spaces. It introduces a somewhat industrial or utilitarian structure into a park, which in my opinion general detracts from the quality of adjoining open space.

Q. Would there be a benefit to users of the open space from electing to use option 3 in the southern area?

A. Yes I do believe so, the extent of the benefit I guess relies on a couple of assumptions around the land that won't actually be required, or beyond the building itself will be available to the public as open space even though it may be leased land, railway designation land or within the motorway designation now. But assuming that that land is available, yes there's certainly benefits.

Q. In terms of the northern ventilation building, how does the northern ventilation stack in the proximity of the motorway onramps affect the quality of the open space experience in the Waterview Reserve?

A. Again, the proximity of I guess land use such as motorways create adverse environmental effects such as noise and pollution that will detract from the user's experience of using open space.

25 **1130**

Q. How would shifting the northern stack alter that experience?

A. In terms of users of Waterview Reserve?

Q. Yes.

A. Shifting it to what location?

30 Q. To across the Great North Road.

A. Right, it would probably be beneficial for Waterview Reserve I assume because it is further away, but it's more of a matter of, I guess, visual effects, which will need to be considered by the visual landscape witnesses.

Q. Turning to the reserves then. How important to the supply of open space is the expansion and development of Saxon Reserve, before the loss of parts of Waterview Reserve?

5 A. Yes I consider the expansion of Saxon Reserve to be fundamental to mitigating the loss of open space at Waterview Reserve, the full extent of four properties proposed to be acquired by NZTA in my opinion are, are necessary.

Q. How important was expansion of Saxon Reserve to the caucus on open space in terms of mitigating the loss of Waterview sports field?

10 A. Saxon Reserve?

Q. Yes.

A. The two are not particularly related, that Saxon Reserve is not a proposed location for a sports field.

15 Q. Can I ask you to turn to the open space caucusing statement, do you have that to hand.

#### **WITNESS REFERRED TO OPEN SPACE CAUCUSING STATEMENT**

Q. When you find it on page 11, paragraph 55.

A. Yes.

20 Q. I will just wait for the Bench to catch up. That's a part of the open space statement which deals with active open spaces under the heading of "Issue 1 as Sports Field Provisions Mitigation for Waterview" on page 10 and on page 11 there's a heading called "Resolved" and there's a number of different ways that the experts see resolution of the sports field issue. Is the topic of Saxon Reserve addressed in part of that mitigation package?

25 A. Yes it is, but I believe the extent of what we are discussing there goes beyond just the sports field, it's talking about mitigating all the effects on Waterview Reserve, both active recreation and passive recreation.

30 Q. And how important was the expansion of Saxon Reserve to the caucus on open space in terms of passive open space mitigation?

A. Yes I believe that that was very important and seen as a key aspect of mitigating the effects of loss of passive open space due to the effects on Waterview Reserve.



Q. Can we have a look at the green book please in terms of conditions, at page 58 –

**THE COURT: JUDGE NEWHOOK**

Just pause before you move. Can we have clarification, is that latter aspect  
5 addressed at the top of page 13 under the heading “Saxon Reserve” as part  
of the passive open space section of the caucusing report?

**MS DEVINE:**

Correct sir.

**THE COURT: JUDGE NEWHOOK**

10 And the witness, Mr Beer, can you confirm that that is the case?

**MS DEVINE:**

Paragraph 16.

**MR BEER:**

Yes, I believe so.

15 **THE COURT: JUDGE NEWHOOK**

Yes, thank you.

**CROSS-EXAMINATION CONTINUES: MS DEVINE**

Q. Find the open space conditions in the condition book, page 58, have a  
look at open space 9, did you find it Mr Beer?

20 A. Yes.

Q. What does condition OS9B do to maintain a basic level of open space,  
the fundamental level of open space in Waterview, in your mind?

A. It provides for development of Saxon Reserve as a community park,  
however, I guess it's unclear whether that is just the existing reserve or  
25 the additional properties as well that are proposed to be acquired by  
NZTA for expansion of that reserve.

Q. What in - that condition there's a reference to "community park", is that a term of art, does it have a particular meaning to NZTA or to the council?

**1135**

5 A. Yes it does, I believe it's probably referencing, council has a park categorisation system which broadly categorises all parks into either a community function, active recreation function or environmental heritage function. Community park generally describes parks which provide for a passive recreation purpose principally.

Q. And what is Saxon Reserve now?

10 A. It would be a community neighbourhood park.

Q. Without reference to expansion, what purpose does condition OS9(b) serve?

15 A. Well one would presume that development does mean that there will be some type of change to that park but it is unclear what that might entail from that condition.

20 Q. Is there anything that you think should be added to the condition to address the possibility that, assuming the expansion is incorporated within that condition, that NZTA don't get the land for expansion. I might need to rephrase that. Assuming we overcome the obstacle of requiring expansion of Saxon Reserve as a community park, let's think about the possibility that that land is not able to be acquired because NZTA has some difficulties with that, is there anything you would suggest that could be incorporated in B there that might address the community's concerns and your concerns?

25 A. It's a difficult situation in that I'd definitely consider the expansion of Saxon Reserve as being fundamental and essentially the best way to offset the passive, the loss of passive open space from Waterview Reserve. In terms of practical options, if that were not to occur it becomes difficult to consider what might be a realistic alternative.

30 Q. Let's turn to, back briefly to the caucus statement, if you have that still to hand, page 12, paragraph 68. There's a heading under 66 which talks about Howlett Reserve and there's the members of the community not necessarily seeing value in that reserve. In paragraph 68 there, the caucus, including you, talked about agreeing with Mr Little's view that

getting a link there, acquiring one property would open up the esplanade connection. Coming back to the conditions that we were referring to before, OS9(c), beneath (b) which we were just referring to, could you have a look at that?

5 A. Yes.

Q. How explicit is condition OS9(c) about purchasing a property?

A. It's not particularly explicit in terms of – it provides a way out I guess if it's deemed impractical, so...

10 Q. The condition refers to an existing accessway, can you describe the nature of the existing accessway at the Howlett Reserve?

A. Yes, I believe it's a narrow alleyway perhaps, I don't know maybe one and a half metres wide, narrower than a driveway width, as is common in many reserves around Auckland with a concrete path leading into the reserve, running the length of two adjoining residential properties.

15 Q. And what would you envisage an upgrade would involve assuming that they are required to expand by acquisition of a property but then couldn't achieve that and they elected for the alternative option of upgrading the accessway. What would an upgrade involve?

20 A. It's difficult to see what in practical terms could probably actually be done to improve that access beyond perhaps putting a new sign up or something very minor on that...

Q. Would that provide the same or similar or different benefits as widening access to the scale of one property?

A. No I don't believe so.

25 Q. Just want to talk about bridges now, if we just change the subject slightly. You're familiar with the concept of a bridge in the vicinity of the corner of Alfred Street and across to Unitec, referred to as the Alfred Bridge?

A. Yes I am.

30 Q. What is on the residential street corner, on the roadside there that I've just described, Great North Road and Alfred Street?

A. I believe there are a set of – a dairy and commercial shops.

Q. Are you aware of the many other business of shop facilities in Waterview?

A. Only a small block of business owned land to the south, but I'm not certain whether there's actually any operational businesses within that block.

5 Q. What benefits would the provision of such a bridge be to the residents of Waterview in terms of open space?

10 A. It depends I think if whether you consider the bridge in isolation or whether as part of a continuous cycleway. A bridge in isolation just providing that bridge does provide some access to private open space of Unitec. However, I'd say it has a pretty limited benefit in terms of finding access to public open space within perhaps walking distance for the residents of Waterview. As part of a wider cycleway connection, the continuous cycleway between State Highway 16 and State Highway 20, that does have benefits to provide access to reserves along that route and also benefits to activating the open spaces along that route by providing more active uses to the cyclists and pedestrians and things pass through them, which would have follow-on effects in terms of safety for those open spaces and their quality.

15 Q. And would there be connectivity both north and south were you focussed more towards the south in your comments?

20 A. Primarily an access to open space would be to the south through the Unitec site to Phyllis Reserve and Harbutt Reserve.

Q. Would there be any benefits of pedestrian cycleway which would enable a connection to the north?

25 A. In terms of open space, well potentially it opens up access to the open spaces along the north-western cycleway I guess, Western Springs springs to mind.

Q. And leading towards Pt Chevalier possibly?

A. Yeah.

30 Q. Moving from Alfred Bridge to the bridges you referred to in the caucus statement. What benefits would the provision of a Soljack Bridge give in terms of open space?

A. It provides access from the north-western, well it provides access to Harbutt Reserve and the Oakley Creek walkway from residents within the affected area around the north-western end of Alan Wood Reserve.

And it also contributes towards those, if provided in association with the continuous cycleway, with the benefits I've already described in terms of activating open spaces.

Q. And what benefits will it provide for residents of Waterview?

5 A. Potentially it provides a connection going the other way, or it would provide connections both ways so if someone from Waterview wanted to walk that far it would provide benefits to them but it is quite somewhat distant from the residential area of Waterview.

10 Q. What benefits would the provision of the Phyllis Reserve Bridge be in terms of open space?

A. It would be an access improvement from Great North Road through to Phyllis Reserve, providing a safer access than the one that currently exists, due to it being at grade and more visible.

Q. And what benefits could that provide for residents of Waterview?

15 A. Again it provides better quality access to some significant open spaces, such as Phyllis Reserve.

Q. Is that subject to the same proviso in terms of distance of walking?

A. Yes obviously it's closer than the Soljack Bridge and a more direct connection from Waterview to those open spaces.

20 Q. Is it fair to say that the Alfred Bridge to Unitec could also provide access to Phyllis Reserve?

A. Yes it does, if a walkway is provided through the Unitec site to Phyllis Reserve.

### 1145

25 Q. And just lastly I'd like to go back to the book of conditions and look at OS8 (a) and (b).

A. Mhm.

Q. And that's lit on page 57 and 58. Have you looked at those conditions, they're all in green?

30 A. Yes I have.

Q. Just want to understand those because on the face of them they may have a slightly difference appearance than when you work through them. Looking at the first two areas in (a) there I think we need to see

them in Ms Linzey's second supplementary statement. Do you have that with you?

A. Yes I do.

5 Q. That's in annexure H of the second supplementary statement of Ms Linzey. And we will shortly thereafter need to see a copy of Mr Little's evidence-in-chief with annexure A. He has some plans which correlate to this. Do you have Mr Little's evidence?

A. Yes I do.

10 Q. So we've got three documents in front of us now, the conditions and the two maps. Now Ms Linzey's annexure H, that shows –

A. Just a minute please.

Q. Sorry.

A. You said annexure C to Mr Little's evidence?

Q. No it's annexure A and there are two plans to annexure A.

15 A. Right.

Q. They're the open space impacts and replacement drawings.

A. That one.

20 Q. If we turn to Ms Linzey's map annexure H and you'll see that's a – shows sector 9 during construction. How does area A there relate to (d) and (e) in that condition OS8(a), (d) and (e) referring to passive open space, 4.6 hectares of passive open space from Methuen Road to New North Road and (e) relating to 2.2 hectares in relation to Valonia Street Reserve?

25 A. So the 4.6 hectares is the area at the nor'western end of Alan Wood Reserve, the existing reserve principally, and the 2.2 is the Valonia Reserve with part of the adjoining 25 Valonia Street site.

Q. And in terms of Mr Little's evidence-in-chief can you identify the areas A and B there for us? You match them to the map Ms Linzey's produced, see them in the same location, just visually.

30 A. Yes I can.

Q. Does OS8 (a) and (b) change the amount of replacement new open space area?

A. It appears that it does include some of the areas that are provided – that form part of the leased railway land, which is currently used as open

space, but some of those areas are included on the map attached to Ms Linzey's evidence.

Q. So do the conditions in OS8 (a) which suggest that access to these areas shall be maintained or provided. Does that provide any new open space than what we have already been discussing prior to this hearing?

A. It does provide or it does show that some of the leased areas within the designation will be retained as accessible open space, but principally it's showing that areas that would have been retained as open space at the end of the project will be available during the construction period, various areas.

Q. Now last question. How would you rate the experiential quality of area A given its location next to Oakley Creek and the construction area?

A. Yes it's likely to be relatively – provide a relatively poor user experience I think, parts of it. Obviously the end at the nor'western end there's a relatively large area of – sorry the nor'western end of Alan Wood Reserve, there's a relatively large area of passive open space that would be available, but moving along where it starts to get close to construction yard 8 and 9, it appears that some of those areas will principally be taken up by the creek bed and banks to the creek and things like that. So in terms of a functional area of accessible area, practically accessible area of open space, they probably won't provide a, provide for users in that regard. Then the fact that it's next to a significant construction site will probably detract too from the experiential quality of users within those areas.

**25 THE COURT: JUDGE NEWHOOK**

Now Mr Allan isn't with us. Living Communities wanted to question Mr Beer?

**MS DEVINE:**

Yes sir, no he advised he would not have any questions.

**30 THE COURT: JUDGE NEWHOOK**

Thank you for that. Friends of Oakley Creek, Ms Docherty.

**CROSS-EXAMINATION: MS DOCHERTY**

- 5 Q. I want to talk briefly about the parks maintenance issue that was raised by Member Jackson when questioning Mr Sides last week. It was regarding the provision of an instream litter track in the Alan Wood Reserve. Now in response Mr Sides anticipated that litter control measures would be undertaken as part of a high level parks maintenance package provided by Auckland Council. Does Auckland Council accept this view?
- A. I'm unaware of the proposal so I can't really comment on that I'm afraid.
- 10 Q. Who at Auckland Council will be making provision for an increase of parks maintenance in this – in the Alan Wood Reserve area?
- A. It's outside of my area of my knowledge, I'm not aware.
- Q. Okay I appreciate that thanks. Regarding the tree schedule. Are you familiar with tree scheduling?
- 15 A. No again that's outside of my area of open space knowledge.
- Q. Okay thank you. Okay finally I just would like to draw your attention to proposed condition OS54 on page 56.
- A. Yes.
- 20 Q. It states that a 10 metre clearance for spectators around sports fields will be (inaudible 11:53:19) Alan Wood area and it will be achieved by altering drainage in the detailed design for the stream realignment of Oakley Creek. In discussion with Mr Slaven there is definite sections of the mitigation planting along Oakley Creek that are there for ecological purposes. So my question is how will these amenity values and CPTED requirements be managed in areas that are specifically planted as ecological mitigation?
- 25 A. I believe this condition, or the intent of this, is to provide room for spectators around the actual playing fields at the extended Valonia Reserve site. Obviously through I guess development of those further plans, further levels of details through the open space restoration plans, balancing the CPTED requirements and ecological requirements along with creating a practical design for users of the sports park will have to be balanced.
- 30



Q. So where those areas could potentially cross over that you anticipate that will be addressed at that stage?

A. Yes.

**THE COURT: JUDGE NEWHOOK**

5 Star Mills, Mr McCurdy not with us?

**MS DOCHERTY:**

He's indicated he has no questions thank you.

**THE COURT: JUDGE NEWHOOK**

10 Thank you very much. Right, Ms Janissen.

**CROSS-EXAMINATION: MS JANISSEN**

Q. I'd just like to follow-up my friend Ms Devine, one of the questions she raised with you you responded that if the northern ventilation stack was to be relocated that would be beneficial for the impact on the Waterview Reserve, correct?

15

**1155**

A. Yes that's correct.

Q. If the northern ventilation stack was moved on the other side of Great North Road that would impact Oakley Reserve though wouldn't it?

20 A. Yes it would.

Q. In relation to – there is just a few topics I would like copy – cover. The pony club, you support the rotation of construction yard 1 to mitigate the impacts of the project on the pony club don't you?

A. Yes I do.

25 Q. And the Agency's change to that construction yard was post-lodgement I think, both in response to submission from the Waitakere City Council and from the pony club themselves?

A. Yes.

30 Q. And you also support the modification of the designation boundary to accommodate the construction rotation, agreed?

A. Yes, so that it achieves that rotated configuration.

Q. And do you see any obstacle in the Board doing that?

A. I guess that's a matter for the Board to determine, whether they have those powers or not.

5 Q. Right, you currently have the application from the Agency with respect to the use of that area for construction yard 1A before the council don't you?

A. Yes I believe it has been lodged with council.

Q. Do you, can you update the Board as to the status of that application?

10 A. I believe it's currently being processed and is in the final stages I guess of being processed.

Q. Thank you.

**MR LANNING:**

Sir I will just indicate Ms Richmond has made some enquiries so she will be able to put some more light on that.

15 **THE COURT: JUDGE NEWHOOK**

Good thank you, yes we are looking forward to hearing her and others, thank you.

**CROSS-EXAMINATION CONTINUES: MS JANISSEN**

20 Q. Moving on to another topic. I understand the council doesn't support the construction of the Eric Armishaw bridge, is that correct?

A. I don't believe it was in the council's submission.

Q. Would the council support the construction of an Eric Armishaw bridge?

A. I'm not aware of whether that, that proposal has been put towards the council, to the council to be considered.

25 Q. That's, I'm asking with respect to a number of submitters, have asked that he Board grant that relief as part of the mitigation for this project, I'm just trying to get an idea as to what the council's position on that would be?

30 A. Well I don't, I, I am here and I am saying I am not aware of that specific bridge being put before the council to make a decision.

Q. Okay, Auckland Council's own future planning framework shows an at grade solution with respect to the Pt Chevalier/Western Springs (inaudible 11:57:50) plan, correct?

A. Yes, that's my understanding.

5 Q. So it's, its zone future planning framework does not show an overbridge?

A. No it doesn't.

Q. Are you aware that Agency has estimated construction costs for such an overbridge would be in the order of \$20 million?

10 A. I'm not aware of that.

Q. Turning to the Waterview Reserve, your initial evidence-in-chief stated that the proposal, sorry, the Agency's original proposal concerning mitigation of the project, you had some concerns in relation to the open space mitigation being proposed, is that right?

15 A. Yes, that is correct.

Q. And since that time there have been quite a number of changes to the proposal arising both as a result of submissions but, more particularly, as a result of discussions, ongoing discussions with council staff, correct?

20 A. Yes that's my understanding.

Q. The, I think you've – my friend has already taken you through this, but you are aware of the current provisions in the Agency's proposed conditions with respect to mitigating the effects at Waterview Reserve?

A. Yes.

25 Q. With reference in particular to conditions 4 and 9, do you accept that the mitigation contained in those conditions is appropriate to mitigate impacts on Waterview Reserve? That's page, sorry condition 4 on page 55, and condition 9, page 58.

30 A. I believe there could be further details, I guess, in the condition, particularly OS9, around what specifically is meant by some of those terms, as I have already discussed around perhaps for the details around the expansion of Saxon Reserve, and the facilities that go into that for example, and in regards to the temporary senior sports field, further details of, a further level of concept design on how that will be

implemented within the proposed new construction yard area, sorry, outside of the construction yard area, Waterview Reserve. But generally the elements that are described there, as I understand them, address the impact on Waterview Reserve.

5 Q. With respect to the further tidying up that may need to be done with the wording, I understand that that might be the subject of further caucusing between the planners?

A. Yes I would support that.

10 Q. Just in relation to your comment about the sports field, this is in Waterview Reserve, OS.9, subparagraph (a), the first thing just to note there, I understand the use of the word “temporary” is probably incorrect now because the Agency has – is now proposing that if a sports field is to be put in Waterview Reserve, it's going to be a permanent one right from the beginning, you understand that?

15 A. Yes I understand that's what they are proposing now.

Q. And when you commented that this was subject to you seeing whether or not this sports field could fit within the, that area, are you aware of the supplementary evidence with Ms Linzey that provided the diagrams?

A. Yes I am.

20 Q. Okay and did those plans show to your satisfaction that the sports field could be accommodated within the construction yard?

A. Yes it appears so.

Q. And that was by way of –

25 A. Sorry, presuming that that is the same as the size, there's, there was no scale on the sketch plan.

Q. Yes.

A. But presuming it's the same size as what's in the urban, urban design and landscape plans.

Q. Yes.

30 A. Which I believe was the intent.

Q. And remaining on the sports field issue, it's our understanding that the council's preference, however, is that that sports field be relocated outside the Waterview isn't it?

A. Yes to Phyllis Reserve.

Q. And if that was to occur the local community would lose the benefit of that sports field wouldn't they?

5 A. In terms of the – a formal sports field yes, in terms of the informal use of a sports field, no they wouldn't. If the plan attached to my evidence for development of Waterview Park was, was developed, which I believe would be the intent if that field was to be relocated.

Q. To Phyllis Street?

A. To Phyllis Street.

10 Q. Turning to Hendon Avenue, there were two sites along Hendon Avenue that have been identified by Mr Little as being flexible and visible enough to function as pocket parks, do you recall that evidence?

A. Yes I am aware of the sites.

15 Q. And Mr Little had recommended that they should be retained as pocket parks because they will help to address open space severance impacts for those living around the centre of Hendon Avenue, is that correct?

A. I believe that's Mr Little's position, yes.

Q. The council's open space policy though is to exclude those areas from open space?

20 A. Yes the council does not wish, or my understanding is, that the council does not wish to retain those areas as public open space.

Q. And does that still remain council's position today?

A. Yes.

Q. So it sees no benefit from either – the pocket parks being used as open space?

25 A. Not in that situation, pocket parks generally in a suburban environment are generally not particularly well used in my experience and the experience, I'm aware, of are some other council officers, are expensive to maintain, especially in the situation they would be located a very short walk to Murray Halberg Park which would provide a superior recreational experience, so therefore consider it to be unnecessary.

30

Q. Turning to Alan Wood Reserve. In your evidence-in-chief, and I'm referring to paragraph 11.13, you state that the Agency's proposal will mitigate the impacts on active recreation at Alan Wood Reserve. Correct?

**1205**

A. I'll just grab my evidence. Yes during the construction period in particular, that's what that paragraph refers to.

5 Q. And then the surrounding paragraphs express, you express your concern about the loss of passive recreation opportunities at Alan Wood Reserve during the construction phase?

A. Yes that's correct.

Q. And at the time that you wrote your evidence you were concerned that these issues had been unaddressed, correct?

10 A. Yes that's correct.

Q. Just referring to the supplementary evidence of Ms Linzey, that you've already been drawn attention to, that's annexure H, which my friend, Ms Devine had you look at. So that's the second supplementary evidence. That shows with respect to area A, the areas of open space in the reserve that would be available prior to and during the construction starting, is that correct?

A. Yes that's my understanding of the intent of that map.

20 Q. And it also shows in area B as delineated there, the areas of open space in Alan Wood Reserve that would be available once the stream alignment works have been done?

A. Yes that's my understanding.

Q. And you're aware that the stream alignment works have been targeted to be early works and completed within the first nine months of construction?

25 A. Yes that's my understanding.

Q. So it would be fair to say that within the first 12 months of construction starting there would be passive open space areas available in the reserve in addition to a full walkway linkage?

30 A. No, I do not believe that's accurate. I've not seen any intent to provide a full walkway linkage along those areas and I imagine it would be quite difficult to do in terms of the typography and the proposed vegetation that's supposed to go in along the creek, the proposed areas, particularly area B is very narrow which I imagine would make it difficult for practical access along that area. And also its location, adjacent to a

major construction site would detract from its passive recreation qualities. It's also quite an isolated area which would be in my opinion, is poor in terms of crime prevention through environmental design principles, which again would detract from its attractiveness for passive recreation.

5

Q. Notwithstanding that, with respect to the areas shown in annexure H, there would be something in the order of six hectares of land that could be available for passive open space. Your concern is the nature of that open space?

10

A. The quality of –

Q. The quality of it?

A. Yeah.

Q. Turning back to Saxon Reserve, just to be clear, the council and I think you yourself said that the Saxon expansion is fundamental to offset open space impacts at Waterview, correct?

15

A. Yes I believe that's so.

Q. So you support the Agency's current proposal to expand and develop that reserve?

A. Yes.

20

Q. You'll be aware that the Agency is seeking to achieve that expansion on a willing seller, willing buyer basis?

A. Yes.

Q. And you're aware that two of the four properties in that area have already been acquired?

25

A. Yes.

Q. And those properties comprise about 66% of the total area sought?

A. Yes.

Q. So would you accept that there would be a good open space outcome achieved with two properties obtained and used for reserve purposes?

30

A. It's certainly beneficial but I do consider the other two are essential to creating a good outcome, good open space outcome of that site due to their strategic location on the corner of the site which is generally – which would – incorporating those into the reserve would greatly

increase the sight lines and safety, the safety of the reserve and also provide extra areas for functional use.

Q. We can agree that it would be better if all four properties were to be obtained?

5 A. Yes.

Q. Accept that. But there would still be substantial open space benefits with the two properties obtained to date?

A. Yes there would be open space benefits.

10 Q. And are you aware that consent for the expanded reserve has been lodged by the Agency?

A. Yes I am.

Q. Have you seen the application?

A. Yes I have.

15 Q. And you can confirm that the Agency's proposal within that application would expand the reserve area?

A. Yes it would.

Q. Would it introduce new facilities into that reserve area?

A. Yes it does.

Q. What form of facilities does it introduce?

20 A. Substantially upgraded playground facilities, catering for a range of age groups, improved landscaping, picnic tables and barbecues and a public toilet.

Q. And these are facilities that the council would support?

25 A. Most of them, there's some debate about the exact nature of some of those facilities and whether it's appropriate at that reserve but generally, yes.

Q. What is the current status of that application?

A. I believe it's on hold.

30 Q. And when you say that there is some debate as to the appropriateness of the facilities, what do you mean by that?

A. Generally the type of park, a park such as Saxon Reserve would be deemed to be what we considered a neighbourhood scale park. Some of the facilities such as a public toilet, council policy generally does not provide for a public toilet at a neighbourhood scale park, nor does it



provide for barbecues, so there's some question about that and also there's some issues with the design and the layout of the park that's proposed which council has some concerns about.

5 Q. So currently it would be fair to say the Agency's application provides more facilities than council actually wants?

A. Yes.

**THE COURT: JUDGE NEWHOOK**

Q. Why's the application on hold?

10 A. Until – well council and NZTA are currently working through a process, working together to come up with an agreed concept plan for the park and until that's been agreed in consultation with the local board, that application's on hold.

Q. And I'm sorry I interrupted you, adding something to your last answer?

A. What was it?

15 Q. My apologies.

**CROSS-EXAMINATION CONTINUES: MS JANISSEN**

A. Sorry, you said, "More facilities than council would generally provide."

Q. Than council currently wishes?

20 A. Currently wishes, so I guess in terms of, and I said, yes but in regards to its typical policy for a park of that scale.

Q. Turning to Valonia Reserve now, in your evidence-in-chief paragraph 4.10, you note that the council's own public open space acquisition plan identifies that acquisition of land for sports fields is a priority. Is that correct?

25 A. Yes it does.

Q. And that's why the council has a very particular interest in seeking expansion of Valonia Reserve?

A. Yes well it has an interest in ensuring that the sports fields affected by the project are replaced, yes.

30 Q. The only real difference between the Agency's proposal and the council's is that the council wishes there to be space to accommodate a cricket pitch I think it is, and side by side playing fields, is that correct?

A. No, I do not believe that's correct. Council's design seeks to develop that park as providing both a passive and active recreation function which I consider is lacking in the NZTA design, in that it only provides principally for active recreation purpose. So the council's design, in addition to the cricket wicket it also provides areas, additional areas for passive open space, a walkway around the circumference of the park, which generally provides for passive recreation activities and it opened up the area in terms of crime prevention through environmental design principles, which in my opinion are very important for creating passive recreation areas.

Q. So your principal concern then, in terms of the council wishing to have eight further properties acquired to accommodate the council's concept plan is for passive or is it for active recreation?

A. I believe it's principally to create a passive recreation park which also is beneficial in terms of sports fields, but I'd consider it's principally for passive recreation.

**1215**

Q. Okay so the council's wish then is for eight further properties to be somehow acquired to accommodate the council's policy in relation to passive open space?

A. No to offset the loss of passive open space resulting from this project.

Q. And the acquisition of eight properties would do that?

A. And developing of the park in accordance with council's proposed design I believe would contribute towards that, yes.

Q. Those eight properties you understand are all outside of the Agency's designation?

A. Yes I understand that.

Q. And the Agency, you would accept, does not have jurisdiction to designate other people's properties for passive open space?

A. Yes I understand that.

Q. Turning to briefly to Soljack Bridge. Are you aware of the position of KiwiRail in relation to the construction of the bridge?

A. No I'm not.

Q. If I could refer you to... I might need to show this to you, the supplementary evidence of Mr Buchanan on behalf of the KiwiRail Group that was lodged on the 7<sup>th</sup> of March. I might just read a statement here then I'll show the evidence to –

**5 THE COURT: JUDGE NEWHOOK**

Just pause please. There's a bit of mystification up here about that statement.

**MS JANISSSEN:**

10 I think it was lodged... Appears to have been lodged on the 8<sup>th</sup> of March, yesterday.

**THE COURT: JUDGE NEWHOOK**

Lodged yesterday?

**MS JANISSSEN:**

15 Yes.

**THE COURT: JUDGE NEWHOOK**

It's only just found its way to us. Something from KiwiRail yesterday. Fairly fast moving sea of paper, in fact it's a tsunami. Yes all right, sorry about that. Yes I think I recognise the front sheet, I've seen it. I think it was placed on a  
20 table for me without actually being drawn to my attention. I didn't even know it was for me so I've not read it if you'll just bear with us for a moment while I quickly read it. Yes, all right.

**CROSS-EXAMINATION CONTINUES: MS JANISSSEN**

25 Q. If I could refer you then to the supplementary evidence of Mr Buchanan dated the 7<sup>th</sup> of March 2011 and in that evidence Mr Buchanan responds specifically to a question from the Board as to the position of KiwiRail should there be a cycle and pedestrianway formed in Soljack Place. And in relation to that do you note that KiwiRail's position is that while a cycleway and footbridge structure would be acceptable in the  
30 short to medium term, that would likely need to be replaced in the long

term should the Avondale Southdown line, rail line be developed? You see that?

**WITNESS REFERRED TO SUPPLEMENTARY EVIDENCE OF  
MR BUCHANAN DATED 7 MARCH 2011**

5 A. Yes, that's my understand yep.

Q. And KiwiRail notes that would require – I like the use of this word – the cycleway developer to accept liability for altering or removing the structure to accommodate the southdown Avondale line, you see that?

A. Yes I do see that.

10 Q. Does the council currently have within any of its plans a proposal to build a bridge over Soljack?

A. I'm unaware of whether they do or not I'm afraid. It's not particularly an open space specifically issue.

15 Q. In relation to the, I guess your comments about mitigation and having areas made more accessible by the cycleway bridges, do you accept that if a cycleway developer would have to essentially build the bridge twice that would significantly impact on any form of costs for making that kind of a connection?

20 A. Yes over a – probably will be a reasonably long period of time though, yep.

Q. Finally I'd just like to ask you about the document initially introduced which you prepared and did the ratio of local parks to residents by local Board area.

A. Yes.

25 Q. And that showed that for the Albert Eden Local Board –

**THE COURT: JUDGE NEWHOOK**

Just pause, just pause. What document are we looking for?

**MS JANISSSEN:**

30 The first document that Mr...

**THE COURT: JUDGE NEWHOOK**

Is that exhibit 11 is it?

**CROSS-EXAMINATION CONTINUES: MS JANISSEN**

Q. And then exhibit 12 shows the Albert Eden Local Board area.

A. Yep.

5 Q. Firstly could you confirm that the project goes, also goes through or passes through the Whau Local Board area at its extreme west? South-west.

A. The tunnel section of the project or...?

Q. It's immediately underneath Albert, immediately to the south-west.

10 A. Oh yes it appears that the Valonia Street Park perhaps is in Whau and the part of Alan Wood Park off Methuen Road tentatively, yep.

Q. Now the local Board areas, they're very large areas aren't they?

A. Yes they are.

Q. And within those areas there are a number of specific communities?

A. Yes.

15 Q. And within the local – sorry, within the Albert Eden Local Board area that includes the communities of Waterview, New Windsor and Owairaka West?

**1225**

A. It appears that New Windsor would mainly be in the Whau area.

20 Q. But Waterview and Owairaka West would be primarily within the Albert Eden Local Board?

A. Yeah, that appears to be the case.

Q. And in relation to open space areas per 1000 population for Waterview, if you broke that down, isn't it correct that the hectares is 5.14?

25 A. I can't say, I haven't done that analysis.

Q. So you've not gone and had a look at the census area unit from Statistics New Zealand to break it down within the communities?

A. No.

30 Q. You've simply shown to the Board the larger area of the Albert Eden Local Board?

A. Yes.

Q. Have you looked, if you haven't looked at Waterview, have you looked to see what the open space area per hectare for 1000 population for Owairaka West is?

A. No.

Q. Would it surprise you to learn that both Owairaka West and Waterview are in the order of five?

5 A. No it wouldn't, it would appear from the map and my understanding of the open space provision across the city that the area with the shortfall or with less open space is generally around kind of the Sandringham/Balmoral part of the ward, rather than in the immediate vicinity of this project which would appear to be one of the areas with relatively higher provision of open space within the ward.

10 Q. So it would be fair to say that the 1.61 hectares of local parks for the residents reflected in the document you provided the Board is not necessarily reflective of how, of what the impact is on the individual communities affected by this project?

15 A. Yes, and of course quantity of open space is only one measure of provision as well and not necessarily a particularly useful one in terms of analysis of open space.

#### **QUESTIONS FROM THE BOARD: MS HARDIE**

20 Q. Mr Beer, could you just have a look again at appendix H of Ms Linzey's second supplementary evidence. Just looking at the areas, areas A and B. The way I read it and I understand I may not be correct, but it looks to me for the extent between New North Road and Richardson Road, there's only the area .2 hectares that's accessible to Hendon Avenue and the areas north-east of Hendon Avenue or readily available for the areas Hendon Avenue and east of Hendon Avenue. Is that how you see it or do you – or is sort of the distance –

25 A. Yes I get your point. Yes unless someone was to walk along Hendon Avenue onto New North Road and enter the part of area A from that direction, but a large part of Hendon Ave will have no access to those open spaces due to the construction yard.

30 Q. Just a question in terms of Saxon Reserve that you mentioned before. The application that's with council at the moment, does that include the acquisition of all properties proposed, or does it limit it to the acquisition of those that have been acquired to date?

A. It's only the properties that have been acquired.

**QUESTIONS FROM THE BOARD: MS JACKSON**

Q. Mr Beer, in these conditions here, one of the proposals is to provide half of a basketball court.

**5 THE COURT: JUDGE NEWHOOK**

Page?

**MS JACKSON:**

Page 55.

**10 QUESTIONS FROM THE BOARD CONTINUES: MS JACKSON**

Q. If you were providing two half basketball courts, which is obviously not a whole, which is interesting. Half a basketball court doesn't sound like it's going to be much use but I assume it's the sort of thing that you'd use for practice, is that correct?

15 A. Yes they're quite common in parks to have half courts as they're referred to, which – yeah they're quite common. But in saying that, if you are putting two half courts in one park it perhaps makes sense to make it one full court in terms of promoting the possibility of play for basketball games, so that would be a sensible amendment.

20 Q. So it's not just me, that's good. The other question that I've got. If NZTA was to make some sort of financial contribution towards land purchase or redevelopment of a park, whatever, the Auckland Council is willing to pass some sort of resolution that that money would be used in the immediate area?

25 A. Yes I believe that would be the case, that there are specific outcomes that the council is seeking that such as the upgrade of Phyllis Reserve which it would be intending to use whatever money, the proceeds towards and I assume would be in a position to pass a resolution to ensure that that occurs.

**THE COURT: JUDGE NEWHOOK**

Q. Perhaps as a matter of law and some pedantry, I might add for the record that it would be subject to the will of the relevant councils or Board members on the day?

5 A. Yes that's correct.

**QUESTIONS FROM THE BOARD: MR DORMER**

Q. Thank you Mr Beer, I've found this thing very interesting, and the map. Where's Kaipatiki?

A. I'm not sure to tell you the truth, these are all new to me.

10 Q. Just want to expand my own knowledge and it's (inaudible 12:31:43).

A. I'm not aware either where those are.

Q. The Waitemata one is the CBD and surrounds is it?

A. Yes I believe so, and the Eastern Bays I think are included in there.

Q. No.

15 A. No, sorry they're a different one aren't they.

Q. Now the Albert Eden Board goes right the way over to Greenlane does it?

A. Yes it appears so, yeah.

20 Q. Gosh that's the main highway out towards Ellerslie at that point. And talking about the things that aren't included in the table. No first of all could I ask you to go back because I missed it. This is the local parks?

A. Yes.

Q. What the other categories of parks are?

25 A. I believe that it's only in terms of local parks, there's only local parks and then there's one category for this purpose, it's basically around whether local Boards or council has power or decision making over those Boards.

Q. Well clearly the Auckland Domain is not a local park?

A. For the purpose –

30 Q. So do you have a set category of parks for that?

A. In this example it would be deemed a local park, it's only, yes it's only – this is it's a relatively new classification as a result of the transition to



Auckland Council. So it's only regional parks that are managed by the Auckland Regional Council I understand.

Q. That was never operated by the Regional Council.

A. The Auckland Domain?

5 Q. No.

A. No, although it is a volcanic feature so it would therefore be excluded, it wouldn't be a local park, on second thoughts, yeah.

Q. And so who are these parks that contain volcanic features, they have very high recreational and passive use don't they?

10 A. Yes, in fact some of them are some of the best parks in the city in my opinion are volcanic features.

Q. So they'd include the (inaudible 12:33:53) at the domain is a volcanic feature?

A. Yes.

15 Q. It would include Mt Albert?

A. Yes it would.

Q. Mt Eden?

A. Yes.

Q. Three Kings, just across the border into town?

20 A. Yes I believe so, yeah.

Q. And clearly we've categorised parks by saying one category is local parks, another category is parks containing a volcanic feature. That doesn't mean though does it, that the parks that contain the volcanic feature have no useful role to play as local parks?

25 A. No.

Q. And indeed Mt Albert provides active sporting facilities as well as passive doesn't it?

A. Yes I believe it does.

Q. There's a football field in it isn't there?

30 A. Yes, in the crater I believe there's a football field.

Q. Do you happen to know the area of Mt Albert?

A. No, not off the top of my head.

Q. Do you happen to know the area of Mt Eden?

A. No.

**1235**

Q. Or Three Kings, I presume?

A. No.

5 Q. But you agree that all of those three represent significant areas of open space available to local residents?

A. Yes I do, as, as there is also Cornwall Park, which is just outside the boundary of the ward, which is a very significant open space and Western Springs, Meola Reef as well to the north.

10 Q. Are you aware of the split ownership of what's commonly known as Cornwall Park?

A. Yes.

Q. So Mt Eden, Mt Albert, Mt Roskill, all represent significant areas of local space that's a benefit to local community in terms of active and passive reserves?

15 A. Yes.

Q. And no reflection of that, quite properly no reflection of that is to be gained from looking at the table is it?

20 A. No it's – no there's not, and that is one of the reasons that generally this type of analysis is not held to be of particular use or commonly used in open space planning these days. Instead there is much more focus on considering things such as the function of parks, the quality of how well it provides for that function, accessibility, those type of factors and capacity of parks rather than simply just the amount of open space provided in an area.

25 Q. I see you have also, you will also have excluded as well as many sports fields operated on land owned by the Cornwall Park Trust Board on land adjacent to the showgrounds and trotting club?

A. Yes I understand that would be, yeah although it's part of Cornwall Park so it would be exclusive of that figure, yes.

30 Q. No it's not actually of Cornwall Park, it's across the other side of Greenlane Road.

A. Oh sorry –

Q. Is that the (inaudible 12:37:18) green strip?

A. - well Cornwall Park, Cornwall Park does run up to Manukau Road, I think is that, that is part of it (inaudible 12:37:23), it's principally sports fields and I think there is a bowling club and things on that bit of land.

Q. Thank you Mr Beer you have been very helpful, I appreciate it.

5

**MR DORMER:**

Mr Lanning for what purpose was that evidence adduced or was the submission made that this motorway is proposed to go through an area that's deprived in terms of –

10 **MR LANNING:**

I don't think that was an issue raised by us sir, it was – I can't actually recall who raised it.

**MR DORMER:**

15 Okay, I think it might have been Mr (inaudible 12:37:54).

**MR LANNING:**

The issue came up and there was just discussion about it, so we –

**MR DORMER:**

20 So it's not a position maintained by the city?

**MR LANNING:**

No, not at all and I think Mr Beer has explained that it's certainly is not the way the council approaches things.

**MR DORMER:**

25 That's good because I was about to say one could ponder Mr Lanning, but one needed now bother anyway, one could ponder how appropriate it was for the council to plead that part of its city is under provided with parks and that's a matter which has been within the control of the city's predecessors for decades, during which time it has actively pursued the cause of urban  
30 intensification.

**MR LANNING:**

No that's certainly not the council's case at all.

**THE COURT: JUDGE NEWHOOK**

I thought that was a Clayton's comment.

5 **MR DORMER:**

If you were trying to be helpful sir but obviously that's created more questions and answers.

**THE COURT: JUDGE NEWHOOK**

10 No, no, I'm just grateful for it, it was obviously Ms Devine who raised a point about there being a shortage of parks in the area.

**MR LANNING:**

Yes.

**MR DORMER:**

15 We don't know either do we Mr Lanning how many local parks the city, the former Auckland Council added to local parks in this area, in the last 20 years?

**MR LANNING:**

20 No sir, I'm familiar with other parts of the city where land has been designated and acquired, but no not in this part of the city. I know that the council has been, or the Auckland City Council sorry, has for a number of years undertaken a process of seeing what is available and keeping an eye out for bits of land that might come available for acquisition, I don't know where that strategy is under the new council but it is certainly something the Auckland City council was actively doing.

**MR DORMER**

Well Ms Devine, perhaps if you wish to pursue the submission you might care to address some of those issues I've just quite mistakenly taken up with Mr Lanning.

5

**MS DEVINE:**

Thank you Mr Dormer.

**QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP**

10 Q. Mr Beer, at page 5.2 of your evidence-in-chief you note that, "Some matters have been addressed in the amendments to the proposal." And then on page 11 you set two of those out and item (b) is the location of the Hendon Park bridge, in relation to an esplanade reserve, and that's helpfully footnoted to a condition which is LV.2(vi), so I thought I would go for a trot there, and see what – and I find on page 50 that it's, the (vi),  
15 has been struck out, now that might just mean that it's been re, it's been inserted somewhere else and I am happy to take an answer from anywhere in the room as to where it might have migrated to, is that within your knowledge Mr Beer?

20 A. I believe that many of these are under F in the various amendments were to the – a previous set of urban design landscape plans and so those changes are not integrated into the latest version that was attached to Ms Hancock's evidence.

Q. So the conditions become redundant –

A. Yes.

25 Q. - because it's now in the –

A. In the actual plan.

Q. – in the UDL plans?

A. Yes.

30 Q. That's a good explanation. In paragraph 8.2 of your evidence-in-chief on page 17, you tell us that you consider there is inadequate information in the application to determine the effect of the proposal on Western Springs gardens, and you finish that section by saying, "While an open space restoration plan, subject to council approval, could address

reinstatement, any effect on the provision of the carparking in the area requires careful consideration.” My question is do you have an update for the Board on that matter, has there been any progress, does it remain part of the council's case in terms of matters it would want to see altered in some way?

5

A. We discussed that matter in the open space caucusing and Ms Linzey assured me that there will be no impact on the carpark, permanent impact on the carparking at Western Springs Gardens, and I believe that is now incorporated into one of the open space condition.

10

Q. Yes.

A. Yes, so that has, that has addressed that matter.

Q. And that's recorded in the caucus statement is it?

**MS LINZEY:**

It is in the caucus statement and it's included as OS14 in the conditions in the green book.

15

**MS JANISSEN:**

And the caucus statement is at paragraph 91.

**QUESTIONS FROM THE COURT CONTINUES: COMMISSIONER DUNLOP**

20

Q. Thanks for that, I'm sorry to be taking up time with matters that have obviously been dealt with but my worry is from a – from reading your evidence Mr Beer. Then you, to my mind, you have helpfully gone through, sector by sector, and raised issues that you have with various open space aspects in those sectors. Rather than deal with the specific queries, it might be more helpful to jump to the conclusion section of your evidence where you've, in 12.2, you've provided a summary?

25

A. Yes.

Q. And then in 12.5 you've sort of turned your mind to you know, where to from here?

30

A. Uh huh.

Q. And you say, you note, that “The works will require fundamental changes to the urban design and landscape plans.”?

A. Yes.

5 Q. Proposed in the conditions, in addition to incorporating the works” you recommend certain things. Now in terms of where we sit today, if he Board thought there were merit in the amendments that you commend to it in your evidence, would it be necessary or desirable to actually have those amendments flow through into amended application documentation. For example in the F16 series which I think you dealt with in your appendix D for example?

10

**1245**

A. Yes I believe so, so –

Q. You believe so.

A. – it would require alteration if council’s mitigation package it obviously changes the design of some of those parks quite significantly and I feel that that would obviously have to be reflected through into the urban design landscape plans and also into the consent conditions I guess in terms of what specific facility is reinstated at what location because that would change somewhat.

15

20 Q. Now I don’t make this comment in a critical way but you know sometimes a witness in their evidence would include copy of the specific changes they were seeking. You haven’t quite reached that point have you if I’m remembering what’s in the evidence?

A. No I haven’t.

25 **THE COURT: COMMISSIONER DUNLOP**

And I’m quite capable of having put in another part of my brain for the time being, Mr Lanning’s submissions, was it covered in the submissions Mr Lanning as to how the council envisaged these matters being progressed if the Board were to accept the council’s evidence on them?

30

**MR LANNING:**

Other than a sir, other than general comments about a process and essentially suggested further caucusing. So to get the people in the same

room to actually work through the detail with the guidance of the Board as to what he wanted to have achieved through those conditions.

**THE COURT: COMMISSIONER DUNLOP**

Mr Lanning, I think it's appropriate that I shouldn't ask any further questions of  
5 Mr Beer on the matter, I've put it out there if you like and if consent were to be forthcoming it might be an example of a matter that could be dealt with through the procedural step that His Honour has described of the parties working further prior to a draft decision issuing?

10 **MR LANNING:**

Yes sir, and I was, if I have a chance to comment we would certainly support that proposed approach if it's in an interim draft, not decision but some guidance as to what you want to see achieved.

**THE COURT: JUDGE NEWHOOK**

15 I think the language I put it was and "indication" of thinking, subject to a number of matters being able to be worked through to our satisfaction, absent reasons yet being advanced at that stage because those would still be developing to what we saw coming in. But this was one area as I've just indicated to Member Dunlop that I thought might particularly benefit from this  
20 kind of extra work.

**MR LANNING:**

Yes we would support that sir.

**THE COURT: JUDGE NEWHOOK**

25 That's good to know, thank you.

**QUESTIONS FROM THE COURT: JUDGE NEWHOOK – NIL**

**RE-EXAMINATION: MR LANNING**

Q. Firstly Mr Beer, Ms Janissen asked you about your views on what the impact of shifting the northern ventilation stack from one side of



Great North Road over into the Oakley Creek side of the Great North Road. And I think the question was something along the lines of, "If the northern ventilation stack was shifted, would that impact on the Oakley Reserve and you said, "Yes it would." Are you able to expand on that?

5 What, in terms of the significance of the impact?

A. Yes it's a bit difficult with the amount of information that's available at the moment, but in terms of functional practical use of the reserve it's probably relatively minor. The principal effect is probably a visual landscaper impact which has been dealt with by other witnesses.

10 Q. Other questions have been addressed through your questions from the Board sir, thank you.

**WITNESS EXCUSED**

**COURT ADJOURNS: 12.51 PM**

**COURT RESUMES: 2.16 PM**

**THE COURT: JUDGE NEWHOOK**

Now just while he's getting settled there may be people in the courtroom who are hoping to offer us their representation today. There's quite a list of people  
5 and it is our hope that we will get through the balance of the Auckland Council evidence today and then listen to those who've come to offer their statements. If there's anybody present who is listed to presented today who would be concerned that they couldn't come back on another date, if we don't reach them despite our best endeavours could they signal that now. Is there  
10 anybody who simply would not be able to come back ever again? Your name?

**MS BROWN:**

Karen Brown, Waterview Environmental Society.

15 **THE COURT: JUDGE NEWHOOK**

Yes, all right. Okay I'll try and keep you in mind if we – if I appear to have forgotten about that later in the day leap to your feet at an appropriate time when we're changing witnesses if we're getting towards 5 o'clock. Thank you. And Mr?

20

**UNKNOWN:**

(inaudible 14:17:28).

**THE COURT: JUDGE NEWHOOK**

Yes you've been here before I know and that does tend to happen with these  
25 big hearings, but we'll try and do our best, okay. Thank you.

**MR LANNING CALLS****MICHAEL GALLAGHER (SWORN)****THE COURT: JUDGE NEWHOOK**

And just on the point that I was addressing to the other parties, if those of you  
5 who are participating in the evidence offered by the Auckland Council can  
keep things appropriately economical in the way that we have been  
throughout the hearing we should be able to cope with today's business.  
Thank you Mr Lanning.

**EXAMINATION: MR LANNING**

- 10 Q. Is your name, full name Michael (inaudible 14:18:25) Gallagher? Or  
(inaudible 14:18:26) sorry, (inaudible 14:18:27) Gallagher?
- A. Yes it is.
- Q. And have you produced a statement of evidence for this hearing dated  
17<sup>th</sup> of December 2010?
- 15 A. Yes.
- Q. And do you have the qualifications and experience set out in paragraphs  
1.2 to 1.4 of that statement of evidence?
- A. Yes I do.
- Q. Do you have any corrections or amendments you wish to make to that  
20 evidence?
- A. Yes I would like to correct a couple of paragraphs in my evidence. A  
couple of matters, or one matter. It was raised during caucusing relating  
to summer sport on winter fields.
- Q. So if you just go to the paragraph that you want to change.
- 25 A. Oh okay. Yep, paragraph 6.4(b) on page 6.
- Q. So if you could just read out what changes you want to make –
- A. Okay.
- Q. – to that paragraph very slowly so people can...
- A. The last sentence should read "A venue with a single winter sports field  
30 cannot accommodate full sized pitches for senior competition games of  
these sports."
- Q. Right so we're going to do that slowly.

A. Okay.

Q. And write that down.

A. So after the word “accommodate” add the words “full sized pitches for senior competition games of”. And on page 12 paragraph 7.7(a) the sentence starts off, “Two fields in the configuration proposed by NZTA do not allow,” and after the words “allow”, should be added, “sufficient space for full sized facilities for.” And then at the end of the sentence delete the words, “to be played”.

**1420**

10 Q. If you just want to read out that full sentence to everybody?

A. It should read, “Two fields in the configuration proposed by NZTA do not allow sufficient space for full sized facilities for summer sports that require large outfields.” And the next sentence goes on, “For example senior competition games of cricket, softball, baseball and Australian Rules could not be played on this reserve.” So after the word “example”, should be added, “senior competition games of.” After the words, “for example”, please add “senior competition games of.” I’d given the impression that you couldn’t play that sport at all on a winter field, but in reality you can play junior or lower grade games on a much smaller field than normal so just wanted to clarify that.

**THE COURT: JUDGE NEWHOOK**

Struck that issue at Mt Wellington I think.

**EXAMINATION CONTINUES: MR LANNING**

Q. Mr Gallagher with those changes that you’ve just read out, can you confirm that your evidence is true and correct?

A. Yes it is.

**THE COURT: JUDGE NEWHOOK**

Albert Eden Local Board.

30

**MS WATSON:**

Maggie Watson on behalf of the Albert Eden Local Board. Ms Devine did notify the EPA that we no longer wish to cross-examine Mr Gallagher.

**CROSS-EXAMINATION: MS JANISSEN**

- 5 Q. Just want to clarify, your evidence is limited to issues relating to sports fields and facilities that will be affected by the project works?
- A. Pretty much, yeah.
- Q. And does it cover anything other than sports fields?
- A. Well there's a few general items about parks.
- 10 Q. But primarily sports fields?
- A. Yep.
- Q. And since your evidence was prepared in December there have been a number of changes made to the Agency's proposals regarding sports fields for the project, correct?
- 15 A. Yes.
- Q. You've also been involved in expert caucusing on those issues?
- A. That's right, yeah.
- Q. Just like to take you through a few of those. Firstly, with respect to Waterview Park and Reserve, the Agency's current proposal is reflected
- 20 in proposed conditions open space 4 and 9. Have you read those conditions?
- A. I've read them, I haven't got a copy with me, I have read them.
- Q. That's page 55 sir for open space 4 on page 58 for open space 9.
- A. I'm on page 55.
- 25 Q. So you can confirm that that provision so far as you're aware is what the Agency's current proposal is with respect to mitigation on the Waterview Reserve?
- A. Yes.
- Q. And with respect to open space provision condition 9, it's on page 58,
- 30 that provides that those facilities will be made available 20 working days before construction starts in Waterview, before construction areas are occupied in Waterview Reserve, correct?
- A. Yes.

Q. And do you also understand the Agency's now proposing to provide a permanent sports field at that time?

A. Yes.

5 Q. So that satisfies your initial concerns about the temporary sports field that was initially proposed?

A. Yes it does.

Q. In your evidence-in-chief you had also I think criticised the Agency for providing just a single sports field at Waterview didn't you?

A. Yes.

10 Q. And you've indicated that you thought that that was inefficient and not flexible, correct?

A. That's right.

Q. Currently the council only has a single sports field in that location?

A. That's right.

15 Q. Doesn't it?

A. Yes.

Q. So to that extent there's an existing problem that the council would like addressed?

A. Yes.

20 Q. And in effect this project is an opportunity to fix that problem?

A. Yes it is.

Q. In your evidence you'd also indicated a concern that the initial proposal did not provide replacement toilets and changing sheds, that concern is now met by the conditions. If I could turn you to open space condition 4.

25 I just want to go through and clarify that concerns initially raised in your evidence have now effectively been addressed in the conditions?

A. It says, "One ablution block," not sure if that's men's changing shed and toilets or not.

Q. If you could refer to –

30 A. Oh I see, I beg your pardon I see it there in item 1, yeah okay that's fine yeah.

Q. Another issue that you had originally raised in your evidence was a concern whether or not there was sufficient room to fit in the facilities,

the basketball and the volleyball court in the Waterview Reserve area, correct?

A. Yeah.

5 Q. And that was also something you'd raised I think during the expert caucusing?

A. Yes.

Q. Have you since had the opportunity to review the second supplementary evidence of Amelia Linzey?

A. Yeah.

10 Q. And in particular there is an annexure G which shows how the sports field can be accommodated within that area by way of modification of the boundary of construction yard 6?

A. I didn't see all the supplementary evidence but I did see that drawing.

15 Q. And are you comfortable that that drawing shows that those facilities can be accommodated within that area by the Agency?

A. Yeah I think that would work, yeah.

Q. Now just in relation to condition OS4, the Agency's proposed either the equivalent reinstatement of the senior sports field at the reserve or an equivalent financial contribution to Auckland Council Parks, correct?

20 A. Yes.

Q. So do you accept that the Agency's proposal for Waterview mitigates all of the sports field issues at Waterview Reserve?

A. Yes.

25 Q. And just to clarify, the alternative condition has been provided because it's council's preference that the sports field is located at Phyllis Reserve rather than Waterview Reserve?

A. Yeah that's right, we were under pressure to provide sports fields and so we need to be as efficient as possible in the way we provide them.

30 Q. So you accept that the Agency, they're willing to actually provide a sports field within the Waterview community but it's the council that wishes it to be relocated to Phyllis?

A. Yes that's right and that was supported by the community representatives who were in the caucusing.

Q. Are you aware that there has been some evidence exchanged by submitters during this hearing that they do not wish to have that sports field relocated. For example the evidence of Ms Margaret Watson?

A. I wasn't aware of that, no.

5 Q. Turning to the Alan Wood Reserve, currently there are three sports fields there, I think two full sized, nearly full sized and one half size?

A. That's right.

Q. And two of those fields are currently located on rail land, so they're subject to the rail designation?

10 A. That's probably correct, I'm not quite exactly clear where the boundaries run through those fields, but that's probably correct.

Q. To mitigate the impacts on Alan Wood Reserve the Agency proposes two senior sports fields at Valonia, parking, the basketball court and ablution is reflected in condition 5, if I could refer you to that please and  
15 if you can just confirm that's on page 56?

A. Yeah, I notice that the associated changing facilities has been deleted on that one.

### 1430

Q. And that is because it's provided at... So that's under subparagraph  
20 (a)(i)?

A. Yeah.

Q. Okay. I'll check on that one, I'm not sure what that's about.

### THE COURT: JUDGE NEWHOOK

Q. Mr Gallagher you were of the view that that shouldn't have occurred that  
25 deletion? Probably a mistake?

A. We would normally providing changing sheds and toilets.

### MS JANISSSEN:

We just had a check where that one has gone, it might have just come out in  
30 the red lining.

### THE COURT: JUDGE NEWHOOK

It seems to have fallen between the cracks a little.



**CROSS-EXAMINATION CONTINUES: MS JANISSEN**

- 5 Q. And if I could refer you to condition 8 because that refers to what is to happen 20 working days prior to occupation of construction areas in Alan Wood Reserve. That sets out the provisions that the Agency's proposing in relation to mitigation there, correct?
- A. Yeah.
- Q. And there again, it's indicated there's an alternative there between providing three soccer playing fields and associated facilities or an equivalent contribution to the Auckland Council parks?
- 10 A. Yeah.
- Q. And that again is because the council's preference is to co-locate such sports fields at Phyllis Reserve rather than provide them Alan Wood?
- A. Phyllis and Valonia.
- Q. Given the mitigation proposed do you accept that the Agency will be fully mitigating issues concerning provision of sports fields at Alan Wood Reserve?
- 15 A. Yes I just would like to point out that there's a volleyball court at Alan Wood which should be replaced, if it's going to be lost, next to the basketball.
- 20 Q. Turning finally to Valonia Street and with respect to the Agency's proposal there. The benefits of the Agency's proposal in relation to the two sports fields there include the fact that sand carpeting will be used?
- A. I wasn't sure that that's what the NZTA was proposing.
- Q. If it was what the Agency's proposing that would improve the quality of the fields they're currently replacing?
- 25 A. Yeah, definitely.
- Q. And the Agency's also proposing that the fields will be full sized?
- A. Yes that's my understanding.
- Q. Another benefit of the Agency's proposal is that the fields will be oriented north to south?
- 30 A. My understanding is that – we're talking about Valonia aren't we?
- Q. Correct, yes.
- A. Yeah, my understanding is that one field was oriented roughly north-south and the other is at right angles to it in NZTA's proposal.

- Q. And according to FIFA guidelines their preference is that the north-south fields are constructed?
- A. Yep.
- 5 Q. The other nature of the Agency's proposal is that the fields will be co-located within that area of the Valonia Reserve?
- A. Yes.
- Q. And the fields will ultimately be on council owned land? They won't be straddling the rail designation anymore?
- A. Yes.
- 10 Q. So these are all benefits of the Agency's proposal that we understand are consistent with council policy in relation to desirable attributes for sports fields, is that correct?
- A. Yes with the exception that they're not both north-south, but they are, there's a number of desirable attributes to your design, yes.
- 15 Q. And I note from the caucus report, the open space caucus report, that both yourself and Mr Beer agree that the two full sized fields at Valonia are appropriate mitigation for the loss of the fields at Alan Wood Reserve? Paragraph 59.
- A. Oh I think that should be qualified that it's for mitigation if they can  
20 aligned side by side. We're actually losing half a field, but you gain by – if the fields are in the configuration whereby they're side by side there's a lot of benefits in that which make up for the loss of the half field.
- Q. It's noted that the caucus report refers to the layout, other than the layout the council is satisfied that they're appropriate mitigation for the  
25 loss of the Alan Wood Reserve fields?
- A. I... Would be - our strong preference is for the fields to be side by side.
- Q. I'll move onto that, yes. But other than the fact the Agency is still proposing to provide two sports fields there, the full size sand carpeted et cetera?
- 30 A. So what's the question?
- Q. That both yourself and Mr Beer agree that the two full size fields at Valonia are appropriate mitigation for the loss of the fields at Alan Wood Reserve subject to your qualification about them not being side by side?
- A. Yes.

Q. Now moving to that issue, the really primary difference between the council and the Agency is just in the layout of those sports fields?

A. Yeah, pretty much and that extra space that's required I guess to accommodate them.

5 Q. There is no existing cricket pitch at Alan Wood Reserve is there?

A. No.

Q. And at the moment none of the fields in Alan Reserve are located side by side are they?

A. No.

10 Q. To accommodate a side by side layout and to accommodate the cricket pitch there would need to be substantially greater area provided at Valonia?

A. That's right, yeah.

15 Q. Moving to Phyllis Reserve. Phyllis Reserve is located directly above the proposed tunnels isn't it?

A. Yes.

Q. It's not impacted by the project works itself?

A. Not directly no.

20 Q. I think you've indicated earlier in your evidence at paragraph 8.4 that the current facilities at that reserve are poorly configured and could be improved?

A. Yes that's right.

25 Q. So in your opinion this is another I guess occasion where the council can take the opportunity presented by the Waterview project to make improvements to Phyllis Reserve?

A. Yeah and to our stock of sports fields in general, yep.

Q. The council's proposal at Phyllis Reserve would involve quite a substantial reconfiguration of that reserve wouldn't it?

A. Fairly substantial yeah.

30 Q. Given that the reserve sits on a closed landfill, developing sports fields on that site may require additional works, is that correct?

A. I think developing one of the fields will require additional works, yeah. Number, I think it's number 4.

- Q. And council would be particularly concerned to ensure that there would be adequate drainage for the playing surfaces?
- A. Yeah, again on number 4 that would be quite tricky. I think reasonably straightforward on the rest of the reserve.
- 5 Q. The other concern the council would have is to ensure that there's no additional leachate discharge from the closed landfill?
- A. Yes that's right. Again that's number 4 field.
- Q. And that's in relation with their concern there be to no additional leachate discharge both to Oakley Creek or to the surface?
- 10 A. That's right.
- Q. The investigation work for those issues has not yet been done by the council for Phyllis Reserve has it?
- A. Some work's been done in that area. I – they certainly haven't got a final design as far as I'm aware.
- 15 Q. I think the council witness, Mr Stiles, referred that was still in concept stage?
- A. That sounds correct, yes.
- Q. And just to confirm the Phyllis Reserve, at least its surface, is not within the Agency's designation for this project is it?
- 20 A. No.
- Q. So the council accepts that any reconfiguration works that would be required at Phyllis would need to be undertaken by the council?
- A. Yep.
- Q. In the joint caucus on open space you're one of the experts who agreed that, with the Agency that rail designated land should not be included when calculating the amount of existing open space for the project?
- 25 A. Yes that's right. Yep.
- Q. And a final point I noted you read the submission of Mr Robert Black?
- A. No I haven't.
- 30 Q. Are you aware that Mr Black – well actually, sorry it wasn't a submission. Are you aware that during caucusing Mr Black had proposed that there be a skatepark and a BMX mountain park track provided at Waterview Park?
- A. I think I remember that being raised.

Q. And he also suggested that there be a skatepark provided at Alan Wood Reserve?

A. I don't recall that.

5 Q. Do you consider that either of these facilities would be required impact – sorry, to mitigate the project works?

A. That's quite a difficult question to answer really because there's – it's so complex and there's so many different ways potentially of compensating for – or mitigating. I suppose they, those skateboard parks could be an agree – used for mitigation.

10 Q. I guess a more specific question is would the council wish to have skateparks or BMX facilities at either Waterview Park or Alan Wood Reserve?

A. I can't really answer that. I don't have enough knowledge of council's policies in that area.

15 **1440**

#### **QUESTIONS FROM THE BOARD: MS HARDIE**

Q. Mr Gallagher can I just go back to the proposed condition OS8 and I detected that there was some thought that you would perhaps, you know, (inaudible 14:40:30) for provision of some of the fields and the remainder would be as a financial contribution in terms of Alan Wood, is that what you were meaning?

20

A. I, my understanding is that council is happy to accept equivalent financial contribution with regard to both sites, both Alan Wood and Waterview.

25 Q. So let's say for – there would be no expectation then in terms of any of the sports fields or any development at Alan Wood, that simply, it would be money or development at Alan Wood?

30

A. Our preference is to develop Valonia rather than Alan Wood because the site at Valonia seems to have potential to produce a far more versatile sports venue than Alan Wood would be able to, because Alan Wood is such a narrow, long reserve, there is a lot of benefits in having fields, more than one field and having them side by side.

**QUESTIONS FROM THE BOARD: MS JACKSON – NIL****QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP**

Q. Mr Gallagher in OS, condition OS.8, on page 57, there is this formula of the Agency either providing physical resource or an equivalent financial contribution, and in OS8 the words that set that arrangement up read, “The Agency shall, in consultation and agreement with the council, provide (a) or (b).” If you have a look at the wording of OS4, for Waterview as opposed to Alan Wood, as I read the proposed condition, the initiative if you like is with the council, sorry is with the Agency, “The following shall be provided (a)1 or (a)2” there are no words there along the lines in consultation and agreement with the Auckland council. Ms Linzey has spotted the –

**MS LINZEY:**

Can I – the logic there is that the – because that is part of the Waterview Reserve open space restoration plan, a process which is subject to council approval, it would be – it was inherent in their approval process of that plan, where the temporary sports fields it's not a subsequent plan approval process, that's the – so the whole plan is subject to council approval in this case, that was the only intent in the difference in the wording.

**THE COURT: COMMISSIONER DUNLOP**

So through that approval process Ms Linzey is it your view that the council would be able to exercise that choice, that is provided for in 8?

**MS LINZEY:**

That is correct. Yes and 8 was worded differently because it's not a specific plan that would be the only difference.

**THE COURT: COMMISSIONER DUNLOP**

I could understand why it might be important to the council to be able to want to chose one or t'other, thanks for that.

**QUESTIONS FROM THE COURT CONTINUES: COMMISSIONER DUNLOP**

5 Q. Mr Gallagher, Mr McKenzie and possibly other witnesses have seen merit in a property on the south eastern side of Hendon Road known as number 6 Barrymore Road?

A. Yes.

Q. Apparently contains about 1.9 hectares vesting as open space. Do you see any merit in that proposal?

10 A. Yes I do, I think it would be – make a good parkland, I understand that council has asked for having the option to purchase it when the construction has finished.

**QUESTIONS FROM THE BOARD: MR DORMER – NIL**

**QUESTIONS FROM THE COURT: JUDGE NEWHOOK – NIL**

**RE-EXAMINATION: MR LANNING - NIL**

15 **WITNESS EXCUSED**

**MR LANNING CALLS****ANDREA JULIAN (AFFIRMED)**

Q. Are you Doctor Andrea Julian?

A. Yes.

5 Q. Have you produced a statement of evidence for this hearing dated 17<sup>th</sup> of December 2010?

A. Yes.

Q. And do you have the qualifications and experience set out in paragraphs 1.1 through to 1.3 of that statement of evidence?

10 A. Yes I do.

Q. Do you have any corrections or amendments you wish to make?

A. No.

Q. So you can confirm that that evidence is true and correct?

A. Yes.

15 **THE COURT: JUDGE NEWHOOK**

Forest & Bird, nobody present. Right Friends of Oakley Creek, Ms Docherty.

**CROSS-EXAMINATION: MS DOCHERTY**

20 Q. In paragraph 6.5 of your evidence you raise concern regarding the limited animal pest control associated with the proposal. Do you consider that throughout the proposal animal pests such as rabbits and possums pose a threat to vegetation in addition to having adverse effects on flora – fauna, my mistake, fauna?

A. Yes, I do.

25 Q. In any respects has animal pest control throughout the length of the project been adequately addressed through either a proposed management plans or conditions?

A. No.

Q. Do you consider that this is something that should be the responsibility of NZTA with regards to this proposal?

30 A. Yes in terms of the, certainly in any areas that are planted as part of the project, also in any areas with recognised biodiversity values that are deemed appropriate to have those – if those biodiversity values form



part of a mitigation package and the maintenance of those values falls under this project, then yes.

Q. What would be the ecological benefits of undertaking animal pest control for these mitigation plantings?

5 A. Animal pest control, well if you have rabbits, rabbits will eat plants that get planted, rats can also be of, rats and mice can be a problem from, in terms of eating seeds that form part of the succession process within a planted area, and also from the habitat perspective obviously rats, stoats, cats, are all problems for any fauna, indigenous or otherwise that uses that area as a habitat.

10

Q. Turning to paragraph 9.2 of your evidence you raise concern regarding the percentage of stream shaving with regards to mitigation plantings. You go on to propose wording of condition STW20D?

A. So 9.2 is that?

15 Q. Yes 9.2 on page 12 and then on page 13 you go on to suggest some wording around proposed condition STW20?

A. Yes.

Q. If we look at the latest version of the conditions, page 107?

**1450**

20 A. Sorry, give me the page number again please?

Q. 107.

A. I have that.

Q. Clause D. Does the wording of that condition adequately reflect the intent of your evidence?

25 A. It does, it does draw it back to apply to only part of the stream and it also, the full intent of my evidence does rest upon fulfilling the advice note which is underneath STW20(f), which is to the effect that the intent is to include the SEV offsetting mitigation associated with the Maioro interchange project, along those stretches of stream. Now it's a different project, for that reason it wasn't included within that condition and it may or may not go ahead depending upon the outcome of that advice note.

30

Q. Just a question I posed earlier to Mr Beer with regards to the tree schedule, are you able to give comment on the tree schedule at all?

A. No I'm not.

**QUESTIONS FROM THE BOARD: MS HARDIE – NIL**

**QUESTIONS FROM THE BOARD: MS JACKSON**

5 Q. Dr Julian on that same condition that we've just been looking at on page 107, it says, "70% shading of the stream at maturity." Some of these plants might take quite a while to become mature, so is there a certain size of tree that is preferable to plant so that there's no damage done while you're waiting for it to become mature?

10 A. I think a lot of those stretches of streams have no existing shading, so any shading is going to improve the situation over and above. Now there are pros and cons to planting large versus small plants, one is obviously as you've identified that they grow to maturity faster and they get bigger faster and they provide shade faster. But when the plants are smaller they establish better because their root systems are not so well  
15 developed, they don't get shocked so badly when they are planted, so you get a higher survival rate if you plant smaller plants, so there's pros and cons to each. I tend towards the planting of the smaller plants. The reason we're saying at "maturity" is because it's recognised that you won't be able to get 70% shading from the get-go using any size plant  
20 effectively in a stream of that size.

25 Q. In your evidence, page 6 you refer to vegetation clearance timing. "Where practicable vegetation clearance shall occur outside the bird breeding season of September to December." But we know that there's many, many birds there outside of September to December, so are you happy with that statement. What does "where practicable" mean when we're talking about bird breeding seasons?

30 A. So that condition, that paragraph refers to the breeding season of the threatened species that are possibly breeding out on Traherne Island, on the sort of the salt marsh scrub areas. And the reason we picked the breeding season is because they're not mobile during the breeding season, their nest is where their nest is and if their nest is disturbed when they're breeding then they may abandon the nest or the nest itself

maybe destroyed, so that's why we're saying that particular season is important. I specifically identified those species because they are the two threatened species that are likely to be breeding in the footprint of the project. And also I'd just like to point out, that during caucusing on this matter the NZTA has agreed to take out the word "practicable" and to actually do the works outside of the breeding season, do the vegetation clearance outside of that season.

5 Q. Just at Traherne Island?

A. At Traherne Island, yes.

10 **QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP – NIL**

**QUESTIONS FROM THE BOARD: MR DORMER – NIL**

**QUESTIONS FROM THE COURT: JUDGE NEWHOOK – NIL**

**RE-EXAMINATION: MR LANNING – NIL**

**WITNESS EXCUSED**

15

**MR LANNING CALLS****TANIA EVELYN RICHMOND (AFFIRMED)**

Q. Is your full name Tania Evelyn Richmond?

A. It is.

5 Q. And have you produced a statement of evidence for this hearing dated 20<sup>th</sup> of December 2010?

A. Yes I have.

Q. Do you have the qualifications and experience as set out in paragraphs 1.2 and 1.3 of that statement of evidence?

10 A. I do.

Q. Do you have any corrections to your evidence you wish to make?

A. No.

Q. Can you please confirm that that evidence is true and correct?

A. Yes.

15 **CROSS-EXAMINATION: MS JANISSEN**

Q. With respect to your evidence-in-chief I understand that your role has really been limited to focussing on the conditions proposed by the Agency and by the council's witnesses and then providing a planning opinion on the revisions required in particular to landscape visual and social conditions?

20

A. Yes that's correct.

Q. And you'll agree that since your evidence was prepared in December of last year there has been substantial updating and revisions to the set of conditions currently proposed?

25

A. Yes.

Q. I'd just like to take you through a couple of them. With respect to the noise conditions, especially both construction noise and operational, have you reviewed the supplementary evidence from Ms Linzey and Ms Wilkening concerning how those proposed conditions are intended to operate?

30

A. Yes I have.

Q. And have you also reviewed the latest green set of conditions which show further amendments to noise conditions made during the expert caucusing?

A. Yes.

5 Q. And I understand that there may have been further changes proposed during the planning caucusing last week as well?

A. Yes that's correct.

10 Q. From the council's viewpoint wearing your regulatory hat and who will be responsible for enforcing those conditions, are you comfortable with the wording of those conditions now?

A. No I'm not.

Q. In what respects are you not?

15 A. From my point of view I would prefer to see the noise criteria clearly set in the sense that it is required to be complied with. However, all of the planning witnesses and indeed the noise experts recognise that for various reasons full compliance cannot be achieved with this sort of project and I accept that. Therefore the conditions should allow for the ability to exceed those noise limits and that the process for that should be clearly defined. As they're currently worded I feel that we're heading  
20 in the right direction but it could be adjusted to be more clearly defined. So if I can summarise that (inaudible 14:29:59) some small minor amendments are necessary.

### 1500

25 Q. And can I just clarify, is that with respect to construction noise or operational noise?

A. Construction noise.

Q. And you were here yesterday during the hot tubbing of the expert, the noise expert witnesses?

A. Yes.

30 Q. Is it proposed – are you aware if it's proposed that there's going to be further caucusing in relation to what you've just raised? Because I thought that would be covered in the planning caucusing.

A. Yes I believe that would be of benefit. Having heard the evidence in particular of the three experts, obviously there's a degree of discretion

that's necessary and I feel that from a planning point of view that just hasn't been fully articulated as clearly as I would prefer and some further work is required on that.

5 Q. In relation to – does the same apply with respect to the operation noise conditions that's –

A. No.

Q. So it's just with respect to construction noise?

A. Correct.

10 Q. In relation to the process that was set out in the updated annexure B to Siiri Wilkening's evidence, were you – and there was a lot of questioning about that, were you comfortable with the wording of that annexure as it developed?

A. Yes.

15 Q. Because one of the concerns obviously is if the council has to have that certifying role that you are very comfortable with knowing how the process works that you can carry out that role?

A. Yes.

20 Q. But you're comfortable that if there's any further tweaking of the conditions that are required in relation to construction noise, that can be addressed during some further caucusing?

A. Yes I believe so.

25 Q. Turning now to the construction and environmental management plan conditions and that starts at page 10, you'll be aware that the Agency has lodged at least 13 draft management plans as of August of last year?

A. Yes.

30 Q. And are you – I just want to check if you're comfortable with the process set out in CEMP condition 1 in particular, that requires the council to certify that any changes made to those plans as a result of conditions imposed by this Board is something that the council will be able to do?

A. Yes.

Q. And are you also comfortable with the process set out in CEMP condition 13 that requires that if there's any material change to the construction and environmental management plan and any of those

sub-management plans that is something that is to go to council for its approval?

A. Yes.

5 Q. And I think you'll be aware that there was some further discussion yesterday that we may need to be amending that condition further to provide greater clarity about what a material change might be?

A. Yes.

Q. And that's something that again can be addressed in perhaps in further caucusing of the planning witnesses?

10 A. Yes absolutely.

**THE COURT: JUDGE NEWHOOK**

And/or noise witnesses.

**MS JANISSEN:**

15 And/or noise witnesses, yes.

**THE COURT: JUDGE NEWHOOK**

But particularly and noise witnesses.

**CROSS-EXAMINATION CONTINUES: MS JANISSEN**

20 Q. And in relation to that certification role of the council, particularly given that you've had those management plans now for some six months are you comfortable that you have sufficient information to carry out that certification role that the conditions now provide for?

25 A. On a part I have relied on the various council experts who've reviewed those plans to advise me that there are no issues in relation to those, but yes, yes I am.

Q. You haven't heard any great concerns expressed by any of those experts, because that's been the purpose of the Agency lodging them six months ago?

A. That's correct.

30 Q. The final question just relates to your evidence-in-chief. I think one of your primary concerns was to ensure that the landscape and open

space conditions would need a substantial amount of work? I think that's what you stated in your evidence in December?

A. Yes.

5 Q. Are you comfortable with – I'm not going to say the final form of those conditions – but with the progress that has been made in terms of the rewriting of those conditions to date, especially during this hearing?

10 A. Yes yes yes I am. I mean they're certainly heading in the right direction. I feel that some further clarity is required around setting the standards that are necessary because the conditions now specify the items, but some further clarity around what is the performance of those items in terms of the council standards would be of beneficial.

Q. And which activity are we talking about here, because I was talking about –

A. Open space.

15 Q. – the last – open space?

A. Yes, yes.

20 Q. The final question. I think this is to avoid a whole lot of questions. In your annexure A to your evidence-in-chief in December you set out a whole lot of proposed amendments to the Agency's conditions that had been compiled by the council's witnesses, and I don't propose to go through all of those, but could I just ask this. Have many of those amendments been now addressed through the hearing process and since lodgement of the documentation, so to speak?

25 A. I can confirm and I have confirmed this with all of the witnesses, that other than the V8 relating to Dr Julian, all of the other experts have confirmed that their issues have been resolved.

#### **QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP**

30 Q. Ms Richmond, do you have any comment on the desirability of there being a section 128 review condition in any resource consents that might issue? And I apologise if I've -

A. No no.

Q. – overlooked any such provision in an overarching section or whatever.

A. I believe we have actually added that into the latest set.



**MS JANISSEN:**

Page 9 sir.

**THE COURT: JUDGE NEWHOOK**

5 We've got a general one? General approach.

**MS RICHMOND:**

Yes.

10 **QUESTIONS FROM THE COURT CONTINUES: COMMISSIONER  
DUNLOP**

A. Ideally in relation to these sorts of conditions you would attempt to be more specific in the matter that you were seeking to review, but unless we attempted to do that in every single consent, which I'm not suggesting is appropriate, I believe this type of catch all is acceptable.

15 Q. And I think I foreshadowed that in the way I framed the question, be it overarching or specific and it's been handled in the former manner and I apologise for not remembering that so I have read the (inaudible 15:07:42) new green material. And inevitably a related question, I think this is framed in respect of the resource consents. Would you have any comment on the desirability of having a similar review-type condition in respect of the designations if they were to be confirmed?

20 A. If that were legally possible. I'm not aware of the mechanism to do that with regards to a designation, but there may be some merit in that.

25 Q. Oh well just leave it at that, I think Mr Lanning has helped us on the law so we'll just leave it at that. I've heard the first part of the answer.

**QUESTIONS FROM THE BOARD: MR DORMER - NIL**

**QUESTIONS FROM THE COURT: JUDGE NEWHOOK - NIL**

**RE-EXAMINATION: MR LANNING – NIL**

**QUESTIONS FROM THE BOARD: MS HARDIE**

Q. Ms Richmond this is possibly just clarification, but I see in CEMP 1 it refers to council, Auckland Council, the documents will be provided to Auckland Council for review and then in CEMP 2 it suggests a certification process. So does review and certification process, I'm a little bit unclear as to were they the same? What's your expectation?

A. Can I just read the condition if I may?

Q. Sure.

**1510**

A. I am wondering whether CEMP 1 has been drafted like this because this is the overarching document and there will need to be some form of review. Having said that, in this context I would think they're one in the same thing.

**15 MS JANISSSEN:**

Perhaps I could also add there, I think what – I think you've correctly picked up on a point and I think there had intended to be mention of certification and perhaps if the last sentence would read, "Prior to the commencement of works to certify compliance and consistency with conditions," would clarify that.

20

**MS HARDIE:**

I think that would be helpful.

**QUESTIONS FROM THE BOARD: MS JACKSON – NIL**

**THE COURT: JUDGE NEWHOOK**

25 Any re-examination Mr Lanning?

**MR LANNING:**

Not re-examination sir, but it probably should have been a supplementary question, that was just in response the Board's enquiry about the progress on the pony club resource consent and Ms Richmond can answer that question.

30

**QUESTIONS FROM THE COURT: JUDGE NEWHOOK**

Q. Ms Richmond, can you provide us with an update?

A. Yes I can. I spoke with the reporting officer yesterday and he has confirmed that he has all the information he needs to process the consent and he will be recommending to his manager that the application be granted and he has advised me that he will not be recommending any conditions which would impact on the alteration of the construction yard. And having discussed it with his manager who has the delegated authority to make the decision he does not foresee any issues in relation to that consent being forthcoming.

Q. Any rough idea of timing?

A. Ideally sometime next week.

Q. That would be most helpful it would assist us to know what issues we need to address and what we don't.

A. I'll pass that on.

**WITNESS EXCUSED**

**COUNCIL'S EVIDENCE CONCLUDES**

**THE COURT: JUDGE NEWHOOK**

Ms Brown for the Waterview Society, would you like to come forward and give your presentation so that we can make sure that we hear from you today. Now you've got Ms Shirley Upton with you I think.

5

**MS BROWN:**

I have and I have her questions from the two of us, if we could come up together and then Shirley can (inaudible 15:14:06).

**THE COURT: JUDGE NEWHOOK**

10 So that she could what?

**MS BROWN:**

And then Shirley gives her presentation straight after me.

**THE COURT: JUDGE NEWHOOK**

15 Are you going to divide the presentation so one's giving half of it and the other's giving half, is that what –

**MS BROWN:**

20 I'm speaking on behalf of the Waterview Environmental Society, of which Shirley and I are both members.

**THE COURT: JUDGE NEWHOOK**

And then she's going to present her representation on her own behalf?

**MS BROWN:**

25 Correct, if that's all right.

**MS BROWN READS REPRESENTATION**

**QUESTIONS FROM THE COURT: JUDGE NEWHOOK**

- Q. Could you look at the fourth bullet point on your second page. The one that reads, “We would like to see construction hours restricted to 7.00 am to 6.00 pm Monday to Saturday, with no construction on Sundays.” Now leaving aside technical issues that builders might address or construction people or engineers about whether you can actually stop certain processes with safety, like lining a tunnel with concrete, which might not be within your personal knowledge, technical knowledge. Have you thought about the possibility that if you limit the construction hours to essentially daylight, Monday to Saturday, no night time construction and you don’t have any on Sunday that a project that’s designed almost as a 24/7 project, with some controls over that and slated to run for five to seven years might push out eight, nine, goodness only knows, 10 years. Have you thought about that?
- 5
- 10
- 15 A. Yes.
- Q. What’s your response to that?
- A. I suppose I’m coming at it from the attitude of you have the worst case scenario, we have the best case scenario and we’d somehow meet in the middle.
- 20 Q. And so this was your thinking as a compromise, rather than as a – the other end of the spectrum from what the NZTA proposes?
- A. Correct.

**1520****QUESTIONS FROM THE BOARD: MS HARDIE – NIL****25 QUESTIONS FROM THE BOARD: MS JACKSON**

- Q. Mrs Brown have you seen these drawings that we were given yesterday?
- A. I was here –
- Q. The revised ones?
- 30 A. – part of yesterday and I saw them up on the screen, yes.

Q. So when you see the stack moved to the other side of the road, that's the 25 and that's the 15, that doesn't change your mind about visual amenity?

A. No.

**5 THE COURT: JUDGE NEWHOOK**

Just for the record we are referring to exhibit 7.

**MS JACKSON:**

Sorry.

**10 QUESTIONS FROM THE BOARD CONTINUES: MS JACKSON**

Q. You are standing by your decision?

A. No, it doesn't change my mind.

Q. Okay.

A. May I ask, are we allowed to take this with us?

15 Q. Yes.

**THE COURT: JUDGE NEWHOOK**

Yes those are copies for you.

**QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP – NIL**

**QUESTIONS FROM THE BOARD: MR DORMER**

20 Q. There is a reference towards the end of the front page to residents walking to Pt Chevalier or Avondale for libraries, banks, et cetera. We had a slide yesterday or a map showing the effect of the works on the foot traffic between Waterview and Pt Chevalier.

**MR DORMER:**

25 Could you bring it up please?

**QUESTIONS FROM THE BOARD CONTINUES: MR DORMER**

Q. That's the one I think.

A. That one showing, sorry?

Q. Yes that's the Pt Chevalier shops at the top, with the red dot at the top.

A. With the red dot thank you.

Q. Can you see that very well Mrs Brown?

5 A. Yes.

Q. So – would you like to approach the map please?

A. I suppose I should qualify that I am meaning during the cut and cover and Great North Road, people are concerned about how to –

### **THE COURT: JUDGE NEWHOOK**

10 We have got another microphone a roving one there, we are really into the 21<sup>st</sup> Century.

### **QUESTIONS FROM THE BOARD CONTINUES: MR DORMER**

Q. Could you point out for me please where you and Mrs Upton live?

A. About here.

15 Q. You're neighbours I take it?

A. We are.

Q. And how do you walk to Pt Chevalier now?

A. Round the back streets of Waterview, Great North, and up that way. Other people we speak to do walk along Great North Road.

20 Q. And their ability to do that they think will be reduced?

A. Very, if – yes, very limited and that does concern them.

Q. And then walking on, what on that plan, is the left-hand side of Great North Road?

A. Yes.

25 Q. Is there any present way to cross Great North Road?

A. Yes, very busy road, very dangerous, best place to cross is at the dairy on the corner of Alfred and you can walk down that way. Going the other way to Avondale, same thing.

Q. So if this project goes ahead how is it going to be more difficult to walk  
30 to Pt Chev on the Alfred intersection?

A. Thinking about the Great North Road cut and cover, there is going to be a lot of construction works.

Q. Yes.

A. Construction works, noise, et cetera and people are fearful that, especially elderly, that it is going to be very difficult for them trying to keep fit, not drive a car.

5 Q. And walking is a popular means of getting to and from the shops?

A. Yes it is, yes.

Q. I assume, for myself I don't walk that much, never tried, but in this neck of the woods it's much more common?

A. Yes.

10 Q. How do you feel about that dotted line that goes through Unitec as a way of getting to Pt Chevalier?

A. Very good idea, yes, you can do it at the moment but, again if you are elderly, you've got a lot of uneven footpaths through the Oakley Creek walkway and a lot of them don't like to go, especially on their own, so.

15 Q. And is it quite steep at one point and quite steep back out again?

A. Yes it is.

Q. So that's not very good for elderly folk is it?

A. Correct, yes.

#### **QUESTIONS FROM THE COURT: JUDGE NEWHOOK – NIL**

20 **THE COURT: JUDGE NEWHOOK**

Ms Upton would you like to address us now.

#### **MS UPTON READS REPRESENTATION**

**1530**

And I thank you for the opportunity to speak to the hearing.

25 **THE COURT: JUDGE NEWHOOK**

And thank you indeed for coming to do that. Did you pass up the Motu Manawa Pollen Island Marine Reserve brochure from DOC? Was that from you?

30



**MS UPTON:**

I'm not sure if I sent one in my submission I may have.

**THE COURT: JUDGE NEWHOOK**

Yes, yes I think you did.

5

**MS UPTON:**

Yes I did.

**THE COURT: JUDGE NEWHOOK**

So thank you for that. I've seen it myself quite some time ago. I like these  
 10 DOC brochures concerning their reserves, particularly the more important  
 ones, and this is a good one. Thank you very much. Let me see if there are  
 some questions for you from Members of the Board, starting with  
 Member Hardie.

**QUESTIONS FROM THE BOARD: MS HARDIE - NIL****15 QUESTIONS FROM THE BOARD: MS JACKSON**

Q. Ms Upton, this is a whole new take on things isn't it, because we've got  
 your friend saying that she wants to lessen the visual impact and you're  
 saying, "Go with it, as high as you can get it out of here." So that's  
 (inaudible 15:31:55) both of you happy but, you know. And I thank you  
 20 for your submission. Saying motorways are no good for anything, I think  
 there would be some people that disagree that have to wait in huge long  
 queues for two hours in the morning so do you get much traffic backed  
 up along Great North Road now from where the two motorways meet?

A. Sometimes. Yeah, it is. It's often pretty busy in the mornings and  
 25 evenings.

Q. And evenings, sort of like after 3 o'clock?

A. Yeah.

Q. When everybody comes home?

A. Yes.

30 Q. So, yes that's the predicament we're battling with. Thank you.

**QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP**

Q. A question of Mrs Brown. Have you had a chance to have a look at the proposed conditions and have you spied the one that provides for a construction traffic management plan with the intention that walking routes be kept open to the extent that's possible?

5

A. Not that condition specifically no.

Q. And I can understand full well that the challenge of coming to grips with all this paper, but without wanting to be gratuitous at all if you want to make a note of condition TT1(b) there are some words that deal with that matter, and I don't really want to take it much further than that. They may or may not satisfy you or the Board, at the end of the day, but just to say that the issue is on the horizon so to speak.

10

A. Could you give me a page number?

Q. Yes sure, page 24.

15

A. Thank you.

**QUESTIONS FROM THE BOARD: MR DORMER**

Q. Mrs Upton, how long have you been living with this?

A. Well I've lived in Waterview for 20-odd years.

Q. I'm intrigued that your records involve (inaudible 15:34:15) for 2004.

20

A. Yes, yes we have a community scrapbook in which we put all our clippings in that relate to our area and our neighbourhood, yes.

Q. So this has been a big factor in your life for a long time?

A. Well I belong to a local group that's concerned about our backyard and our neighbourhood and we like to have an input in our back garden and it's pretty unique in so much that it's surrounded three sides by the Motu Manawa Pollen Island Marine Reserve. So that makes it pretty special, yeah.

25

Q. Thank you very much for coming.

A. Thank you.

30

**THE COURT: JUDGE NEWHOOK**

Now I'm going to accord an exhibit number to the DOC brochure so that we've got it firmly in the record and can refer to it as we need to. It'll be 13.

**EXHIBIT 13 PRODUCED – DOC BROCHURE**

**COURT ADJOURNS: 3.36 PM**

**COURT RESUMES: 3.55 PM**

**THE COURT: JUDGE NEWHOOK**

All right Professor Hazeldine, thank you. All right now, you wish to offer us representation first of all.

5

**PROFESSOR HAZELDINE:**

Does that mean sir that I wish to present myself as an expert?

**THE COURT: JUDGE NEWHOOK**

No, I'm sorry. Going back to the pre-hearing conferences and the various  
10 directions that were issued to the parties we carefully explained the difference  
between expert evidence, non expert evidence and what in the Courts we  
tend to call submission, which I think is very confusing because one lodges  
submissions when one starts out as a party. So we call them representation.  
In the courtroom we hear representations which the Environment Court calls  
15 submissions, often from a lawyer, often not and then we have the evidence  
and people are either sworn in for that purpose or they're not. Now you're  
down on the list to offer us a representation or submissions, if that's what you  
call it and you've prepared us three and a half pages I see that you wish to  
read out to us and given that we have read your evidence already, also as  
20 indicated to the parties through the directions and pre-hearing conference  
minutes, now would be the time for you to read out your representation to us.

**PROFESSOR HAZELDINE:**

Which would be the document that you have before you now sir?

25 **THE COURT: JUDGE NEWHOOK**

Yes it starts, "Statement of Tim Hazeldine scheduled to be heard  
Wednesday 9<sup>th</sup> of March 2011.

**PROFESSOR HAZELDINE:**

Thank you sir for clarifying that matter for me and thank you for letting me go further up in the proceedings, I appreciate that.

5 **PROFESSOR HAZELDINE READS REPRESENTATION**

“...in the future.”

This is by the way is a technical matter that is normally built into benefit costs  
10 ratio calculations, not here.

**PROFESSOR HAZELDINE CONTINUES READING REPRESENTATION**

“However the key... example in Christchurch.”

15 **1605**

**THE COURT: JUDGE NEWHOOK**

Thank you Professor. Now Mr Lanning my notes indicate that – now you might have noted that this party seeks no relief and in the submission filed last year it was neutral?

20 **MR LANNING:**

Yes.

**MR HAZELDINE:**

This was before I had done these calculations.

**THE COURT: JUDGE NEWHOOK**

25 Yes, well it's what you said in your submission.

**MR HAZELDINE:**

Thank you.

**THE COURT: JUDGE NEWHOOK**

Members of the board any questions for Professor Hazeldine, Member Dormer?

**QUESTIONS FROM THE BOARD: MR DORMER – NIL**

5 **QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP – NIL**

**QUESTIONS FROM THE BOARD: MS JACKSON – NIL**

**MS JACKSON:**

No, I understand, it is well written thank you.

**QUESTIONS FROM THE BOARD: MS HARDIE – NIL**

10 **QUESTIONS FROM THE COURT: JUDGE NEWHOOK – NIL**

**THE COURT: JUDGE NEWHOOK**

I have no questions for you Professor Hazeldine, thank you for your appearance at the hearing.

**MR HAZELDINE:**

15 Thank you for the opportunity sir.

**WITNESS EXCUSED**

**1610**

**THE COURT: JUDGE NEWHOOK**

The next party is Jinhu Wu. Now Dr Wu, I'll call you Dr Wu or Dr Jinhu Wu.

**MR WU:**

5 Yes thank you.

**THE COURT: JUDGE NEWHOOK**

And tell me, where did you gain your PhD, which university?

**MR WU:**

10 I just, I get a Master 25 years ago but it was five years ago my (inaudible 16:11:45) asking me to do the (inaudible 16:11:46) at Auckland University and  
—

**THE COURT: JUDGE NEWHOOK**

Is that from Auckland?

15

**MR WU:**

Yeah, in Auckland University. I just finish it about last November, take a long time. (inaudible 16:11:56).

**THE COURT: JUDGE NEWHOOK**

20 I hope it was worthwhile. Okay, thank you. Now you give us your statement.

**MR WU READS REPRESENTATION**

“... play soccer again.”

25

That's their house behind, the house behind another house, 173A Hendon Avenue, that's behind our house. (inaudible 16:15:43) by the NZTA. So that's (inaudible 16:15:47).

30 **MR WU CONTINUES READING REPRESENTATION**

“So there’s the... every day email.”

**THE COURT: JUDGE NEWHOOK**

Thank you very much for your statement Dr Wu. Let me see if Members of the Board have some questions for you, starting with Member Jackson.

**5 QUESTIONS FROM THE BOARD: MS JACKSON**

Q. Dr Wu, you say here on the second page of your submission, representation that Ms Wilkening mentioned but did not provide solutions. Are you suggesting that you’d like some sort of noise wall put along the back of your property?

10 A. No.

Q. No?

A. No.

Q. What sort of solution were you after?

A. I just would like it be known because if we stay there, how to you know reduce the noise by the NZTA when they (inaudible 16:23:34) plan, was the how to protect and you know reduce the noise and during construction and over night or daytime how to reduce the noise and the (inaudible 16:23:45), that’s you know raise the questions.

Q. So you want them to come to you with a proposal, is that what you’re requesting?

20 A. Yeah we like to see you know how do they protect it, reduce the noise you know. We couldn’t say, “No noise” because of the construction you know.

Q. Yes it will be there.

**25 QUESTIONS FROM THE BOARD: MS HARDIE**

Q. I’m just looking at where your property is positioned. Have you seen the landscape plans in 220, have you seen –

A. Yes, and I read it but might be last year’s report, yeah.

Q. I note that your property is sort of one of two that’s proposed to be retained in between what appears to be, is it existing carpark that used for the land, for the reserve at the moment?

30



- A. Yes, yes, next there is carpark, behind there is the motorway (inaudible 16:25:01), yes.
- Q. Is that carpark, is that a formed carpark, is it gravel or is it sealed?
- A. Oh no the park is belong to the Auckland City Council and when the  
5 guys you know play soccer and carparking, but last year (inaudible 16:25:21) parking there, that might be (inaudible 16:25:25) extension in there, I imagine Mr (inaudible 16:25:32), Rick (inaudible 16:25:32) and he said if I need to talk with council, I said because I was busy and I write a message says, "I haven't time to raise that issue (inaudible  
10 16:25:41) if they have an extension last year, last four or five years might be my house (inaudible 16:25:48) because very high you know, yeah.
- Q. So actually on this plan it actually indicates properties that would have been 107 through to I think 125?
- 15 A. Yeah 105, same issue with us, they also talking with me, (inaudible 16:26:18) would offer their property to the NZTA, so it's good for NZTA building faster, high quality, you know easily to operation for that highway, state highway, so we were quite nice to offer it, the house to NZTA and you know.
- 20 Q. So your first preference would be for NZTA to purchase your house?
- A. Yes, yes.
- Q. And assuming –
- A. Good for them, good for us, yeah.
- Q. And secondly if that wasn't the case then you'd like to know what's  
25 going to happen in terms of the mitigation effects, the noise and dust and everything else?
- A. Yes, if not the case, you know the dust and noise how to you know protect and after construction and how to get you know the park that cover the land environment.
- 30 Q. So just with regards to the open space that's used at the moment, which is just behind your property, is that right?
- A. Yeah.

Q. And the proposal I guess at the moment doesn't actually have any sort of informal playground or informal recreation happening along that length?

5 A. No, after the construction they plan (inaudible 16:27:40) the park it will be shifted on other side, motorway, not my side, yes (inaudible 16:27:49) park is that side, they had (inaudible 16:27:52).

**QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP – NIL**

**QUESTIONS FROM THE BOARD: MR DORMER – NIL**

**THE COURT: JUDGE NEWHOOK**

10 Thank you very much for coming in and talking to us today we appreciate your help.

**WITNESS EXCUSED**

**THE COURT: JUDGE NEWHOOK**

Is Robert Richards with us?

**MR RICHARDS:**

5 Yes. I represent South Titirangi Ratepayers, they are concerned about certain aspects of the project obviously and they also welcome other respects of it. So I'll just read my written submission.

**1630**

**MR RICHARDS READS REPRESENTATION**

10

"... be seeking such."

**THE COURT: JUDGE NEWHOOK**

Thank you Mr Richards, I am not sure that we have got many questions for you because in large measure what you raise are matters of very broad national policy, a long way outside the limits of the inquiry that we are charged with making the law.

15

**MR RICHARDS:**

Uh huh.

**THE COURT: JUDGE NEWHOOK**

20 But one thing that you may not appreciate but I will ask you anyway. Do you, do you accept that, as a matter of law, we don't have the power in this inquiry to order NZTA to take an alternative route, even if we could identify it as perhaps a better or (inaudible 16:37:11) alternative option?

**MR RICHARDS:**

25 I appreciate (inaudible 16:37:17) now, but I had thought maybe you might have asked them to look at, evaluate a possible more cost effective route. There is a concern amongst the obvious ones.

**THE COURT: JUDGE NEWHOOK**

The limit of our power is to identify as to whether they have adequately considered alternatives, and we don't have power to go beyond that and say, oh yes okay, well that one over there is better.

5 **MR RICHARDS:**

Yes.

**THE COURT: JUDGE NEWHOOK**

We will do that.

**MR RICHARDS:**

10 Okay.

**THE COURT: JUDGE NEWHOOK**

That's simply the law as it comes out of the Resource Management Act and directs our inquiry.

**MR RICHARDS:**

15 Yes I understand that and that's why we have got to – directed to ask questions of the Minister of Transport.

**THE COURT: JUDGE NEWHOOK**

Yes.

**MR RICHARDS:**

20 And of course with the Minister of Infrastructure.

**THE COURT: JUDGE NEWHOOK**

Yes, well maybe the matters that you are raising are, indeed, more of a National policy or even a political sort, and I don't think there is a great deal we can do to help you.

25 **MR RICHARDS:**

No, no.

**THE COURT: JUDGE NEWHOOK**

But we are grateful for your coming and saying your piece in case there elements of what you were saying that could help us.

**MR RICHARDS:**

5 Uh huh.

**THE COURT: JUDGE NEWHOOK**

I will just see if any of my fellow members have questions.

**QUESTIONS FROM THE BOARD: MR DORMER – NIL**

**QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP – NIL**

10 **QUESTIONS FROM THE BOARD: MS JACKSON – NIL**

**QUESTIONS FROM THE BOARD: MS HARDIE – NIL**

**THE COURT: JUDGE NEWHOOK**

Thank you for your presentation with us Mr Richards.

**MR RICHARDS:**

15 Thank you.

**WITNESS EXCUSED**

**THE COURT: JUDGE NEWHOOK**

Now Mr Simon Lambourne, good afternoon to you please come forward.  
New Zealand Automobile Association.

**1640**

**5 MR LAMBOURNE READS REPRESENTATION**

Thank you Your Honour and Members of the Board for the opportunity to say  
a brief and a few general words to you in support of our submission.

10 “We do endeavour... proposal before you.”

Thank you for your time and the opportunity to appear.

**THE COURT: JUDGE NEWHOOK**

And thank you for your involvement and for your statement. I’m going to see if  
15 Members of the Board have any questions for you.

**QUESTIONS FROM THE BOARD: MR DORMER – NIL**

**QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP – NIL**

**QUESTIONS FROM THE BOARD: MS HARDIE – NIL**

**QUESTIONS FROM THE BOARD: MS JACKSON – NIL**

**20 THE COURT: JUDGE NEWHOOK**

It occurs to me that possibly at our pre-hearing conferences when we  
revealed interests, members’ interests, Board members’ interests, that it  
completely escaped me at the time, but I and probably all of the members of  
this panel are members of the Auckland Automobile Association, or one of  
25 those, and I would rather imagine they’d be a high percentage of people in  
this room are likewise. So that fact should enter the record. I would have my  
doubts as to whether anybody is going to express any concern about it.

**MR LAMBOURNE:**

It's often the case Your Honour, with so many members.

**THE COURT: JUDGE NEWHOOK**

- 5 A high percentage of people that you encounter in life Mr Lambourne I'm sure are members of your association.

**MR LAMBOURNE:**

The company's logo is everywhere sir.

**10 THE COURT: JUDGE NEWHOOK**

All right, thank you very much for your time and trouble. Dr Alison Towns. Please come forward.

**MS TOWNS:**

- 15 I just hope you'll forgive me for not having been able to print out material for you on my comments concerning my submission. There's just enormous sort of time pressure around work and also some various family crises that have been happening in this period of time.

**THE COURT: JUDGE NEWHOOK**

- 20 Just then to give us this degree of help and perhaps in our turn we can give you a little degree of assistance in your participation, we have of course read the submissions you lodged last year and we've also read your statement of evidence. So we don't need to trouble you to repeat those matters for us this afternoon and, okay just one little piece of help. Roughly how long do you  
25 think you'll need to be speaking for? I'm just –

**MS TOWNS:**

Not very long at all I would think five minutes.

**THE COURT: JUDGE NEWHOOK**

- 30 So we should be able to comfortably correlate your –

**MS TOWNS:**

Yeah I won't be long.

**THE COURT: JUDGE NEWHOOK**

5 - time this afternoon.

**MS TOWNS:**

Yes I won't be very long at all.

**10 MS TOWNS READS REPRESENTATION**

I'd like to speak to my submission dated the 16<sup>th</sup> of December for the Board of Inquiry Waterview Project Connection. My name is Dr Alison Jean Towns. I'm a clinical psychologist and a social scientist who has over the past  
15 18 years been involved in research on the prevention of health and social problems through population based interventions. My PhD was on childhood asthma. I am not however an environmental health expert. So as I note in my submission I'm concerned that this motorway's going ahead when there are known health effects from pollution. The evidence we have for this is in the  
20 Land Transport Agency's 2000 report on health effects, which I've already mentioned in my submission. It's also of note that a motorway through Nelson was stopped because of the recognised health effects, so this information will not be new to the Board, to the Land Transport Authority or to the Government. The report produced by the Land Transport Authority in 2007  
25 largely addressed the health effects through the particulate size 10 and for those aged over 30. In the past three years there's been a large volume of research on the effects of the pollutant particulate size 2.5, particularly on the development of asthma in children. And I've mentioned some of that, this research in my submission, but there's much more. Of note, there's that  
30 New Zealand has one of the highest rates of childhood asthma and respiratory health problems in the developed world. The children who will be most affected are those children of the poor who tend to live alongside motorways and who tend to travel in older vehicles which are much more



likely to be leaky. So the safe distance for homes from high density roads, it appears to be emerging from this new research, and as I say I haven't spent a lot of time on this and I'm not an expert on this, but is that they need to be – that homes need to be 300 metres away from high density roads in order for the prevention of harm through asthma to children. But there's also evidence from this research that the mitigation effects put in place when motorways are built is overridden by the eventual volume of cars that use these high roads, high density roads. So I note that Dr Ian Longley in a media report from NIWA for the NIWA website stated, "International research shows that" – and this was in March of this year – "International research shows that the impact of major roads is significant up to 100 or 200 metres distance, and possibly further." The plan in this Waterview project appears to be for house to be at 20 metres away from motorways. So Dr Ian Longley has also stated on a Radio New Zealand programme earlier this year that attention needs to be paid to the health effect of pollutants on drivers and passengers in cars, inside the cars, because New Zealand has an old car fleet not subject to emission controls, and the presence of pollutants in cars is evident in new research being conducted on the Southern Motorway. In other words, pollutants are present in cars on motorways and will therefore affect drivers and passengers, but there's been no apparent attention in this project to this matter. It cannot be mitigated against by construction methods. I note that Gavin Fisher in his rebuttal evidence dated the 3<sup>rd</sup> of February 2011 page 17 quoted Australian research that stated that there is evidence that airborne pollutants in tunnels will affect the health of users of those tunnels. Dr Ian Longley has also stated, "Attention needs to be paid to the presence of pollutants in New Zealand homes which are leaky compared to others." He stated that on the Radio New Zealand National Programme that there is a need for models to be based on New Zealand research. So there is concern if this motorway goes ahead, given there are known health effects, I have likened these actions going ahead with the motorway as being similar to the cigarette industry continuing to produce toxic cigarettes when there are known health effects. There is the potential for law suits in future if health effects emerge attributable to pollution from this motorway. I've not seen any expert evidence which has been presented to the Board which has addressed these health issues, and I'd like

to respectfully suggest that the Board seeks such information. Perhaps from the environmental health expert who advised the Board on the Nelson motorway. There's no indication that the health of residents surrounding the motorway during the course of construction and onwards will be monitored.

5 This seems to me to be an imperative if it's to go ahead."

**1650**

**THE COURT: JUDGE NEWHOOK**

I don't think Dr Longley is involved in our hearing incidentally, I've listened to what you said.

10 **MS TOWNS:**

Yes, I'm surprised, yes.

**THE COURT: JUDGE NEWHOOK**

Let me see if there are questions for you from members of the Board.

**QUESTIONS FROM THE BOARD: MS HARDIE – NIL**

15 **QUESTIONS FROM THE BOARD: MS JACKSON**

Q. Dr Towns if this was to be approved there is two scenarios isn't there, there is the cars can go up the existing road –

A. Yes.

20 Q. - in which case you are saying that the houses should be 300 metres away possibly to overcome any adverse effects, or they can go through a tunnel and you said that the pollutants collect in the tunnel, but by the same token the fans extract that and take them to one point and release them. So what's best, if it has to go ahead is it best to have the cars going along the road or is it best to have those pollutants all taken –  
25 exhausted at one place?

A. Well there's two comments about that. First obviously the tunnel is going to be better in terms of surrounding houses, but you are still not going to be able to completely remove the effect, I would think, of pollutants on the people in the cars and we haven't heard, I don't know,

I mean, I have had a lot of time to read through the huge amount, mountain of stuff, but I don't know whether the Board has actually had material on the effects of people driving, you know, driving through high density roads and sitting in their cars and the effects of that. That hasn't, doesn't seem to be factored in, and my point is largely that it needs to be factored in. And I, you know, if that, if there are – we have this, appears to be some evidence on that that there are health effects from people sitting in cars and experiencing pollution then, you know, you can't mitigate against that unless you, you know, do something nationally, or we end up with electric cars. I don't see how you can do that, so you are going to have known health effects, we know they happen, and so you are going to be, I think if this motorway goes ahead at all, you are going to be potentially subjected to the same sort of concerns that we have had about the smoking lobby, as it is a proven – there are known proven health effects for people. Children sitting in cars will suffer on these high density roads and they will be, you know, subjected to the potential for asthma. This isn't, these aren't periodic, episodic events, these are things that are going to affect that child for the rest of their life.

20 **THE COURT: JUDGE NEWHOOK**

Q. Dr Towns I have to comment to you I think, in relation to these genuinely held concerns of yours that, a bit like that which I said to Mr Richards a little bit earlier this afternoon, the matters you are raising are matters of National policy and really I have to say to you that they are outside the ambit of our powers. We haven't been appointed by the Government to conduct an inquiry into the health effects on occupants of cars throughout New Zealand.

A. No.

Q. Or even on this road, the problem would have to be nationwide, it would have to exist on all the streets of Auckland and all the other towns and cities and even rural roads of New Zealand and we just, we don't have that, that power or authority we are not charged with enquiring into that.

A. No, no, I don't, and I don't expect that, you know, I don't expect that of the Board at all, but I do, I would expect and I do, you know, say this very respectfully, of course, that the New Zealand experts around this are consulted, people like Dr Andy Longley and that overseas health experts are consulted so that you can see the best ways to mitigate against those sorts of health effects.

5

Q. Yes.

A. We have had experts on air pollutants, you know so, but they are not the same as health, they are not the same as health experts.

10

Q. Yes, well look I am sure people like Dr Longley will take every opportunity that is presented to them and even go to the lengths of creating others to take their message to those who are charged with the responsibility, or ought to be charged with the responsibility for dealing with these things. At the moment we have got an existing situation and there are many roads in Mt Roskill, Mt Albert, Owairaka and Waterview covered in cars, including some arterial roads, some very busy ones. There is a proposal to shift some of those onto a motorway and in particular as Member Jackson said, a tunnel and our brief is in relation to that exercise.

15

20 A. Yes I am conscious of that.

Q. I am not sure there is a lot we can do to help you.

**QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP – NIL**

**QUESTIONS FROM THE BOARD: MR DORMER – NIL**

**WITNESS EXCUSED**

25

**THE COURT: JUDGE NEWHOOK**

Now Ms Docherty, Friends of Oakley Creek you have indicated that you have a preference to present tomorrow anyway, we would be getting to you next on the list but there is some, I'm told some minor tweaking that you would like to do to your presentation overnight in any event, so time has most certainly played into your hands in that regard.

**MS DOCHERTY:**

Yes thankfully.

**THE COURT: JUDGE NEWHOOK**

10 However it occurs to me that we could just take a few more minutes and hear from people who are here who would prefer to make their presentation to us and not have to come back, if they would like to do that. The next person on the list would be Catherine Farmer, is she here? Yes would you like to do that now? Good afternoon Ms Farmer.

**15 MS FARMER:**

Good afternoon, thank you for your time today in listening to my submission.

**THE COURT: JUDGE NEWHOOK**

I'm sorry if you have had a bit of a wait but we did reach you today so it's probably a good thing.

**20 MS FARMER:**

It's been very enlightening thank you. So essentially I am really going to just touch on the points which are in my submission, which you have already read, I guess there are – my submission number is 210, I'm currently an elected member of the Whau Local Board, which you might be familiar that since the 25 October local body elections, the local government boundaries have changed and the Whau Local Board does cover some of the areas in Owairaka and New Windsor, which have been under discussion today.

**MS FARMER READS REPRESENTATION**

“My main concern... not the case.”

**MS FARMER:**

5 I won't perhaps reiterate everything except to draw your attention to the loss  
of green space, the community severance, the catastrophic effects on the  
Waterview community and besides and ugliness of the structures, the  
ventilation stacks, which I understand are being addressed through a  
reduction in the height. Also by way of update, the increase in the petrol  
10 prices, that's something perhaps that we need to think about too and that  
maybe in the future we will not only get, we will not be able to rely solely on  
private motor vehicles and the redress relief I seek is the previous full bored  
twin tunnel option.

**THE COURT: JUDGE NEWHOOK**

15 You are I would say a busy person and you haven't had the opportunity to  
come and listen to the days and days of hearing that we have been  
conducting in this room.

**MS FARMER:**

That's right.

**20 THE COURT: JUDGE NEWHOOK**

I will say to you we have been working very hard with many of the parties and  
a very large number of witnesses about many of the - some of the or some of  
them yes, all of the things, I think it's fair to say that you have raised, loss of  
green space, the severance of the community, the effects on the school and  
25 the kindergarten, ventilation stacks, the traffic congestion have come under, at  
times, intense scrutiny in this room, and the various experts have been grilled  
by us and, on occasions, told that their thinking wasn't good enough, “Go  
away and have another crack at it.” And we've put groups of experts together  
to try and do better and come back to us and report and we've received large  
30 numbers of reports. So we don't have a view at this stage naturally as to

whether consent will be granted, but if there's the prospect of consent being granted then it's our intention, as the parties have found out, to ensure that things in the best possible shape in order to earn consent. You may have heard me tell Mr Richards earlier that we don't have the authority to tell NZTA  
5 to go away and do another project, we can't tell them to go and do (inaudible 17:00:58) the project perhaps out to another alignment. I won't repeat what I said to Mr Richards you were here to listen to that. We will be doing our best with the considerable volumes of information that we've been receiving and we genuinely thank you for your time and trouble and input, as a thinking  
10 member of the community. Let me see if there are any other questions or comments from Members of the Board.

**QUESTIONS FROM THE BOARD: MS HARDIE – NIL**

**QUESTIONS FROM THE BOARD: MS JACKSON – NIL**

**QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP – NIL**

15 **QUESTIONS FROM THE BOARD: MR DORMER – NIL**

**WITNESS EXCUSED**

**MS WARDLE READS REPRESENTATION**

Thanks for having me, Chairman and the Board and thanks to EPA for their support in the process thus far. I'm sorry a bit nervous doing anything like this. Today I'd just like to talk to my submission on behalf of myself and my partner Pierce and I would like to say though that I really respect and admire a lot of the submitters who have been representing for environmental and community groups. Today I'll just be talking about our personal, talking to our personal property at 15 Berridge Ave in Pt Chevalier. We purchased the property nearly two years ago and we are renovating, we're loving living in Pt Chevalier it's a fantastic place to live and we're becoming very fond of our home as well. We are renovating it from the inside out, so while it still looks fairly horrendous from the outside it's starting to look quite nice inside. What I'd like to say is that I don't oppose the project as a whole, what I would like to say is that I understand its significance and importance for the wider Auckland community but what I would like to just ask for is consideration and conditions to be applied to protect our property and our way of life and the enjoyability of our lives I guess for the next five or seven years and then ongoing after that. So really trying to address both during construction and operation of the finished product. I think you will have read my submission, I'm a layman, so perhaps attempts at trying to talk to evidence was a little ambitious perhaps.

**THE COURT: JUDGE NEWHOOK**

No, not at all, well ambitious, yes but you're handling it very well.

**25 MS WARDLE CONTINUES READING REPRESENTATION****1705**

So I guess what I'd like to point out is, that when we purchased the property, we did actually approach AMA to talk about some concerns or a collaborative, an attempt in a collaborative approach to mitigate some of the existing impacts on our property of the status quo, so what's already there and you know to some success we had some pest trees that we needed to get rid of and they were really receptive to working with us to get rid of those and that was fantastic. But then when we wanted to talk about trying to mitigate further



or look at what we could do to improve our situation we were told to wait for the Waterview Project and so now it seems that this is our opportunity to address some of our existing concerns and then also future concerns. I guess – I'll just try and stay brief, I know that that's something that you guys are really keen on. So what I'd like to do is just sort of address – what I'd like to say is that during construction we are seeking conditions to control or contain light spill that across the road from our property there's going to be a construction yard, that that construction yard is fenced and noise and dust and so on contained appropriately by way of perhaps a boundary fencing, solid, high boundary fence. That noisy activity, I understand it's a 24 hour project, but noisy activity be restricted to between the hours of nine and six, 9.00 pm and 6.00 am. And that we would work with NZTA to advance the vegetation planting to protect our property from visual impacts.

**THE COURT: JUDGE NEWHOOK**

15 Q. Could you just trot across to the big map on the wall to see if you can find – I've got it in my mind's eye, but I want to make sure that I'm right and then we're going to have a look at a yellow map that one of the members has on a screen in front of him.

A. We're talking about where our property is?

20 Q. Yes.

A. So right here and the construction yard is going to be in here is my understanding. Sorry, don't know if I said, we're at 15 Berridge Ave.

Q. We recall visiting the end of your street very well, looking down the escarpment onto the scene of the crime.

25

**MS WARDLE CONTINUES READING REPRESENTATION**

30 So the pine trees at the back of the property there, when they were planted in the first instance, sort of 15, 20 years ago, they would have provided a visual barrier, those have since grown up and are now pest plants to us and I believe NZTA as well. However, we didn't want to get rid of them because if you get rid of one you need to get rid of all apparently because of the way they've grown up together. At the moment they do actually provide a visual barrier

when approaching from the west and also when you're heading west on that motorway as well. So what I'd also like to say is during operation, a lot of the evidence and rebuttal evidence seems to talk to the fact that noise levels will be within acceptable levels. What I'd like to sort of ask or say to that is that

5 this project is of national importance and I would hope that that would mean that consideration would be given to its neighbours and consideration to improving the situation currently and in the future, doing the best that we can to mitigate noise. And so what I'd like to draw people's attention to are the various plans or options for noise mitigation and particularly the noise barriers

10 that were considered. So option 1 sort of shows a pretty good example of noise barriers and the positive effects it would have, they would have on the surrounding properties there.

#### **THE COURT: JUDGE NEWHOOK**

Q. Can you see your house on that plan on the screen, would you like to

15 point it out. Sorry to keep you walking across the room but this helps us to understand.

A. That's fine. So actually if you flick through the options you can see the changing colours of impact. But option 1 – our property – let me get my bearings here.

20 Q. A green one?

A. Green, yes, only green on this plan though, red and orange on the others. And so noise barrier along here, here and here, although what would be really great would be all the way around.

Q. Just for the record, you were pointing to the ramp that runs between

25 effectively St Lukes Road and down and around towards Great North Road?

A. Yes.

#### **MS WARDLE CONTINUES READING REPRESENTATION**

30

My understanding is that, I believe the lingo is OGPA treatment on the road is being considered or going to be implemented, so I guess we're just after that being a condition and that it's part of the requirements and also for ongoing

maintenance and then obviously five or six years is quite a while if there's any sort of future development of product or something that may mitigate sound that that be considered as well. That is pretty much everything that I've got to say, thank you very much for your time.

## 5 THE COURT: JUDGE NEWHOOK

Q. What sort of a project manager are you?

A. I'm a project manager for a bank, we're currently completing construction projects but I represent the operational interests of our staff.

10 Q. I just had a sneaking suspicion you knew a bit more than you were letting on.

A. It's store refurbishment, certainly not any kind of motorways or public projects.

Q. Which bank?

15 A. The BNZ.

## QUESTIONS FROM THE BOARD: MS JACKSON

Q. Ms Wardle, are you aware that there's different kinds of noise barriers, I'm not sure what treatment would be going next to your property because we don't know at this stage anyway if this project goes ahead.

20 There's solid concrete walls, there's transparent walls that block noise but you can see through them. Are you aware of the different kinds or no?

A. Not really, no. All I would say is that we would be seeking the most effective and in addition to visual barriers by way of planting et cetera. I understand that there's a hedge that's being – I mean the urban plan looks fantastic and really great, what would be really good to get as a condition would be a collaborative approach to implementing that as soon as possible.

Q. So at the moment you're just happy with the vegetation and –

30 A. I mean it's pretty vague, I mean just the plans that I've seen are talking in generalisations but I like that it's talking about native species, that we're talking about landscaping that part out. What I would be seeking

is ensuring that there is going to be visual barrier between our property and the road. So the slip road is very busy and then also obviously the additional roads that are going in.

**QUESTIONS FROM THE BOARD: MS HARDIE - NIL**

5 **1715**

**THE COURT: COMMISSIONER DUNLOP**

(inaudible 17:15:04) question by Ms Wardle to Ms Linzey if that's – we've done this sort of duet before. F17 noise walls mitigation, sheet 109, as I understand it, and this is where I'm seeking to be corrected if I've got it wrong,  
10 doesn't have a noise wall proposed around the northern side of the offramp. So although the F1 and F2 options that have been put up on the screen may have been considered by the evaluation team in the bundle of options to determine the BPO at the end of the day the BPO was determined to be something else, more particularly as far as Ms Wardle's concerned, not a  
15 sound wall. Is that a sort of a rounded understanding of it?

**MS LINZEY:**

That's correct. The options that were identified here and two have been put on the screen and from recollection there were three or possibly four in this  
20 case, looked at an option for twin layer OGPA or the trade name of Whisper surfacing, which was identified as the best practicable option in the end, taking in the urban design and visual and noise outcomes. So the noise wall that is put forward in option 1 was considered, but not identified as preferred. That's correct.

25 **QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP**

Q. Thanks for that Ms Linzey and I'd drawn that information out with the intention of being helpful –

A. Yeah.

Q. – if indeed you needed any help because you may well have had your  
30 mind right around those matters already.

- 5 A. Yeah, I guess that's disappointing because I would hope that a project such as this would consider, you know, improving and mitigating impacts as much as possible and, you know, we're squeezing in to the acceptable levels of average noise levels, so obviously peaking higher than the ones that are talked about there. So, yeah that's my feeling about it.

**THE COURT: JUDGE NEWHOOK**

- 10 Q. Yes what Ms Linzey is saying to us is that the team, not just her, but the acoustic people and other members of the team, visual experts and the like, have endeavoured to get together to find the best outcome involving a range of different kinds of mitigation and current thinking is apparently, but your submission will have us think carefully about these issues, they're saying that the road surfacing is the aspect that needs the most attention to obtain the best mitigation.

- 15 A. Okay, not additionally.

- Q. And you're pretty doubtful about that?

- A. Well yeah I just think perhaps what I've been able to work out about the OPGA treatment is that it's being used quite widely and so is just a basic standard. I'm not an expert so I don't know that for a fact but, you know, that's a sort of starting point I guess and then there are additional things that could reduce impacts further. But perhaps I'm wrong.

- 20 Q. Well we're charged with the task of working it out. We hope we –

- A. Good luck.

- 25 Q. – can do something in the direction of getting something right. It's a big task but we'll have to do our best.

**MR DORMER:**

What Ms Wardle and her partner are getting by way of noise insinuation is the – can't pronounce the name of the roading surface.

30 **MS LINZEY:**

OPGA. Except in this case it is – it's not the standard OPGA that Ms Wardle has referred to and that is across the whole project with the exception of the

tunnel where we don't have the same noise generation issue. This is the double layered OPGA which is a – and sorry this is getting outside my area of expertise except knowing that it is a much more sophisticated and –

**MR DORMER:**

5 So it's super OGPA.

**MS LINZEY:**

- incidentally costly measure in terms of noise mitigation, and is referred to, but we haven't referred to it in the terminology more commonly as Whisper  
10 road surfacing, but that I understand is a brand name and that's why it hasn't been used in the documentation.

**MR DORMER:**

And what degree of confidence can she feel that she is indeed going to get  
15 this Whisper product?

**MS LINZEY:**

Yes that is identified as a condition in the operational noise consents and so we talk about the noise walls in accordance with appendix E and the OPGA  
20 surfacing throughout except the tunnel and the twin layer OGPA surfacing in Great North Road interchange, and I'll flick through and get that condition. ON3.

**THE COURT: JUDGE NEWHOOK**

Q. After we finish our hearing, perhaps today, you might like to talk to the  
25 NZTA team and they can show you where we've got to with draft conditions consent. They just dated the draft conditions of consent because we haven't a decision in our minds as to whether we'll grant consent to the project or not, but we need to make sure that if consent can be granted that the conditions are the best reasonably appropriate  
30 for the job right through the project. So there's been a lot of work done, been a lot of changes in draft conditions since the –

A. Yeah.

Q. – well well before the start of the hearing and again during the hearing.  
So if you'd like to talk to them and see where those have got to –

A. Mhm.

Q. – afterwards.

5 A. Okay.

Q. They may be able to provide you with some comfort, I don't know. You might still have some thoughts that you're able to offer them from the basis of your obvious research into the problem.

A. Thank you.

10 Q. All right, well thank you very much for coming and offering us your evidence, your representations today.

A. Thank you.

**THE COURT: JUDGE NEWHOOK**

Is Sandra Murray here? No. Brian Lester Mahaffy? No, all right. Well then  
15 we've run out of people who were listed for participation today. Oh  
Mr Mahaffy I'm sorry I wasn't looking in your direction. You've been here  
quite a bit.

**MR MAHAFFY:**

20 Yes.

**THE COURT: JUDGE NEWHOOK**

And obviously listening intently and with great interest to much of the case.

**MR MAHAFFY:**

25 And learning a lot.

**THE COURT: JUDGE NEWHOOK**

I hope we are too. Are you happy to speak to us tomorrow rather than today?

**MR MAHAFFY:**

30 Yes.

**THE COURT: JUDGE NEWHOOK**

You were going to be here anyway?

**MR MAHAFFY:**

5 Yes.

**THE COURT: JUDGE NEWHOOK**

That's good then. I think that we'll hear from you tomorrow.

**MR MAHAFFY:**

10 Thank you.

**COURT ADJOURNS: 5.23 PM**