

**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 13 – Friday 11 March 2011**

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**COURT RESUMES ON FRIDAY 11 MARCH 2011 AT 9.36 AM****THE COURT: JUDGE NEWHOOK**

We've got some people who would like to speak first to be able to get away for business and other reasons, so we will deal with those. One of them,  
5 Ms Hayes wants to use a powerpoint, has she spoken to you about that Mr Law?

**MR LAW:**

Yes sir, yes.

10 **THE COURT: JUDGE NEWHOOK**

What's your view about that?

**MR LAW:**

I haven't had an opportunity yet sir to see it but I don't foresee any issues with  
15 it. I guess it's the same thing as Mr Mehaffy.

**THE COURT: JUDGE NEWHOOK**

She's waving a hard copy of it around so if we have one of the others first, she can supply that to you, you can have a look and tell us if there's any difficulty, like you, I'd be surprised.

20

**MR LAW:**

I can't see any issue.

**THE COURT: JUDGE NEWHOOK**

So Ms Hayes, if you'd hand that to the registrar thanks and she can take that  
25 to Mr Law and he can have a look at it and we will hear first from Louise Taylor and Winston Aldworth, are they ready to present to us. Good morning, welcome to the hearing, thank you for coming to speak to us. Would you like to read your statement out to us, one of you.

30

**MR ALDWORTH READS REPRESENTATION**

Thanks for hearing us. We just wanted to talk a bit about the psychological effects of the project. We think that there's been talk about the physical appearance and the architecture and the aesthetics of it, but we're concerned  
5 that in the minds of the neighbourhood and the people of Auckland, Waterview will become known as the place with the big chimney. It's something that can't really be addressed in straightforward terms by talking about where the chimney – the simple fact of the chimney. So we'd like it if  
10 that could be mitigated somehow, made less of an impact.

**THE COURT: JUDGE NEWHOOK**

Q. Have you a thought as to what your preference would be?

A. Yeah we think it would be good if it was behind the petrol station, a little more out of sight and away from the school, obviously where the kids  
15 are and a step further away from Waterview. We're not against the project per se and we can see it's a worthy project, in fact I've noted down here that we like big ambitious projects that show it's a confident city. But I've made a note down here that I think this is the wrong time to think small because it's an ambitious project, it's the biggest public  
20 roading scheme ever or whatever that we've done. So it seems odd to embark on that, it's always going to be expensive, it's always going to take a big financial commitment from the country and the city. And then when it comes to the detailing, the trim that affects the people living right alongside it to then look to scrimp and save a few dollars, so I just think  
25 it's the wrong time to think small. I also had submissions with the consultation process which might be something beyond this Court a bit but we've got an elderly neighbour who just couldn't make head nor tail of the forms and it was kind of an alienating system to enter into.

Q. Yes we can understand how it can be intimidating. The application ran  
30 to 43 ring binder folders. I found it daunting, I can well understand how your elderly neighbour felt. I'm not saying this as a criticism of NZTA, clearly they felt they had a job to do under the legislation, but we can understand how she felt, he or she?

A. She. Yeah that's about it, a few other points there that sort of elaborates on what I've just spoke to so, I think Louise might have a point to make.

## 5 MS TAYLOR READS REPRESENTATION

We're relatively new to the Waterview community, we moved about 18 months ago, and the things that really attracted us to the area were its sense of community, it's quite a peaceful and green area of Auckland to live in.

## 10 THE COURT: JUDGE NEWHOOK

Q. It's quite a little enclave isn't it?

A. It is, it's sort of separate, you only really go into Waterview with a purpose, it's not one of those suburbs which you drive through to get somewhere else, which gives it a special kind of sense of community.

15

## MS TAYLOR CONTINUES READING REPRESENTATION

The other thing we've noticed and really enjoyed since we moved there was that people really enjoy the neighbourhood and they get out, they – every  
20 night and during the day there's people walking their dogs, moving around, using the playgrounds, it's a really – people feel safe to go out and enjoy the area that they live in. And one of my concerns about the exhaust vent being placed where it is, is that it will lose that appeal to people to live there and those kind of activities that they enjoy will be less attractive to them and it will  
25 change the nature of the community we have now. So I think one of the key issues for us is also the fact that the exhaust is unfiltered and that's quite a big concern in terms of we don't know the impact of health effects on the air that's going to be distributed above Waterview.

## THE COURT: JUDGE NEWHOOK

30 We've had, you won't be surprised to hear, a lot of expert evidence about whether the fumes from the stack should be filtered or not, whether any good purpose would be served by doing that. And we've had some medical

evidence about it as well and we've questioned those witnesses quite carefully. We've yet to come to a final view but it may be that in the scientific and health sense there isn't a need to filter from the stacks. But that decision, if that's where we get to we recognise will need to be communicated quite  
5 carefully and NZTA may have to have a role in assisting to calm people's views. But anyway, we recognise there are a number of issues mixed up in here about where the stack would go and whether you felt (inaudible 9:45:07) and what height it should be. There's quite a lot involved and if you want to read some more about the work that we've been doing in the courtroom you  
10 can look at the website for this project and you'll see the transcript of what's been going on in the courtroom here, be able to follow that.

**0945**

**MS TAYLOR:**

(inaudible 9:45:33) other point which Winston's already made is that we prefer  
15 that if the exhaust vent is going to go in it should go across the road, be relocated where it doesn't actually have such a visual impact on the area. And I guess we also feel that Waterview is bearing a lot of the brunt of this development which is benefiting all of Auckland and I'm not up to speed with the economics of doing things, like moving a big structure like that, but we do  
20 feel that something simple like that would actually have a huge impact on the community in Waterview. And that's what we'd like the Court to decide.

**THE COURT: JUDGE NEWHOOK**

All right, well thank you very much for being involved and for coming and expressing yourselves about these issues. I'm going to see whether any of  
25 my colleagues have questions for you.

**QUESTIONS FROM THE BOARD: MS HARDIE**

Q. In your submission you noted that one of the things that you'd like to see is a pedestrian cycle bridge between Waterview and Pt Chev. We've heard quite a lot of submissions in the same similar vain. So have you  
30 seen what has been discussed in the hearing to date?

A. No I haven't.

**THE COURT: JUDGE NEWHOOK**

The issue has certainly cropped up.

**MS HARDIE:**

5 It has, it's cropped up a number of times and there's been quite a lot of discussion in terms of if whether one was to be proposed and where it could possibly go and how it would work. So just to let you know it's been on the card.

**10 MS TAYLOR:**

Okay. I mean for us it's more of a secondary issue (inaudible 9:47:21) assist the (inaudible 9:47:22) vent which has the immediate impact on us.

**MS JACKSON:**

15 It's not really a question, it's just to say how much I appreciate your comments about how the people of Waterview use the open spaces and a lot of them walk, a lot of them cycle because I went along that motorway the other week and – to have space for the dog, so it's interesting to know that all our discussion about open space is definitely valued by the people of Waterview so that was valuable thank you for that.

**20 QUESTIONS FROM THE BOARD: MR DORMER (TO MR ALDWORTH)**

Q. Where do you do your supermarket shopping?

A. Pak'nSa – well Pak'nSave when we do a big one and just up at Pt Chev, loaf of bread.

Q. And how do you get to Pt Chev?

25 A. We drive, yeah or I'll drop in on the way home from work.

Q. A number of folk have come along and spoken about the difficulty of being able to walk to Pt Chev during the construction time. From your understanding would many Waterview people walk to Pt Chev?

**30 MS TAYLOR:**

I'd say a majority would probably drive.

**MR ALDWORTH:**

Yeah it's a big barrier the existing onramp and the –

**MS TAYLOR:**

5 So we're walking alongside very busy roads and – to cross the motorway so it's a bit, there's a bit of a barrier to sort of I guess walk there with a purpose rather than folk to take a walk for enjoyment.

**MR ALDWORTH:**

10 You want to stroll.

**MR DORMER:**

Yes I guess if you want to take a stroll you've got to stroll through Oakley Park, through Oakley Creek and some of the lovely parks you've got.

15

**MR ALDWORTH:**

So it'd be nice if something that came out of this was a connection between Waterview to Pt Chev for pedestrians.

**MR DORMER:**

20 Okay, thank you very much and once again thank you for coming.

**QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP  
(TO MR ALDWORTH)**

25 Q. Does your family make any use of the Unitec grounds at all or would you make use of the Unitec grounds if there were to be improved access?

A. We've made a good bit of use of Oakley Creek since we've been there. We haven't been up into the Unitec grounds, but I wouldn't actually know how to wander up – I know how to cut in from the cycle lane, but  
30 yeah if there was access there I'm sure. It's a real pram strolling neighbourhood.

Q. And my second question was going to be one that Member Dormer asked so needn't go there again.

**THE COURT: JUDGE NEWHOOK**

Thank you very much for coming and presenting your point of view.

**MR ALDWORTH:**

5 Thanks for having us.

**THE COURT: JUDGE NEWHOOK**

Appreciate it.

**MS TAYLOR:**

10 Thank you.

**WITNESSES EXCUSED**



**THE COURT: JUDGE NEWHOOK**

Now Leonie Hayes. Yes good morning Ms Hayes.

**MS HAYES READS REPRESENTATION**

5

Good morning everyone. I've done a powerpoint because I'm sure you've been having lots and lots and lots of evidence and I thought a picture might be a welcome (inaudible 9:51:33) dialogue. So hopefully it'll come up on the screen shortly. But what I wanted to say was I live at number

10

7 Oakley Avenue, which is three houses down from Great North Road. I love living in Waterview and I will probably still love living in Waterview after there's a motorway there. And I wanted to show you that I spend a lot of time in my garden and I have a view outside looking towards – at night you can see the Sky Tower and it's very pretty. And I have made lots of use of the community.

15

I go across the road to Unitec actually to get bamboo stakes for my garden and I do use the space. I've got a teenager who catches the bus and I walk, I regularly walk home from Pt Chev and must be because I'm a bit mean, the bus stage ends at Pt Chev and you go, you know, a few extra I don't know, maybe 500 metres to Waterview and it's actually, what is there, another stage

20

on the bus so I hop off at Pt Chev and actually walk home. So I do walk home regularly.

**THE COURT: JUDGE NEWHOOK**

Q. What's that experience like?

25

A. Well actually at the beginning where it's, you know, goes past Unitec it's not that – you have to watch out for cyclists whizzing past you at a great speed and sometimes –

Q. How wide's the footpath there?

A. There is actually you know two lanes so there is plenty of room. It's just that some cyclists are very silent and they speed past you really quickly.

30

Q. Fast and silent.

**MS HAYES CONTINUES READING REPRESENTATION**

And there's not a lot of use of it, and I think if it was made better there would be more use of it as well. But I do have quite a few friends who live in houses  
 5 along Great North Road and I do say to my daughter, "Look if you've ever got any concerns about your safety I want you to pop into this house, this house and this house." Now those houses are not going to be there any longer so that is a concern of mine. I was hoping to show you a picture. All right, well maybe if I describe the picture that will be the next best thing.

**10 THE COURT: JUDGE NEWHOOK**

We've got them in black and white haven't we, so you can make a start.

**MS HAYES CONTINUES READING REPRESENTATION**

15 So I sit on my deck. This is my view outside. Now this is a sort of a plan that you can see on the view here, you've got a big tree and underneath it is one of the school buildings, and that big tree there I went underneath it and I tried to estimate how tall the tree was. And given my very limited resources I thought, "Oh this tree's probably about 17, 18 metres tall." So I tried to  
 20 visualise what the chimney would look like behind that tree. So on the next slide you can see a sort of a simulation. Can you see where the chimney might be? You can see it's got quite a visual impact for me and while I do like you know contemplate in my garden I'm not sure that I can put a positive spin on that visual thing. Okay?

**25 THE COURT: JUDGE NEWHOOK**

Q. That's the originally proposed 25 metre –

A. That's right.

Q. – stack?

A. Yes.

30 Q. There is quite a lot of evidence about a possible reduction to 15 metres.

**0955**

A. And I am very pleased about that.

Q. I am not sure that I can give you a lot of assurance that the tree is quite as tall as you think it might be.

A. Well forgiven me, I am Australian, we always exaggerate.

Q. Well I am a Kiwi, but I've not no comment today.

## 5 MS HAYES CONTINUES READING REPRESENTATION

I am very happy to be proved, you know, that it won't have as much visual impact as that, I would like to see that. And the next slide after that is, you know, the fact that I'm not actually not being offered anything, you know, any  
 10 – in this circumstance, you can see it's actually up on the screen now. So the next slide is just to show you what I am being offered in terms of mitigation, yes, that's zero. Right the next slide is what I would actually like, this outcome is what I would like, okay, and that would be the impact if you moved those, you know, the stack, or moved anything over to the other side of the road, this  
 15 would be my view and I would be very happy with that. Just on the last one, I just did a brief summary about property values, you know, I have invested a lot in living there and I like living there and I will probably stay living there, but it has definitely affected, you know, the perception the fact that you have a motorway there and, also that no amount of medical, you know, expert advice  
 20 about the effects of the fumes from the chimney is going to allay people's perception. People will think of it as a chimney and it's got car fumes coming out and nothing you do, unless maybe, I don't know, maybe an innovative solution might be the – one of those big neon signs that said, "Today we've only got emissions of", I don't know, okay. The other thing, which I already  
 25 talked about was there will be no houses for – it takes about 10 minutes walk where you don't actually see anybody or see any houses, it will probably be 25 minutes now and I am concerned about those safety aspects. And the onramps, now I will tell you a story. I was talking to someone from Unitec and they said to me, "Wow isn't it going to be great when there is a motorway, you  
 30 know, we can just pop on that motorway and go to the airport, it will be fantastic." And I said, "Well actually you are at Unitec, you won't be able to get on the motorway to go to, down to Rosebank Road, you will have to go St Lukes to get on." They said, "Oh don't be ridiculous, I think you will find

that's wrong, they wouldn't possibly build a motorway and not put on-ramps for people to get on there."

**THE COURT: JUDGE NEWHOOK**

But guess what.

5 **MS HAYES:**

So I didn't, you know, I said "Well maybe you better look at all the evidence." And so I think even if you can't get on there, it would be really sensible to be able to get off there. So I really look forward to the, you know, I like going to the airport on the new motorway, I think it's great, but I just think, you know, it  
10 will be like thinking small and not thinking of getting off there will be something that people say, "Why on earth did they do that?" And yes –

**THE COURT: JUDGE NEWHOOK**

Just on that point we have had quite a bit of evidence, including from a very experienced town planner who lives in the area, not immediately Waterview  
15 but not far away, who knows it extremely well, who, in his submission, put some what seemed to be very constructive and sensible suggestions about how one might actually might get on and off ramps into that Great North Road interchange to actually serve the community who are bearing the brunt of this, this infrastructure. And we were a bit intrigued about that and we set up  
20 expert – the panels of the experts, to go in and caucus the engineers, traffic engineers, civil engineers and we asked the this planner, Duncan McKenzie to participate in that session. Unfortunately they did all come back to us in agreement, tail between legs, saying look if, if that was to be able to happen the whole infra' , the whole interchange, the whole shooting-box would need  
25 to be shoved out into the Waitemata Harbour, and they all agreed that it was getting a bit hard at that point. So the first point that you made when you came in is right in a general sense that your community is bearing the brunt of the effects of this whole deal for the benefit of the regional community. We don't think we can do anything to get you some on-ramps to speed your trip to  
30 the airport.

**MS HAYES:**

Well what about the off-ramp?

**THE COURT: JUDGE NEWHOOK**

No, either of, either of them was just going to great a major change and we  
5 haven't made any final decisions even about whether to grant consent to the  
project, let alone what conditions we will impose on it if it was granted, if we  
do grant it, we don't think that we can get you on and off ramps there, so sorry  
to disappoint, we would have liked to have offered you some better news than  
that. Now carry on you were about to make another point I think.

**10 MS HAYES CONTINUES READING REPRESENTATION**

Oh just my last one was about during the construction, you know, about how  
the houses were being removed from the corner and, you know, Great North  
Road is probably one of the busiest roads in New Zealand I would say and  
15 those houses on the corner provide a buffer. When they are gone it will  
actually increase our exposure to, you know, lots of traffic, also the traffic is  
going to be diverted. So there is quite a lot of concerns from, you know, the  
neighbourhood about that. And they also feel the same process about how  
difficult it has been to engage, you know, like out of my neighbours I am the  
20 only one who is here and they all say how, you know, they started reading the  
documents, they gave up, they feel intimidated by the whole process, and it's  
been, you know, it's been nearly, you know, people can actually cope with  
change if they are given lots of positive outcomes from it, but people can't  
cope with uncertainty. So, you know, the fact that there will be – a decision  
25 will be good because then you will have some certainty about it but also, you  
know, we, I think most people are positive and they would like to be able to  
put a positive spin on things, but they are not being given that opportunity. So  
I think it's a missed opportunity to do something really good in a community  
and actually say, well look these are all the positive things that come out of it,  
30 but. So that's my bit.

**THE COURT: JUDGE NEWHOOK**

Q. Did you attend any of the sessions that we organised lead by a person called The Friend of Submitters?

A. Yes and I found that a bit disillusioning actually.

5 Q. Did you?

A. Because they gave, they gave very mixed information it was actually quite hard. The person didn't turn up to the session until, I think they were like, I don't know, at least 40 minutes late. They said the room had been booked at the wrong side, people waited, some people gave up, went away, because they were waiting too long, so yes it was a bit disillusioning that process.

10

Q. Yes, we heard that there had been a demonstrative glitch, which is, which is unfortunate because we rather favoured the idea of having a Friend to submit his view who wasn't going to tell you anything about the project, that wasn't his job, he was there to provide guidance –

15

A. How we would react.

Q. - for how you engage and we – apart from the issue about the late start for that meeting we have had some pretty positive feedback it.

A. Oh well that's good.

20

Q. We tried. Ultimately the main task of consultation falls on NZTA but we tried as a hearing panel, as a board, to provide a bit of guidance on what really is a huge project.

A. And individuals probably, you know, don't have the resources or the you know, that other people have, so.

25

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

Q. Mrs Hayes I know exactly where you are coming from when you say you advised your daughter to go to certain houses, I have done that exact same thing myself.

30

A. Yes.

Q. So I understand those CPTED concerns that you have and it gives us something to think about. On your drawing where you have drawn in the chimney?

A. Yes.

5 Q. Did you see the construct drawings of the chimney, where they tried to make them look like basalt or the flax?

A. Yes.

Q. Does that impress you any more than what you have drawn on here - no?

10 A. No. No I think, I mean I admire the artistic sentiment to try and disguise a chimney but at the end of the day that's what it is and no amount of urban sculpture is going to change that and its perceptions.

Q. Fine, okay.

A. I think it's great that people, you know, spent the effort to try and be  
15 creative.

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

Q. It's worth perhaps our commenting that if we do grant consent to the project this aspect, the design of the vent buildings and stacks at the northern and southern ends, won't be finalised, it will be likely to be  
20 pushed into a further design process, and we've offered some thoughts already during the hearing about our concerns about – although the effort by the architects called Construct was innovative, nevertheless we have had some concerns about an industrial look of the concrete buildings and the rusty steel of the so-called flax bush and so on. And  
25 we're told that's just an idea.

#### **1005**

A. Yeah, yeah I understand.

Q. They would have to come up with other ideas, we'd think.

A. As long as you don't start putting cellphone towers on it or something.

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

**WITNESS EXCUSED**



**THE COURT: JUDGE NEWHOOK**

Albert Eden Local Board, Ms Devine.

**MS DEVINE:**

5 Sir, good morning, we have submissions we could pass up.

**COUNSEL READS OPENING SUBMISSIONS**

**1015**

“... long term plan.”

10

Which was done in accordance with, I just say as an aside, section 17 of the Local Government Auckland Council Act before amalgamation occurred.

**COUNSEL CONTINUES READING OPENING SUBMISSIONS**

15

“Annexure 2 is... or other delegation.”

And those are two distinct terms in the local Government legislation around local Boards.

20

**COUNSEL CONTINUES READING OPENING SUBMISSIONS**

“Turning to the... park, and having.”

**1055**

25 **MS DEVINE:**

And I just wish to delete “no impact” because we have had the transcript since these submissions were written, and replace “no impact” with “relatively minor”.

30 **COUNSEL CONTINUES READING OPENING SUBMISSIONS**

“Having relatively minor... usability of OPS.”

That was from the transcript.

**COUNSEL CONTINUES READING OPENING SUBMISSIONS**

5 “It is acknowledged... the Great North Road.”

That resolution is provided in annexure 3 to my submissions on page 5 of that annexure 3. Just to give weight to what the local board is saying in terms of a broader committee with Ms Kohne and others supporting that that relocation  
10 occur. I note that in my footnote I do note that this is an unsigned document that you have before you because the minutes are not confirmed at the time that we have made these submissions, as an accurate record, I’m told by Ms Watson on the resolutions.

**THE COURT: JUDGE NEWHOOK**

15 Will it remain to be confirmed by the full council by resolution?

**MS DEVINE:**

No that's a minute of that committee which will be confirmed by that committee. The matter will be addressed by the full council in which – by the  
20 operations committee next month, it may be beyond the Board’s timing.

**THE COURT: JUDGE NEWHOOK**

Yes, and do the delegations within the council then require it to be confirmed by the full council, after either of the parks recreation committee or the operations committee, or both, have passed resolutions?  
25

**MS DEVINE:**

Well Ms Watson may be able to answer those questions when you have questions for her, or counsel for Auckland Council sir, I don’t have that information myself.

**THE COURT: JUDGE NEWHOOK**

I think, yes I think that's something that I would like to charge Auckland Council with, Ms Fassenkloet, if you wouldn't mind and if, I don't expect you to answer it instantly, particularly as the delegations within the Auckland Council structure, we understand, is still settling down. But if you could have some enquiries made and revert to us perhaps in writing early next week?

**MS FASENKLOET:**

Yes sir.

**THE COURT: JUDGE NEWHOOK**

10 Yes, minutes of the meeting of Parks, Recreation and Heritage Forum.

**MS DEVINE:**

It's a political meeting of counsellors which the public attend and I note that the operations committee that will be confirming, will be tasked with confirming those minutes, or the same matter, is a committee of the whole council. The report doesn't take away from your enquiries with –

**THE COURT: JUDGE NEWHOOK**

So is your understanding of it, this - that forum is not a committee of council, so and hence the operations committee will be required to consider it before perhaps it then goes to full council? What is the status of the Parks, Recreation and Heritage Forum, is it a committee of council or is an interest group.

**MS DEVINE:**

25 It's a forum of councillors sir, so it's a councillor committee that public can attend and hear councillors speak on these matters.

**MR DORMER:**

But it's the Auckland Council?

30

**MS DEVINE:**

Auckland Council councillors, Auckland Council for the Board, Auckland Council for the wider region, the governing body of the Auckland Council and the councillors for Auckland Council are on that board.

**5 THE COURT: JUDGE NEWHOOK**

All right, well that's your client's understanding of it.

**MS DEVINE:**

Certainly sir.

**10 THE COURT: JUDGE NEWHOOK**

And that's gone into the record and if we could have Auckland Council confirm, or otherwise, the status of the Parks, Recreation and Heritage Forum, it's relationship to the operations committee, if there is one, and the requirement to (inaudible 11:02:05) or otherwise for matters to move between  
15 those bodies, including as far as the Auckland Council, if that is a requirement.

**MS FASENKLOET:**

Yes sir.

**THE COURT: JUDGE NEWHOOK**

**20** Thank you Ms Fassenkloet.

**MS DEVINE:**

Just to briefly comment that this is provided for your information, generally the local Board doesn't rely on the resolution in any forum to support, it just –  
25 further supports the same messages providing to you.

**THE COURT: JUDGE NEWHOOK**

Yes, all right, well that's understood, but if we are getting what appears to be some copies of formal resolutions, albeit not yet confirmed, then it would be useful to know what their status is.

**MS DEVINE:**

We will take that back up at 8.25 in my submissions.

**5 COUNSEL CONTINUES READING OPENING SUBMISSIONS**

“The EMS report... the local Board.”

**THE COURT: JUDGE NEWHOOK**

10 Thank you Ms Devine. I see it's a little bit after 11 o'clock, I think we'll take the morning adjournment now before we put in questions to you about your submissions.

**COURT ADJOURNS: 11.06 AM**

**COURT RESUMES: 11.29 AM**

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

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

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

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

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

**THE COURT: JUDGE NEWHOOK**

Clearly you've articulated the issues and we also thank your client for its continuing consideration of the iteration or the moving feast that we've had on  
10 a number of these issues, responsible approach been taken in following that course. Thank you very much.

**MS DEVINE:**

Does the Board have any questions for Ms Watson?

**15 THE COURT: JUDGE NEWHOOK**

Now I've checked about that at the morning break and I don't think we do so we won't need to place her in the witness box. Again we've read her material with care and we have now got the (inaudible 11:30:59) qualifications of course as things have moved forward that have come through your  
20 submissions this morning and again that's a most helpful feature of the Board's case. So thank you Ms Watson, we won't need to grill you.

**WITNESS EXCUSED**

**THE COURT: JUDGE NEWHOOK**

Now before we move to the next party, Mr Law I would just like to mention a couple of things to you if you don't mind.

**5 MR LAW:**

Certainly sir.

**THE COURT: JUDGE NEWHOOK**

Address these to NZTA. Now we have received an email, or the EPA has received an email, a copy of which has been passed to me from  
10 Susan (inaudible 11:31:50) asking questions about the timing of the reply and content of the reply. I've yet to be able to discuss that with my fellow Board Members so we don't have an answer for you immediately but we'll endeavour to get that to you perhaps later today. What I do want to raise with you is the matter to do with this railway designation that cropped up  
15 yesterday, which hopefully your team may already be working diligently on. I've got in front of me a copy of the agreement that was provided to us between NZTA and the Railways Corporation and we've spent a little bit of time in the back room comparing or looking at some of the clauses of the agreement, and in particular we have been focusing on plan 117 which is part  
20 of annexure 4 to that agreement, and we've been comparing what we see in that plan with some of the documentation out of the F series of plans and unfortunately the one that I'm holding in my hand I've only photocopied one half of it and it doesn't have the detail on it. But you'll recognise it if I hold it up

—

25

**MR LAW:**

Yes sir.

**THE COURT: JUDGE NEWHOOK**

You chose the subsurface designation or the surface designation with the  
30 different coloured lines passing through the vicinity of the property owned by the Messrs Chand who gave evidence yesterday that sparked our questions.

Now where we've got to is this, it's a wish to hone in a bit more on the legal aspects that we were putting before you yesterday and if you happen to have a copy of the agreement with the Railway Corporation –

5 **MR LAW:**

I'm afraid I don't have a copy on me actually sir, I don't think I do.

**THE COURT: JUDGE NEWHOOK**

Okay, well we might just lend you one, I think we've got more than one up here. Apart from having exhibit 6 written on the front we think it's an unsullied  
10 copy so we'll lend it to you.

**MR LAW:**

Sorry sir I apologise I do have a copy.

**THE COURT: JUDGE NEWHOOK**

15 Oh you've got it, great. So if you'd like to turn now to plan 117 in annexure 4.

**MR LAW:**

Yes sir.

**1135**

20 **THE COURT: JUDGE NEWHOOK**

We can see number 51 Hendon Avenue adjacent to number 53. We can see where the rail corridor, it's called, runs through between the dashed lines across the back of those properties. We can see the red showing replacement land for purchase or exchange in that position and we see  
25 construction yard 8 boundary which doesn't quite coincide with the eastern dashed line being the edge of the rail corridor, but is close to it. So we suppose that one of the legal answers that you may come back to us with, is that NZTA has entitlement to designate across the back of the Chands' property because of the construction yard, but not necessarily, we tentatively  
30 think, in connection with the railway corridor. But, what I need to put in front of you is this, that gives rise to a further question as you truck south down the



red railway corridor and when you emerge out of construction yard 8 and just into straight railway corridor, coloured red, replacement land for purchase or exchange between the dashed lines. And our question for you, is very simply this, we think the issue's a bit different from that affecting the Chands' property. We wonder whether NZTA has the ability to designate, that is as to whether that land is reasonably necessary to meet the objectives of NZTA, which we don't understand to have any business around railways, and we're a bit worried about it.

10 **MS LINZEY:**

Can I answer just very briefly some answer to that hopefully. And that is –

**THE COURT: JUDGE NEWHOOK**

Well if you can start our process of thinking, yes.

15 **MS LINZEY:**

There is a requirement and identified as part of the project for a grout curtain for groundwater flow. That grout curtain actually sits on the other side of the rail corridor, so the rail –

**THE COURT: JUDGE NEWHOOK**

20 Do you mean east or west of the rail corridor?

**MS LINZEY:**

East, north I suppose, towards Hendon Ave.

**THE COURT: JUDGE NEWHOOK**

25 North-east?

**MS LINZEY:**

Yes, yes towards Hendon Ave. So what is shown there is on the construction footprint plans but the operation footprint plans would show a grout curtain and a stormwater swale on the other side of that land as well.

30

**THE COURT: JUDGE NEWHOOK**

And what, the need for physical access to that from the proposed designation for motorway?

5 **MS LINZEY:**

Yes, so the reasoning for the grout curtain to be some 23 I think or 24 metres outside the rail, sorry outside the road carriageway, is to do with the groundwater modelling and flow and that is set out in the report, so that is – it would then, the construction impact of that is what drove the designation boundary in that area rather than – and including the –

**MR LAW:**

And also I should note that some of the properties ended up being acquired for that reason and also because of noise impacts that we felt –

15

**MS LINZEY:**

Of constructing that curtain –

**MR LAW:**

20 You know that we couldn't mitigate and so they've been acquired – that's sort of an accumulation of reasons.

**THE COURT: JUDGE NEWHOOK**

Those are Housing Corporation properties I think.

25 **MS LINZEY:**

Primarily but not exhaustively, so 107 forward of those properties.

**THE COURT: JUDGE NEWHOOK**

Well our questions to you yesterday obviously remain, but thank you for an indication of the direction you're working in. You may need to lodge succinct further statements of evidence, but don't overburden us with paper if you don't need to, you may be able to point in the direction of existing statements of evidence supported by AEE materials or whatever. I think we should know

30

about this issue with some clarity, including as to any drawings that exist in the public domain or otherwise concerning the grout curtain, the other works, swales, whatever, and then flowing through to the legal, the addressing of the legal point on top of that. If that could be done by some early part of next  
5 week please, so that we can then have input from Auckland Council as we requested and then ascertain whether we consider there is a need for us to seek a legal opinion from counsel appointed to assist us a Board.

**1140**

**MR LAW:**

10 I note that at the moment sir we are working on one statement of evidence from Ms Linzey covering the consultation with Mr Chand.

**THE COURT: JUDGE NEWHOOK**

Yes, yes we asked about that too.

**MR LAW:**

15 And I think we are also going to include Mr Jinhu Wu in that just to cover that issue off and some of these issues, but we will obviously do those, as you say, by reference to existing evidence because I understand it should all be there and then just a memorandum setting out, from counsel, setting out those legal issues. So that's all, we really don't want to spend any more time doing  
20 extra evidence either.

**THE COURT: JUDGE NEWHOOK**

Okay, well thank you for that, we are just concerned that we, we don't want to find that there's an elephant in the room or a showstopper.

**MR LAW:**

25 I appreciate that sir.

**THE COURT: JUDGE NEWHOOK**

This far into a long and complex case.

**MR LAW:**

I don't want one either.

**THE COURT: JUDGE NEWHOOK**

I bet you don't.

5

**MR DORMER:**

That's as far as we can go right now I think.

**THE COURT: JUDGE NEWHOOK**

It is thank you.

10 **THE COURT: JUDGE NEWHOOK**

Now Mr (inaudible 11:41:42) and Mrs (inaudible 11:41:44) are they present, no they don't seem to be. All right, well we will come back to them if they return. The Campaign for Better Transport, Cameron Pitches and Josh Arbury.

15 **MR PITCHES:**

Thank you sir and members of the Board.

**THE COURT: JUDGE NEWHOOK**

Thank you very much, are you Mr Pitches, thank you?

**MR PITCHES:**

20 Pitches. To my right is Josh Arbury, we both are members of the Campaign for Better Transport. I am in fact the convenor of the campaign since 2002.

**THE COURT: JUDGE NEWHOOK**

Thank you.

**MR PITCHES READS REPRESENTATION**

25

"By way of... given the uncertainty."

**THE COURT: JUDGE NEWHOOK**

Q. Mr Pitches can you just help me with something here?

A. Yes.

5 Q. How do you think, in a practical sense, we could gain reassurance from a model or a document that doesn't yet exist?

A. The – a little bit further on I make a recommendation about how you can evaluate projects after the fact and compare that with the model, and that would suggest whether the model is consistent with the actual result.

10 Q. You are not suggesting that after the motorway is built there is an assessment of the thing against previous predictions?

A. Yes.

Q. And if it doesn't stack up we rip the motorway up?

15 A. No, of course, by then it's too late, but what we are suggesting is that if this project is modelled on a concept that there is a benefit of 1.2, and that's the sole basis for this project proceeding, so what we recommending, not just for this project, but for any motorway project, is if that is the case, it would be wise to do a post-implementation review to ascertain to ascertain if those benefits were met.

20 Q. But perhaps I should listen to you and then argue, but I will let you know what I'm going to ask you, and it's this. What business is it of ours as a Board to impose a condition that there be some future economic study, ex post-facto the project, one supposes to inform future decision making. Isn't that more a matter of National policy, isn't that something you should be talking to the Minister of Transport about?

25 A. It is actually, yes.

Q. And you probably are?

A. Yes.

30 Q. Maybe, if you are not a lawyer, you may not be able to answer the point, but I'm just wondering what business we have to direct that there be future academic or other – economic or other academic studies that might inform future decision making outside of this project. This hearing's about this project.

**1150**

A. Sure I understand that. Mr Arbury has a few comments on that.

Q. Thank you.

5

**MR ARBURY:**

In response to that matter I think the concern that the Campaign for Better Transport has is that often this hasn't happened in the past and this is an opportunity to require a post-construction audit. Obviously it's up to the Board to decide whether that's appropriate or not or in the scope or not.

10

**THE COURT: JUDGE NEWHOOK**

Or indeed whether it's within our legal jurisdiction Mr Arbury.

**MR ARBURY:**

15 Yep, yep.

**THE COURT: JUDGE NEWHOOK**

That's what's troubling me a bit.

**MR ARBURY:**

20 Sure. No I certainly understand that, we're just suggesting the possibility.

**THE COURT: JUDGE NEWHOOK**

The desirability. Okay, carry on.

**MR PITCHES CONTINUES READING REPRESENTATION**

25

"Given the uncertainty... Highway 1 interchange."

**THE COURT: JUDGE NEWHOOK**

Possibly because the decision making body didn't have the power to do so. Bit chicken and egg really, but anyway.

30

**MR PITCHES CONTINUES READING REPRESENTATION**

“While the NZTA... are locked in.”

5 Thank you for your consideration.

**1200**

**THE COURT: JUDGE NEWHOOK**

Let me see if the Board Members have questions for you, starting with Member Dormer.

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

**QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP**

Q. Mr Pitches, page 3 of your submission, half way down you discuss the lack of continuity of bus shoulder lanes through interchanges. Do you have sufficient traffic engineering knowledge to advise us whether it's practically feasible to provide such?

A. Neither of us are traffic engineers, certainly understand that that could be difficult.

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

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

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

**WITNESS EXCUSED**

**THE COURT: JUDGE NEWHOOK**

Now, the Pollen Island Care Group, Mike Percy, good morning to you. Now you've got representations that you'd like to address to us this morning and I see that there is an attachment that's been provided to us as well.

5

**MR PERCY:**

That's for anybody's interest on what the actual group has been doing and also evidence of communication with other stakeholder groups, so it more or less gives some idea of what the group has been doing over the years, in a more or less you know presentation form.

10

**THE COURT: JUDGE NEWHOOK**

Mr Law, any objection to this material coming in at this point?

**MR LAW:**

15 No sir not at all.

**THE COURT: JUDGE NEWHOOK**

If you'd like to proceed to present us your representation.

**MR PERCY READS REPRESENTATION**

20

"...the lower part."

**THE COURT: JUDGE NEWHOOK**

Q. South of the causeway?

A. Yes.

25 Q. State Highway 16?

A. Yeah.

**MR PERCY CONTINUES READING REPRESENTATION**

30 "It must be... not been satisfactory."



And I might refer to the NZTA's environmental policy on that account. And I read from that, that may have actually been a little bit more persistent in trying to achieve those aims and that has been through my negotiation with the  
5 NZTA to try and fulfil some part of the Marine Reserve Act for that particular time.

**MR PERCY CONTINUES READING REPRESENTATION**

10 "Because of the... water almost impossible."

And you may refer to recent king tides and the flooding of that particular part. So therefore in my opinion, I don't think there's any intentional legal breach of the Marine Reserve Act. If there was any doubt of the interpretation of the  
15 requirements under the Marine Reserve Act, then the Pollen Island Care Group would have mentioned this previously. What we've done is Your Honour, that we've made, if you like suggestions that it could be improved along that area but also with the fact of some economics to do with you know the present state of what the NZTA could do to retain some of those  
20 contaminants from going into the Marine Reserve.

**MR PERCY CONTINUES READING REPRESENTATION**

"The same applies... concern to us."

25 **1210**

**THE COURT: JUDGE NEWHOOK**

Just pause for a moment, we've got a wayward computer moving around up here.

30 **MR PERCY CONTINUES READING REPRESENTATION**

"The marine debris... high mesh fencing."

And that is on the other side too, which it comes along by the cycleway and that has been very very effective.

**THE COURT: JUDGE NEWHOOK**

5 Q. What sort of debris, what sort of rubbish is getting from the motorway into the reserve?

A. It goes along the shoreline Your Honour, it's where if you like items that are cast out by motorists and depending on the weather conditions and at the time it gets caught up, if you like, in that shoreline. It might be appropriate to mention the frustration that we had dealing with  
10 authorities because up until our new Super City we had a number of agencies that we had to go through to get compliance to clean up along that edge. Auckland Regional Council, for instance, we're up to high spring tide of a marine reserve and then there was the NZTA which had a boundary on a motorway. That gap in between was virtually a no  
15 man's land of authority and that's where we got really frustrated to try and get some sort of compliance issues. Also dealing with the Department Of Conservation and Ministry of Fisheries to deal with issues to do with the marine reserve itself was also frustrating. Plus we had to go through a consultant which is mentioned in the presentation  
20 and the slides and, I think it's HMW Consultants, before we could communicate with NZTA. So before that frustration, if we were to do a clean up for instance alongside the causeway high tide we had to put our vests, visible vests, and also –

25 Q. You don't have to explain this part of it to us, we were subjected to that Mr Percy –

A. Okay.

Q. – when we went for a site inspection, we spent three-quarters of the allocated time going through an induction and a quarter of the time, speaking of motorway, actually inspecting the motorway and looking at  
30 Pollen Island, Traherne Island. We know about that one.

A. Okay well that's before we started to clean up.

Q. Yes, we understand what you're saying.

**MR PERCY CONTINUES READING REPRESENTATION**

“Landscaping, planting and... out more sedimentation.”

- 5 And this is just, in my view, just a recommendation, it'll obviously need some sort of engineering and also some scientific report but that is just one of our recommendations perhaps they could look into.

**MR PERCY CONTINUES READING REPRESENTATION**

10

“Motu Manawa Pollen... the marine reserve.”

**THE COURT: JUDGE NEWHOOK**

- Yes, thank you very much for your interesting presentation Mr Percy. I'm just formulating a question in my mind and I'm going to continue to do so and ask  
15 other members if they have questions while doing so.

**QUESTIONS FROM THE BOARD: MS HARDIE**

- Q. Can I just go back to in terms of when you were talking about some frustration with where the responsibilities lay with who maintained each aspect. Just in terms of, you had NZTA up to the edge of the motorway  
20 and then you had Auckland Regional Council up to high tide –
- A. Yes.
- Q. – and then your care group after that?
- A. Well we've got no authority whatsoever.
- Q. Okay.
- 25 A. What we found was that some of the weeds, for instance, and contamination along the motorway shoreline and above up on the banks there were areas there which didn't have any authority whatsoever or jurisdiction, so it was impossible for us to really get into the matter of getting weed control, for instance. And there are barriers between – it's  
30 just like passing the buck. I mean for instance Auckland Regional Council at the time, well they're all fighting so well I'm sorry we can't help you, we only go from such and such. Auckland City Council and

Waitakere City Council said, "Well we've got no jurisdiction in between that because that's a boundary that we've got no jurisdiction in whatsoever." So we did what we could, and unfortunately whatever we did had to do with what you've experienced with a lot of compliance on the motorway. We're pretty well unhappy with what, you know, what's being done by the contractors that are already on there because they basically go up to a particular mowing edge and then after that it's out of sight, out of mind. I don't know whether that sort of explains.

Q. No that does. Thank you.

10 A. Okay.

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

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

Q. Mr Percy, does some of the debris around the base of the causeway that's of concern derive from the harbour?

15 A. Yes.

Q. Is some of it driven ashore by the northerlies –

A. Quite a substantial amount sir.

Q. Do you have any way of objectively ascertaining what proportion might come via that route and what proportion might come from wayward motorists –

20

A. No.

Q. – on the motorway?

A. No. Just depends really on the prevailing winds and the weather for instance. We do find that there is a contribute. I mean I've got pictures here of the latest flood and that's been caught up in all the marine debris that has been put along the causeway. That's been trapped within the rocks that's being used as a barrier, and of course all that has been flooded over to the motorway, but I didn't – I don't consider that to be, if you like, the remnants of what's been part or rubbish from the motorway itself. Obviously that has been windborne and current borne from the harbour itself.

30

Q. So whatever the source you'd like there to be some mechanism for getting rid of it? Is that your position?

5 A. Well definitely. I mean for instance the hurricane fencing on the opposite side of the motorway which is just over the other side where the cycleway is, is very, very effective. We don't really rarely go over there at all and it's in the jurisdiction of Auckland City Council and they tidy that area up quite well.

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

10 Q. Mr Percy, one of the community groups who came before us yesterday was talking about desirability of further boardwalks stretching out even to Pollen Island. How would you view the introduction of letting more people onto the island –

A. I wouldn't –

Q. – by way of those boardwalks?

15 A. I wouldn't sir. We basically work to a management plan. That management plan was first, if you like, by myself and that's when I was a member, a committee member and chairperson of Waitakere branch of Forest & Bird. It was also necessary to have a management plan because the Forest & Bird held a 10 year lease from the Ports of  
20 Auckland. When that lease came over and then in the land transfer went over to the port – from the Ports of Auckland to the Department Of Conservation. The Pollen Island Care Group continued with that management plan and within that management plan we actually have got to restrict people going onto the island and the surrounding area, to  
25 minimise any effect on the environment, and that includes any scientific surveys and also clean ups. So in my view to put boardwalks out is, I would say, a particular waste of time. Those tides, and we have noticed over the years, have been quite relatively violent, in fact you may actually question whether Pollen Island will exist in 30 to 40 years time,  
30 as it states now. I am advocate of global warming and I feel that the oceans will rise substantially and it could have undue effect if you like on that environment, but that's just my opinion.

**QUESTIONS FROM THE COURT: JUDGE NEWHOOK**

Q. Mr Percy my colleague Member Dunlop actually put to you the question that I was endeavouring to formulate and he did it so eloquently that it came out better than I think what I was preparing and was going to, but I  
5 have a subsidiary question and it's this. You recommend the possibility of high mesh fencing on the northern side of State Highway 16?

A. Mhm.

Q. Which you think might be as effective as the mesh fence on the other side and I don't doubt that you are probably right about that, I'm just  
10 wondering if the downside of that might be a visual impact for –

A. True.

Q. – people travelling along State Highway 16, I know each time I do that probably of undue distraction to me as a driver, I really enjoy that view out over Pollen Island.

15 A. I, yeah, I've got the same sentiment and true, it's also a danger to – for your driving because I am continuously looking, even today I was ready to run up the arse of a truck in front of me.

Q. Having said that, if we put a mesh fence along there the passengers in cars at least, and of course passengers in buses –

20 A. Uh huh.

Q. – and others probably do enjoy that view, the mesh fence might somewhat get in the way of that, it's a difficult one isn't it?

A. I appreciate that, I just put the factors – the effects on the environment over the view.

25 Q. Yes, yes, I hear what you say.

**THE COURT: JUDGE NEWHOOK**

Thank you very much for your thoughtful presentation and the background material by the way, which I have been leafing through, that really is most interesting.

30 **MR PERCY:**

Thank you very much.

**WITNESS EXCUSED**

**THE COURT: JUDGE NEWHOOK**

Now we come to Lewis Jarvis and Waitakere Trustees. You are Linda and John Lewis?

**MR LEWIS:**

5 Yes that's correct, Linda and John.

**THE COURT: JUDGE NEWHOOK**

Good afternoon to you.

**MR LEWIS:**

And to you sir.

10 **THE COURT: JUDGE NEWHOOK**

Thank you for waiting patiently to make your presentation.

**MR LEWIS READS REPRESENTATION:**

15 You have got a – further to our submission you have got two photographs there which show, well indicate, where the proposed cut-off is for the new fence which will go down the side of the motorway. It effectively takes 26% of our property off and comes – the line basically comes right next to that terrace that is shown there.

**THE COURT: JUDGE NEWHOOK**

20 I see, well that's a bit remarkable.

**MR LEWIS:**

Mhm, what it does, it actually takes the whole court, the outside court, basically away from the property.



**THE COURT: JUDGE NEWHOOK**

Just wait there for a moment. I wonder if our projectionist could find the relative F series plan and put it up on the screens, and you have got a hard copy.

5 **MR LEWIS:**

I have got a hard copy.

**THE COURT: JUDGE NEWHOOK**

Hard copy, would you like to pass that up to us, it looks as though you have only got the one, but we will use that as a start.

10 **MRS LEWIS:**

Those were all sent actually with the visual, the submission.

**THE COURT: JUDGE NEWHOOK**

Yes, I have been flicking through it on my iPad but I haven't got that far. We have read all this before, but bear in mind that we have –

15 **MR LEWIS:**

I am sure you have.

**THE COURT: JUDGE NEWHOOK**

- we have had, it must be about 70 ring binders of filed information so we have been busy reading. We have got a computer up here that we are putting  
20 Google maps on from time to time. Now, would you like to go to, perhaps this screen over here because we have got a microphone there Mr Lewis and see if you can identify your property and point it out to us.

**MR LEWIS:**

Well that's the property, that one there, it's a half cross-lease section, so there  
25 is one property here and a – the actual designation goes (inaudible 12:28:25).

**THE COURT: JUDGE NEWHOOK**

Yes.

**MR LEWIS:**

5 It doesn't read the right way, the full section is 810 I think, 809, take off the shared driveway, that leaves us with not very much.

**THE COURT: JUDGE NEWHOOK**

Is the same, it looks to me as though the same might be likely to be happening with some of your neighbour's property?

**MR LEWIS:**

10 Yes it is, this one here, that's got a garage, the next property is up here.

**THE COURT: JUDGE NEWHOOK**

Is that number 15 is it?

**MR LEWIS:**

Yes it would be, yeah, (inaudible 12:28:57).

15 **MRS LEWIS:**

They only actually –

**THE COURT: JUDGE NEWHOOK**

And it looks as though there is at least one to the right of that as well. Yes Mrs Lewis?

20 **MR LEWIS:**

They seem to get progressively shallower.

**MRS LEWIS:**

Sorry, on our property there is two separate properties, we only half of that – 400.

**THE COURT: JUDGE NEWHOOK**

Yes, you are unit 2.

**MRS LEWIS:**

Whereas the other ones, the neighbours, have all got the full section.

5 **THE COURT: JUDGE NEWHOOK**

Yes, but do they lose as much backyard as you?

**MR LEWIS:**

No, it varies actually.

**THE COURT: JUDGE NEWHOOK**

10 Varies.

**MR LEWIS:**

When you can actually see the full, full line on it, it does actually vary.

**THE COURT: JUDGE NEWHOOK**

15 Thanks you might like to return to the other microphone. Mr Projectionist that  
– what was the number on that F plan, just for the record please?

**MR PROJECTIONIST:**

That's 912101.

**THE COURT: JUDGE NEWHOOK**

101?

20 **MR PROJECTIONIST:**

Yes, Operation Stem Plans. Sorry, 910

**1230**

**THE COURT: JUDGE NEWHOOK**

They've been very kindly making copies of these for us, I'll see if I've got it in the iPad here, but let's have the hard copy too, thank you Madam Registrar. Also got the letter of 4<sup>th</sup> of August 2010 from NZTA.

**5 THE COURT: JUDGE NEWHOOK (TO MR LEWIS)**

Q. You number one preference would probably be not to have the motorway widening done and leave things as they are but bear in mind one of our first decisions required of us is to whether consent will be forthcoming to the project. But let's put that aside. If we decide that consent should be given to the project, the project obviously includes this motorway widening along your property. What would your preference be, would it be that this occur, as per your photographs or that they buy you out?

A. Buy us out, to be quite honest.

15 Q. I'm not too surprised to hear that answer, looking at these photographs.

A. Yeah, it is, it's –

Q. I mean assuming that you've done a reasonable sort of measurement of –

A. Yeah on that plan it talks about five metres at one end and four and a half at the other and that's what I'd marked on that -

20 Q. Have you got boundary pegs there or are you just going off the boundary fence?

A. I've gone off the fence, which is there, the whole line of fence, it doesn't dogleg backwards and forwards.

25 Q. Probably put there about the time the subdivision was done?

A. Pretty much I would think.

Q. Looks like houses from about the 1960's?

A. No, actually this house is probably later than that, 80's I think, early 80's.

Q. And the subdivision was done about –

30 A. No, no the subdivision is quite old.

Q. I think these are probably done about 1950's or 60's from my knowledge of the area.

A. The old weatherboard houses on the main road front.

Q. Tell us anything else you'd like to tell us, you've told us plenty already, you can see our eyebrows a long way up our foreheads.

5 A. Well I mean it was pretty obvious when we looked at it. We've talked to – like the submitter and also to a person from NZTA as well. We just want to make our point known to you guys, to say that if anything does come forth we will accept it but we'd like to have your push to get it done, get it so it does go.

Q. Well we don't have any power to order NZTA to buy your property.

A. I know.

10 Q. That's not within our jurisdiction, but our jurisdiction is to work out what the effects on the environment are and you and your piece of land are part of the environment as defined in the Resource Management Act. And if I was living in your house I wouldn't like that environment, assuming that you've drawn the line in the right place.

15 A. I mean it does, it must bring it down to inside the minimum subdivisible.

Q. You'd probably cease to have a complying yard, getting technical about it.

**MR LAW:**

20 Could I offer some comment on that sir. I note that in Ms Linzey's social evidence at paragraph 116, she recommends purchase of the entire property. And we had understood that that was the case, perhaps seems like that hadn't got through somehow.

**THE COURT: JUDGE NEWHOOK (TO MR LEWIS)**

25 Q. Have you had an approach from a company called The Property Group?

A. Yes we have.

Q. Have you?

A. Nothing's been finalised.

**THE COURT: JUDGE NEWHOOK (TO MRS LEWIS)**

30 A. They have made an offer.

Q. But they have approached you?

A. They have made an offer, we have accepted it and signed it and it is back with –

**MR LAW:**

5 Sorry, this is for the full –

**MRS LEWIS:**

This is for the 405 square metres.

**THE COURT: JUDGE NEWHOOK (TO MR LEWIS)**

10 Q. Only for the slice?

A. No for the whole place, for the whole thing.

Q. For the whole house?

A. Yes.

Q. For unit 2.

15 **FURTHER QUESTIONS FROM THE BOARD: MR DORMER (TO MR LEWIS)**

Q. Sorry I misunderstood you, I understood one of you saying one thing and one the other?

A. No.

20 Q. You've had an offer from –

A. Yes we have.

**FURTHER QUESTIONS FROM THE BOARD: MR DORMER TO (MRS LEWIS)**

Q. Property Group?

25 A. Property Group.

Q. For the purchase of your –

A. The whole unit, the whole of unit 2, our property.

Q. And you've accepted it?

30 A. We have accepted it but our understanding from our lawyer yesterday was that it has not yet been signed by The Property Group. So she suggested we came along today.

**THE COURT: JUDGE NEWHOOK**

Well that puts a little bit of a qualification on it. Yesterday we had a situation that I'm not sure is in that boat, which was I think looking rather worse. Thank you very much for alerting us to the situation. We can't direct that they put a  
5 signature on an agreement to purchase but we hope from your point of view that things will sort themselves out very quickly.

**MR LAW:**

Sir, could I note that for the submitters' benefit that Mr Rick Gully is sitting up  
10 the back there today and he is one of the property, I guess managers, is the – managers for the NZTA. I don't think he's the particular person with responsibility for the Te Atatu area but he may be able to provide a contact for an update if the submitters wanted to speak to him.

**THE COURT: JUDGE NEWHOOK**

15 Have a talk to that gentleman as you're leaving. Member Dunlop just wants to extend the enquiry, I suppose off the back of the questions I was asking about the other properties.

**THE COURT: COMMISSIONER DUNLOP**

I was just wondering whether there are other similarly affected properties  
20 along the southern side of the motorway in this sector and what if anything the Agency is doing in respect of them?

**MS LINZEY:**

There are – my understanding is that that is probably – from the social  
25 perspective in the assessment I did, that was one of the worst affected, in that the area of their living court was taken, and as you rightly pointed out they didn't have a compliant sort of living space left anymore and that was the recommendation on that basis. There are other properties that NZTA is offering full purchase to as well, but that's not being done sort of from a social  
30 recommendation, though some of that has been done for construction disruption as I understand it. We could come back with details if that was of

benefit, but that's certainly one of the most noticeable examples in that particular –

**THE COURT: COMMISSIONER DUNLOP**

It might have been the high watermark perhaps.

**5 THE COURT: JUDGE NEWHOOK**

I think we would appreciate you coming back. It looks to me as though there may be others that while, perhaps not at high watermark, might be three-quarters tide.

**THE COURT: COMMISSIONER DUNLOP**

10 Just looking at the aerial photograph Ms Linzey, one can readily see structures that are equally as close but you can't tell from the aerial photograph the nature of those structures or really gauge the effect, but it causes the radar to start swinging around.

**THE COURT: JUDGE NEWHOOK**

15 That was my worry.

**WITNESS EXCUSED**



**THE COURT: JUDGE NEWHOOK**

Now, we've got a group of submitters represented by John Gallen, welcome to you.

**MR DORMER:**

5 Those of you who were present at the various pre-hearing conferences will remember disclosures of interest made by our Chairman on behalf of a number of our members. I wasn't aware at that stage that my very close friend Mr Gallen would be appearing for submitters. I'm delighted to see him here and disclose the nature of our friendship.

10 **1240**

**MR GALLEN:**

Yes Your Honour I appear on behalf of the group of owners of the Unitec residential village. On my right I'm here with Mr Cassen and there's witnesses, there's Mr Tauber, Mr Andrew Tauber, and Mr George Richardson.

15 Now I wondered before I read my submissions sir if Mr Richardson could identify on the map over there exactly where this 1510 Great North Road is.

**THE COURT: JUDGE NEWHOOK**

Well that won't be necessary. We've been there, walked around it and we know exactly where it is. It figures prominently too being a big block in the  
20 Google Maps that we've been using throughout the hearing.

**MR GALLEN:**

That's fine then Your Honour. I'll read my submissions sir. I won't read paragraph 1. I've set out there the names of the 10 submitters who make up  
25 this particular group. This is the student residential village at Unitec and I've mentioned Mr Tauber and Mr Richardson.

**MR GALLEN READS REPRESENTATION**

30 "I understand that... as education accommodation."

Now I may unfortunately have made a mistake there Your Honour. I found this morning that in fact the, as I understand it, the area has a special purpose activity zone, zone 2, in which permitted activities include residential accommodation associated with the primary use of the site, which of course is  
5 Unitec.

**MR GALLEN CONTINUES READING REPRESENTATION**

“The property contains... requirement in submission” –  
10 **1245**

**THE COURT: JUDGE NEWHOOK**

That’s where we’ll take that as read shall we Mr Gallen.

**MR GALLEN CONTINUES READING REPRESENTATION FROM**  
15 **PARAGRAPH 14**

“As I said... of the motorway.”

**1250**

Those are my submissions Your Honour.

20 **THE COURT: JUDGE NEWHOOK**

Yes, thank you Mr Gallen. I noted during your submissions that you referred in the future tense to the giving of evidence by the witnesses that you are calling. However, as you may have noted from the prehearing conference directions, we have been in the business of massive quantities of reading, and  
25 they most certainly include the statements of evidence that have been filed in support of the case of your client, so we will not be needing them to read their evidence out to us.

**MR GALLEN:**

No, they don’t, they don’t propose to read their evidence sir, both would like to  
30 speak to their evidence, but they don’t propose to read anything.

**THE COURT: JUDGE NEWHOOK**

What are they, we – that's not some, that's not a technique that we have been adopting. The statements of evidence are fairly full as they are, can you explain to us why they would like to speak to them and I've got Mr Tauber's  
5 before me, for instance, we have got it filed electronically and in hard copy and we have been looking at it very carefully, what would he add to that?

**MR GALLEN:**

He would – what he would do, I think sir, is he would amplify and stress the key points that he has made in his statement of evidence. It was anticipated  
10 that that would be circulated and read by the Board and he knows that he wouldn't be reading it and he has made some points regarding his evidence that he wanted to reinforce. The same, of course, for Mr Richardson, on that they have, Mr Richardson is more on, if I could call the physical characteristics of the site and the, the student flats. Being an architect of course this is his  
15 approach. Mr Tauber is more on the financial and – background to...

**THE COURT: JUDGE NEWHOOK**

Mr Gallen I can understand the anxiety facing your clients. I can well and truly understand their anxiety and an inspection walking round the outside of the property underlined what we were reading in their statements. I have the  
20 feeling that to be equitable to all the parties before the Board of Inquiry, and we have some hundreds, that I should in an even-handed way, adopt the same course for each of them. We haven't been inviting them to step up and underline or stress various points in their evidence and I'm not sure that really it would be fair to do it for one and not do it for another. I make very heavy  
25 use of this, this yellow highlight pen, and on the hard copy of the statement that I have got behind me here, there is a lot of yellow on the statements of evidence of the witnesses that you have called and, I think out of fairness, not to leave it there, I'd certainly want to see whether members of the Board have questions for you and for them, and I'd prefer to adopt that course unless you  
30 seek to persuade me otherwise.

**MR GALLEN:**

Well we would certainly accept that – we will certainly follow the practice of the Board sir.

**THE COURT: JUDGE NEWHOOK**

5 Yes all right.

**MR RICHARDSON:**

May I speak sir, I don't know what the protocols are here, but there are certain issues that have resulted from the time that we actually put the initial submissions in to you and those, those are in fact, of really serious concern to us, that we would certainly like to have tabled to this Board, which are not mentioned in our initial submissions.

**THE COURT: JUDGE NEWHOOK**

One question to that is, do these additional points Mr Gallen relate to the general subject matter of the submission, to your understanding?

15 **MR GALLEN:**

They do Your Honour.

**THE COURT: JUDGE NEWHOOK**

I will just confer with my fellow members. Gentlemen, our collective view is that yes, we will hear... **(audio stopped)**

20 **COURT ADJOURNS: 1.00 PM**

**COURT RESUMES: 2.19 PM**

**THE COURT: JUDGE NEWHOOK**

(audio missing)...want to tell us about a few things that have happened since the submission was lodged and since your evidence was filed?

5

**MR RICHARDSON:**

Yes sir.

**THE COURT: JUDGE NEWHOOK**

But not about the acquisition aspects of it.

10

**MR RICHARDSON:**

No I understand.

**THE COURT: JUDGE NEWHOOK**

Because that's separate proceedings.

15

**MR RICHARDSON:**

I've been instructed for the last hour on what I may not say so I'm quite clear.

**THE COURT: JUDGE NEWHOOK**

Well you've been instructed by one of the best.

20

**MR RICHARDSON:**

What I wish to present to you is actually reduced down to one item. It's a very, very, very significant item in our mind and it's something which is causing us enormous concern. When we started to be advised as to –

25

**PROCEEDING STOPPED WHILE AUDIO RESTARTED**

**1432**

**THE COURT: JUDGE NEWHOOK**

We don't have to follow plan B gentlemen we can move on with your case and hear from Mr Richardson a few minutes on a development since he filed his evidence.

**5 MR RICHARDSON:**

Apart from the fact that we have many, many concerns about the intrusion of the construction site within 11 metres, just so you actually know what distance that is, this heavy-duty construction site is going to be about as far away from you are to that wall there.

**10 THE COURT: JUDGE NEWHOOK**

Yes, well look, we are very familiar with the geography –

**MR RICHARDSON:**

Good, thank you.

**THE COURT: JUDGE NEWHOOK**

15 - Mr Richardson, I would like you to tell us about the developments since you filed your evidence.

**MR RICHARDSON:**

I will. One of the major concerns we have is in terms of settlement of the building. Looking at Mr Gavin Alexander's evidence, and trying to understand exactly what it is, he said to us, and that's the drawing which I've presented to you, which is the first drawing. In his evidence, annexure B shows that – I have cobbled two of his drawings together to show more emphatically, but what it shows is that 1510 is in fact between two areas of settlement and Mr Alexander has said, quite simply that, because the building is in fact – has  
20 different types of foundations on one side to another that therefore then the building is at risk and he has put it into a category which causes, which suggests, that it could settle up to 50 millimetres. When we received the rebuttal information we received some more drawings, some more contour  
25 drawings of the settlement contours that appeared to us to be very different to

the ones which we had seen on here. And then we went a little further into the evidence and we looked at the contour drawings of settlement which are, in fact, included in terms of existing services, not in terms of buildings. And if you look at the second drawing which I have presented, I have in fact placed  
5 on that drawing 1510, on the original drawing that does not occur and all this drawing deals with is, in fact, services. If you look at the contour of settlement on this second drawing you will see that on part of this drawing 1510 is in fact in an area which is expected to subside up to 100 millimetres. We see that as a very serious difference and a very serious discrepancy in the information  
10 which is being presented. Mr Alexander has concluded that this building is only at "minor risk" in terms of settlement damage, whereas this information is entirely contrary to that. We know that they have carried out no tests, no ground tests on our site and, in fact, had no idea of even what the water table is on our site because the bore which they are insisting on putting in the  
15 middle of our carpark has not yet been drilled. So based upon all of this information NZTA have concluded that they do not need to mitigate in any way, shape or form any of the inconvenience or difficulties which they will create for us in this property and that they do not need to acquire the property. That's really what I wanted to say to you.

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

Q. Okay, there was a third sheet that was handed to us with these two coloured ones, third one's in black and white.

A. Yes.

Q. What's that?

25 A. Well I put that in just to show the point as to exactly where this construction, this temporary occupation, this construction site will be and I put it in to show just exactly what it does in terms of a conservation covenant, which we have on the property, I'm not quite sure what happens to that conservation covenant if they decide they're going to in  
30 fact remove many of the 3000 or so natural bush trees that we have planted on the site. It also shows the footpath which goes straight through, this is a public footpath on our land which we have ceded, if you like, to the Auckland City Council in order to provide access from

Great North Road to Unitec and to the Oakley Reserve. It goes right through the temporary occupation and therefore simply will not be usable.

**THE COURT: JUDGE NEWHOOK**

5 All right, now we'll record these exhibit numbers even though Mr Richardson isn't sworn, he's been referring to them, they've been spoken to in the record and I think we should have them permanently in the record. I think exhibit 15 for the first sheet Madam Registrar.

**EXHIBIT 15 PRODUCED – SHEET LABELLED TAKEN FROM ANNEXURE  
10 B EVIDENCE G13 GAVIN ALEXANDER**

**EXHIBIT 16 PRODUCED – SHEET LABELLED TAKEN FROM EXHIBIT F  
EVIDENCE G13 GAVIN ALEXANDER**

**EXHIBIT 17 PRODUCED – DRAWING ENTITLED UNITEC RESIDENTIAL  
VILLAGE**

15 **THE COURT: JUDGE NEWHOOK**

Just before we move on, Mr Law I've seen a little movement around the Court while we've been studying these.

**MR LAW:**

20 Mhm, yes.

**THE COURT: JUDGE NEWHOOK**

Are you able to say, do you happen to be able to say whether the accuracy of these is accepted on the part of NZTA, in particular from exhibit 16?

25 **MR LAW:**

No I don't think it is sir. I think the, that this – and Ms Linzey may have to chip in here – but I know that the rebuttal, annexure A to the rebuttal of Mr Alexander was a, I think an update but also a correction. Is that right?

30



**MS LINZEY:**

That's correct. Yes so there was further information provided through the process that updated that drawing. We did not resubmit all of the plans to reflect the updated drawings, so the services annexure – appendix, which is  
5 taken from the original G13 report, reflects a older settlement plan than the one that was re – that was submitted with Mr Alexander's evidence-in-chief.

**MR LAW:**

So yes I obviously accept that they've found these diagrams in the report and  
10 so on, but the accuracy of them is no longer accepted and obviously the confusion, any confusion in that regard lies with us.

**THE COURT: JUDGE NEWHOOK**

The second allegation was that the watertable hadn't been ascertained under the property.  
15

**MR LAW:**

My understanding is that we've made a formal application to do the bore. I will have to probably get someone who knows about the property to advise me which sect – well I don't suppose it matters which section of the Act that's  
20 under, but that we have agreement from Unitec as the leaseholder to do that and we are awaiting agreement from the landowners.

**THE COURT: JUDGE NEWHOOK**

Yes. I'm just asking these questions because I'm trying to work out whether we should have people sworn and cross-examined, given the conflict of  
25 evidence.

**THE COURT: JUDGE NEWHOOK**

Q. But in the meantime I'm going to ask Mr Richardson whether consent has been given by the landowner to the pulling down of that bore.  
A. Yes. It has, but as at this morning when Mr Gallen went on site to have  
30 a look at the site it hasn't been done. This is my comment that these determinations –

Q. When was the consent given?

A. Three weeks ago.

**MR CASSIN:**

5 May it please Your Honour.

**THE COURT: JUDGE NEWHOOK**

Sorry I've forgotten your name already.

**MR CASSIN:**

10 Sorry, Cassin sir.

**THE COURT: JUDGE NEWHOOK**

Yes Mr Cassin.

**MR CASSIN:**

15 Notice of entry was served under section 111 of the Public Works Act. The  
landowner has one month from that time in which to object the entry to the  
District Court. There was no objection to entry. There was a meeting onsite  
three to four weeks ago where details of the proposed groundwater bore, its  
location, the access route to it and other questions were put. It was indicated  
20 to NZTA that there would be no landowner objection to entry, but we  
requested information on what was to be placed in the ground, and perhaps  
above it, in terms of caps and whether the bore in the ground was to be a  
simple tube or whether there was to be further equipment placed in the bore.  
We haven't had answers to those questions yet and when we do get answers  
25 to them the consent of the landowners to entry will be forthcoming. If what's  
proposed, in respect of physical works, is within a fairly constrained language  
of section 111 subsection 1 which only permits certain activities on land.

**THE COURT: JUDGE NEWHOOK**

All right, thank you for that explanation.

**THE COURT: JUDGE NEWHOOK**

Q. Mr Gallen to you I have to say that you didn't seek to cross-examine NZTA witnesses, particularly Mr Fisher, on his rebuttal that NZTA advises us this afternoon corrected what –

5 A. Yeah that is correct.

Q. – Mr Fisher considered to be an error?

A. We weren't (inaudible 14:42:23) and to say sir we weren't aware that that was the situation. It was only the subsequent work by Mr Richardson that highlighted to us the differences between the plans.

10 Q. Well what it means, and I don't need to explain it to you but I'm saying it for the benefit of your clients, is that we're recently left in the position where we have to work with the evidence that is before us and certainly these exhibits are before us, exhibit 15 being an amalgam of other, two other exhibits from NZTA. But exhibits 15, 16 and 17 are obviously to  
15 be read alongside some rebuttal evidence that's been given to us. That changes the picture and we're simply left with having to work with what we got.

A. Mmm, no I appreciate that sir.

**THE COURT: JUDGE NEWHOOK**

20 Now I think we get to the point where we see whether members of the Board have questions for Mr Gallen or any of the witnesses that he has with him. Perhaps we start with our engineer members, Member Jackson?

**QUESTIONS FROM THE BOARD: MS JACKSON – NIL****QUESTIONS FROM THE BOARD: MS HARDIE (TO MR RICHARDSON)**

25 Q. You made a comment that part of the RMA approval required for the construction of the building, that 1510 required the installation of a sediment control for stormwater discharge from the parking areas into Oakley Creek?

A. Yes.

30 Q. And I think there was a thought that perhaps that the, at least a part of that was situated within the construction site. Is it your understanding

that you'd be in breach of your requirement from your construction, in terms of whether or not stormwater will actually be treated? I'm just – or maybe perhaps if you could just show us on the map where that collection sediment pond is, that might be helpful.

- 5 A. Yes okay. The... If you look at my drawing which -

**THE COURT: JUDGE NEWHOOK**

Yes that's exhibit 17.

**1445**

**10 QUESTIONS FROM THE BOARD CONTINUES: MS HARDIE (TO MR RICHARDSON)**

- A. The four bay settlement ponds are roughly here.

**THE COURT: JUDGE NEWHOOK**

Just for the record Mr Richardson. The witness is indicating a general area around the words, "temporary occupation".

**15 QUESTIONS FROM THE BOARD CONTINUES: MS HARDIE (TO MR RICHARDSON)**

- A. The original RMA approval required that all of the stormwater from the carparks and driveways were in fact treated prior to going into Oakley Creek. The choices which were available to us was a large  
 20 concrete chamber, the (inaudible 14:45:40), this four bay system, which we elected to do because we thought it was far more environmentally sensitive and it would sit far better in the environment in which we intended to create with the conservation covenant. That has simply worked ever since it was installed nearly 10 years ago and continues to  
 25 function. If this is in fact removed, then presumably that means that two things will happen. First and foremost the stormwater off our carparks will have nowhere to go and secondly that we will be in breach of RMA approval, because we will no longer be treating the stormwater from our carparks. This is where we get so frustrated with NZTA –

**THE COURT: JUDGE NEWHOOK**

Could we just not have that speech this afternoon Mr Richardson. We've read your evidence, we get the message.

**QUESTIONS FROM THE BOARD CONTINUES: MS HARDIE (TO  
5 MR RICHARDSON)**

Q. So it's within – the thing is, in terms of your plan here, that's not necessarily within the construction zone 7, so that's why I was wondering whether or not you could point out –

A. It is in fact construction 7. If you look at the drawing which I have up on  
10 the – the large drawing on the screen, the blue piece which is the (inaudible 14:47:15), which sort of projects out to the right, you'll see it is in fact the construction temporary occupation which NZTA are requiring to take on our property.

**THE COURT: JUDGE NEWHOOK**

15 Looking at that plan, which has the number 107 on it, you carry on Member Hardie, it's your question.

**QUESTIONS FROM THE BOARD CONTINUES: MS HARDIE (TO  
MR RICHARDSON)**

Q. Where you can see the outline which has got the double little squares,  
20 that's the proposed construction zone 7?

A. Yes.

Q. The rest is the proposed extent of the designation, but in terms of construction zone 7, can you show us where –

**THE COURT: JUDGE NEWHOOK (TO MR RICHARDSON)**

25 Q. Just for clarity, the magenta line is the footprint, the works footprint that's outside and inside that with the black line with some hashes on it is the construction yard, I think that's my understanding of it. Do you –

A. I can't help you with this because I have no knowledge as to exactly  
30 what the construction yard will be. This was going to be my speech which I'm not allowed to say. We don't know.

Q. Well do you accept –

A. All we know –

Q. – all right, just simply, do you accept that that's what that plan appears to be showing us?

5 A. Sure, and that in terms of this drawing is the area which the NZTA require to take from our property, which if you look at the two things together then you relate it to the position of this portion of our building, then it's fairly easy to see what it is because that building there, on the tail end of this portion here, is in fact that building there on my drawing.

10 Q. Just indicating for the record then, the witness is pointing to the Totara block on exhibit 17, which is due west of the temporary occupation area that he was previously drawing to our attention. Just need these things in the record Mr Richardson so that when we read them later we can understand more than somebody's fingers waving around on the plan.

15 A. So to answer your question specifically I don't know if the settlement pond is in fact in the construction zone or merely in the temporary occupation zone. I could have a guess, I think it's pretty much on the border.

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

20 **QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP (TO MR RICHARDSON)**

Q. Mr Richardson you used a term there, "temporary occupation zone", could you explain to the Board what you mean by that term please?

A. I'm not quite sure what the legal terminology is, perhaps Mr Gallen or –

25 **QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP (TO MR TAUBER)**

A. It's not our term it's the NZTA term.

**THE COURT: JUDGE NEWHOOK (TO MR TAUBER)**

Q. Mr Tauber you understand it to be a term employed by NZTA?

30 A. Sorry?

Q. You understand it to be a term employed by NZTA?

A. It's a term employed by NZTA, it's the area that they want to occupy on a property below the Totara block, and there's lots of drawings identifying where it is on our property.

**5 QUESTIONS FROM THE COURT CONTINUES: COMMISSIONER DUNLOP (TO MR RICHARDSON)**

Q. But they use a different term –

A. It's taken from this drawing here, which was issued to us in respect to the notice of requirement to acquire the property (inaudible 14:51:49).

10 This is a –

**THE COURT: JUDGE NEWHOOK (TO MR RICHARDSON)**

Q. Read us the label on the plan?

A. It says, "SO434446", it's from CKL Planning and Surveying and Engineering, inspired team successful solutions.

**15 THE COURT:**

What I'd like you to do is, Madam Registrar can you help please. Pass that along the NZTA team. I'm going to ask them with whatever resources they have here is those can assist, and there are quite a few, to compare that with the designation plans and tell us whether the information that's contained in the plan referred to by Mr Tauber is within the designation, and do they accept  
20 that it is what it says it is on its label.

**MR CASSIN:**

Your Honour perhaps because we've referred to a legal document to lift the  
25 veil on this matter and with your approval sir we could put a further document in. I have here the section 18 notice of desire to acquire that was served on Apartments Limited and in schedule 3 there is reference to a lease, a temporary occupation area and the temporary occupation area is the area that was cross-hatched in blue in the plan that's just gone out for copying. So  
30 there's a proposal to take and the purpose is of the proposed take included in the section 18 notice.

**THE COURT: JUDGE NEWHOOK**

All right. Pass that along for the moment to the NZTA team and I'll ask the same questions in relation to that document in case they can help us. Does the information in that document inclusive with its plan or plans show works  
5 within the proposed designation footprint that's before us?

**MS LINZEY:**

Firstly to confirm the plan that we have put before us, the area that is identified, "temporary occupation", is the area of surface designation, the blue  
10 lines on plan F, plan 114 anyway of the designation series, so that is, that's the blue occupation. Ms Pillay has just put up the designation NOR drawing from the correct NOR series drawing.

**1455****THE COURT: JUDGE NEWHOOK**

15 Can you tell us is the Agency intending to buy the land intended for that work? There is a notice of acquisition there, is that what is intended, the purchase?

**MR LAW:**

As I think I mentioned before sir, this is Mr Gallagher, who is one of the property managers and I think he has been dealing with parts of this  
20 acquisition.

**MR GALLAGHER:**

Thank you, the, all the unit owners, the dispute of the parties, were served notice of desire under the Public Works Act for the two interests. One for the portion of the underground property required for the project, for the tunnel,  
25 and then also for a surface occupation, which is the area that we are talking about now. So there will be two, two notices of desire for the operation. The – I think what we are looking at here is the, is the – a surface occupation that is also an interest at Unitec as the leasehold – it has the lease on that property, it would also have been served a notice of desire, and we just  
30 negotiated the surface occupation, using the same diagrams with them. The question I guess that BECA would answer in relation to, or Amelia would



answer, in relation to this is the relationship between the surface designation, the area that is being offered for further lease occupation, and then whether the construction boundary sits within that. So we, we would have designated, we would have had a location for a construction fence. It is whether or not  
5 that construction fence sits right up against the boundary or it is held back from that boundary so that there is, you can get in and service it and I think that's the question that's be asked.

**THE COURT: JUDGE NEWHOOK**

Well it's part of the question. Another part of the question is, is this notice to  
10 acquire a true acquisition, or is the temporary occupation to be supported by some other kind of property interest of a temporary nature?

**MR GALLAGHER:**

It's a temporary nature on the surface, yes.

15 **MR DORMER:**

So you are hoping to lease the land?

**MR GALLAGHER:**

Yes, yes.

20 **MR DORMER:**

Not buy it?

**MR GALLAGHER:**

On the surface, correct, to lease it, yes.

**THE COURT: COMMISSIONER DUNLOP**

25 Are you able to help us with whether activities in the proposed construction yard would disrupt what has been described as a stormwater formé?

**MR LAW:**

I would think that's probably more a question for Mr Tim Fisher, and I note in his rebuttal evidence, paragraph 60, he did address stormwater - stormwater services and also there is the waste services condition that's now been  
5 agreed in the planning caucusing, which will provide for the maintenance of all existing wastewater – sorry, services, all services.

**THE COURT: COMMISSIONER DUNLOP**

So to clarify that in my terms, is the Agency proposing to conduct the works in the construction yard, that part of the construction yard which it seeks to lease  
10 from Mr Richardson's interests, in a way that won't disrupt Mr Richardson's stormwater forma and, in turn, cause him to be in contravention of his resource consent. Is that the scheme that you are holding out?

**MR LAW:**

15 Yes I think that's a reasonably fair summary, we will have to take, I imagine there will be some disruption to it because it's in a construction yard, so we will have to take control of that within our own stormwater management systems. So, I mean our conditions of consent simply wouldn't allow us to just start discharging the stormwater discharge from 1510 into Oakley Creek or  
20 anywhere else.

**THE COURT: JUDGE NEWHOOK**

And in case it goes far enough, is this notion embodied in draft conditions of consent at the present time Ms Linzey?

**25 MS LINZEY:**

Yes, so the planning caucus, the draft conditions that was proposed there, explicitly made that acknowledgement with services would be managed, and any subsequent consent approval required for that would be dealt with as well, that's in it as intent of that consent condition.

**THE COURT: COMMISSIONER DUNLOP**

Is the Board still to see the product of that caucusing Ms Linzey, or is it before us?

5 **MS LINZEY:**

We did give it to the EPA, yesterday I believe it was all signed up, did you receive the caucusing statement from Tony –

**THE COURT: JUDGE NEWHOOK**

The planning caucusing statement, yes we have got that.

10 **THE COURT: COMMISSIONER DUNLOP**

And has Mr Gallen been shown it?

**THE COURT: JUDGE NEWHOOK**

Has Mr Gallen and his client been provided a copy of that statement?

15 **MS LINZEY:**

It had not been posted on the website this morning when we looked, but I imagine it is just in the process of getting through the administration system.

**THE COURT: JUDGE NEWHOOK**

20 Yes, well you might have a spare copy available in captivity on your tables there see if you can find one for him.

**MS LINZEY:**

I will certainly have a look in the pile of paper.

**THE COURT: JUDGE NEWHOOK**

25 I think Ms Morgan may be able to find one.

**THE COURT: COMMISSIONER DUNLOP**

Ms Linzey can you - do you have the caucus statement at your fingertips, can you guide us to a paragraph?

**MS LINZEY:**

I'm very sorry I'm going to have to grab one off Ms Morgan as well.

**THE COURT: JUDGE NEWHOOK**

Mr Law, I didn't previously apprehend that the service arrangements for  
5 documentation were all to be via the website, I would have thought that  
parties interested in participating in the hearing were to be served by you with  
any documents that your team create?

**MS LINZEY:**

10 Sorry, just, this document came through as a, as a sort of, a collaborative  
effort with myself and the people – I left it – sorry, it was drafted by myself but  
it was left for people to sign from the other caucusing members to sign and  
when it, when that signing was completed it was handed over to Ms Morgan,  
but just in the time that we had.

**THE COURT: JUDGE NEWHOOK**

15 All right, well I won't say anymore because it's not going to help to bring  
Mr Gallen up to speed, we are going to have to leave him to find and read the  
portion that you are drawing to our attention, which is?

**MS LINZEY:**

20 Sorry on the page, the top of page 8, on (inaudible 15:02:59).

**THE COURT: JUDGE NEWHOOK**

Yes I just got there too. Now I wouldn't have thought that expressly helped  
Mr Gallen's clients to maintain their obligations or to have them temporarily  
undertaken by NZTA, it just talks about liaison, whatever that is, with an  
25 infrastructure service network. Mr Gallen seems to think so –

**MR GALLEN:**

Cold comfort to my clients on that sir, they won't liaise, the liaison, as they no  
doubt impressed upon you, is – the liaison has not been good.

**MR DORMER:**

Your client is not an infrastructure service network is it?

**MR GALLEN:**

It has been totally absent.

5 **MR RICHARDSON:**

Last time we looked.

**THE COURT: JUDGE NEWHOOK**

That appears to be the extent of questions from members of the Board, I'm going to address NZTA –

10 **MR LAW:**

Excuse me – oh sorry.

**THE COURT: JUDGE NEWHOOK**

Yes Mr Law.

**MR LAW:**

15 I was just going to say perhaps if we could provide some assurance to the submitter that it was certainly our intention that that the NZTA, if the – if any stormwater services are disrupted that the NZTA should address that either through new consents or through its own systems and we will have a look and see whether or not any of the existing stormwater conditions cover that and if  
20 they don't we will suggest some amendments to make sure that that is the case.

**1505**

**THE COURT: JUDGE NEWHOOK**

25 Well it is, it is your right to endeavour to cure that deficiency if you can. For myself and I think for some, probably all my Board members if you can. For myself and I think for some, probably all of my Board members there's a feeling up here of some considerable disquiet about the loose ends. We

aren't in the position of being able to point fingers. If there's been a lack of co-operation by one or more parties in all this that's regrettable, but it seems to us that at the very least these infrastructural questions are at a loose end. We are also left in the position of needing to closely consider all the evidence  
5 there is in our possession concerning the likes of the notions of temporary occupation of a significant part of the submitters' property, on a lease basis or whatever it is. And to form views as to whether the effects on the environment have been adequately avoided, remedied or mitigated. And if they haven't been, and in our view can't be, then there is a risk to the project that a portion  
10 of the proposal may not be consentable. And I think that's as much as I can say. We can't venture into the acquisition area as I explained very carefully before lunch to Mr Gallen's clients. Our business is to do with the effects on the environment and as things presently sit, speak for myself at least, I think things are looking pretty scruffy. We're going to have to go back in detail into  
15 the evidence. I'm not going to invite the NZTA to keep filing evidence. We've had plenty of that. I'm just going to leave us to digest the evidence, but I'll tell you now there's a risk. Another elephant did come into the room, to use the phrase employed earlier in the day. Mr Cassin you've got something else?

20 **MR CASSIN:**

Yes Your Honour. The section 18 notice that was referred to my learned friend for a look, does the Court want a copy of this because schedule 3(2) of the section 18 notice shows both the nature of the lease (inaudible 15:07:45) proposed and it also details the purposes for which the land is required.  
25 There's a description of the works to be carried out on the land and also appended to it there's the document that was earlier produced as the blue cross hatched plan.

**THE COURT: JUDGE NEWHOOK**

So that the document might actually provide some more context around that  
30 plan that we were looking at.

**MR CASSIN:**

Yes Your Honour.

**THE COURT: JUDGE NEWHOOK**

Mr Law, I don't think you can resist our receiving that document in evidence, particularly for the second of the two points that Mr Cassin described as being contained within it and I'm of the view that it should be received as an exhibit.

5

**MR LAW:**

I have no issue with that sir.

**THE COURT: JUDGE NEWHOOK**

If you feel the need to cross-examine on it you can make that application, but I think that we should have the document.

10

**MR LAW:**

I have no intention of cross-examining.

**THE COURT: JUDGE NEWHOOK**

Madam Registrar, would you please make copies for us of the plan that was first shown to Mr Law and the NZTA team with the blue footprint on it. It might have got back into Mr Richardson's pile by the look of it. Yes, that one, because that's going to become exhibit 18 and if you would also make us copies of the notice document that you're also holding, last described in evidence, that's going to become exhibit 19. Thank you very much.

15  
20**THE COURT: JUDGE NEWHOOK (TO MR GALLEN)**

Now that's probably as much as you can assist us with, although if you'd just like to wait around we'll start hearing some other evidence, but if you'd like to wait around to give us the opportunity to cast our eyes quickly on those two documents that are being copied for us in case we have any questions for any of you about those. Thank you very much.

25

**THE COURT: JUDGE NEWHOOK**

Mr Law.

30

**MR LAW:**

Yes sir.

**THE COURT: JUDGE NEWHOOK**

We were advised by you that the answer concerning the point on the  
5 settlement problem was found in Mr Fisher's rebuttal evidence, annexure A I  
think you said.

**MR LAW:**

Yes.

10 **THE COURT: JUDGE NEWHOOK**

I'm holding a copy in my hand.

**MR LAW:**

Oh sorry, Gavin Alexander, not Gavin Fisher.

15 **THE COURT: JUDGE NEWHOOK**

Sorry Gavin Alexander, yes I'm sorry I've noted that incorrectly.

**MR LAW:**

Did I say – sorry, did I say Mr Fisher, you're both – the other Gavin.

20 **THE COURT: JUDGE NEWHOOK**

Yes I think you might have said "Fisher" at one time. Anyway I'll accept –

**MR LAW:**

I said Tim Fisher I think. There's two Fishers and two Gavins.

25 **THE COURT: JUDGE NEWHOOK**

Yes, yes yes you're quite right.



**THE COURT: COMMISSIONER DUNLOP**

The Alexander reference again is I'm sorry?

**MR LAW:**

5 Sorry it says Gavin Alexander's –

**THE COURT: JUDGE NEWHOOK**

Annexure A.

**MR LAW:**

10 Yes annexure A to his rebuttal evidence.

**THE COURT: JUDGE NEWHOOK**

Rebuttal annexure A and it's this one I've got –

**MR LAW:**

15 Yes it is sir.

**THE COURT: JUDGE NEWHOOK**

- in my hand on the iPad. Member Hardie draws to my attention that the scale of that document, I imagine this applies to hardcopy version as well as to the electronic one that we have here, is very difficult to read and in particular  
20 there's so much colour overlaying the aerial photograph that we actually can't find 1510 Great North Road on the plan. And I think somebody's going to have to rock up with a version of that, probably at a better scale, with the colour detuned so that we can frankly see that building on it. If you wouldn't mind lodging that on Monday.

25

**MR LAW:**

Yes sir.

**THE COURT: JUDGE NEWHOOK**

With a covering note from counsel that it is that document that we're looking for. You'll be serving copies of it on any parties interested in the usual way and quickly.

5

**MR LAW:**

Yes sir.

**THE COURT: JUDGE NEWHOOK**

Mr Gallen in particular. I imagine Unitec might be interested in that Mr Law as well.

10

**MR LAW:**

Yes although Unitec has seen all this material and has reached agreement and it was at the outcome of discussions about settlement.

15 **THE COURT: JUDGE NEWHOOK**

I wouldn't imagine for a moment however that you wouldn't serve anything on them as a party.

**MR LAW:**

20 Oh no I'm not suggesting that we wouldn't sir, but –

**THE COURT: JUDGE NEWHOOK**

Good.

**MR LAW:**

25 - just for your information that they've seen all this material and it was on that basis that they, despite these plans actually, that they asked us to add buildings 310 to three something else into the conditions.

**THE COURT: JUDGE NEWHOOK**

30 Now is Mr Tritt here? Please come forward. Yes, thank you Mr Tritt if you would like to read your statement to us.

**MR TRITT:**

So my initial statement was very brief, but very broad and I would like to elaborate on that a little. Now I won't take up much of your time.

**THE COURT: JUDGE NEWHOOK**

5 That's all right, you've got a couple of pages to read so we're all ears.

**MR TRITT:**

So I'm here because I am opposed to the application in principle and in full for reasons that I believe it'll exacerbate Auckland problem of car dependence,  
10 divert resources away from sustainable transportation options and create a range of environmental health and community effects.

**MR TRITT READS REPRESENTATION**

15 "I'm here really... in the city."

**1515**

Which is on Youtube.com if you want to sit down with a glass of wine tonight and have a look at it. It's worth a look.

**20 MR TRITT CONTINUES READING REPRESENTATION**

"I have concerns... benefit analysis."

**THE COURT: JUDGE NEWHOOK**

Q. Would it be too unkind of me to invite you to read out what you've  
25 prepared for us. You've obviously gone to some trouble to prepare this. I just have a concern that if you ad lib around the edges of it, what I'm hearing is actually pretty much what's on the page here, and if we're going to do both, we're just going to take more time. I don't want to cut you out and I don't want to be unfair but if you've gone to the trouble of  
30 putting it in writing perhaps you could present it from there, that would be great.

A. I can give it a go, it's tempting to ad lib but I'll see what I can do.

**MR TRITT CONTINUES READING REPRESENTATION**

“So the more... present to you.”

**QUESTIONS FROM THE BOARD: MR DORMER**

- 5 Q. Who was that Mr Tritt?  
 A. Jinhu Wu, yes he's my neighbour.  
 Q. Dr Wu?  
 A. Yes.

**1525**

**10 THE COURT: JUDGE NEWHOOK**

- Q. Oh no, we've had others, we've had the Chand family.  
 A. Okay, I just heard that anecdotally so –  
 Q. I don't want you to exaggerate though Mr Tritt. We've actually had  
 some really interesting, well informed and articulate people from the  
 15 Waterview and Mt Albert, Owairaka communities coming to talk to us,  
 pretty impressive.  
 Q. I was very particularly concerned that I hadn't seen much effort put into  
 engaging people who had English as a second language and who had  
 perhaps come from overseas and weren't at all used to the kind of  
 20 processes and things that we do here in New Zealand and so I've seen  
 a real lack of NZTA's provision of representatives, materials or  
 opportunities for people who don't necessarily speak English that well.

**MR TRITT CONTINUES READING REPRESENTATION**

25

“On the green... the same way.”

**THE COURT: JUDGE NEWHOOK**

- Q. Well Mr Tritt that maybe something that is beyond our ability to deal  
 with. You might need to go and talk to the government about changing  
 30 the law. A number of people are doing that, you might want to join in.

**MR DORMER:**

It's an issue under the Public Works Act and I'm struggling in my mind with how we reconcile deficiencies in the Public Works Act where successive Governments, Parliaments have set their fates against providing  
 5 compensation for people, the effect as you describe. Given that successive Parliaments have determined that such people are not eligible for compensation, I'm struggling with the concept as to the extent to which providing environmental benefits or environmental protections for people is contrary to another piece of legislation if you will. It would be a whole lot  
 10 easier if Parliament had said that these folk get compensation.

**THE COURT: JUDGE NEWHOOK**

Q. Anyway, certainly the short point today is, that we can't help, this group of five can't help.

A. I understand that but yeah I just wanted to make the point, the effect on  
 15 those people who have to stay there and – I consider myself fortunate that our house was purchased.

Q. We understand that point of view.

A. It's very severe and I think obviously the effects on those people is something that would be considered by this panel, although I appreciate  
 20 that you can't require NZTA to purchase properties because that's outside your scope.

Q. We understand why you feel lucky.

**MR TRITT CONTINUES READING REPRESENTATION**

25

"I'm concerned about... the project too.

So that's the end of my submission.

**THE COURT: JUDGE NEWHOOK**

30 Thank you Mr Tritt. Now we've probably covered a set number of the topics that you've raised with you already while you've been presenting. I'll just see if there are any other questions.

**QUESTIONS FROM THE BOARD: MS HARDIE**

Q. I just wondered, were you at 103A or 105A?

A. 103A.

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

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

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

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

**THE COURT: JUDGE NEWHOOK**

10 Thank you for your presentation Mr Tritt, thank you for waiting for a while to  
make it and thank you for making it.

**WITNESS EXCUSED**

**THE COURT: JUDGE NEWHOOK**

Mr Law, it might be a fair pop if you were to serve on Mr Chand or the Messrs Chand, a copy of exhibit 19. When you do so you can advise them that that is pursuant to direction of the Board of Inquiry and send us a copy,  
5 file a copy of your communication to Messrs Chand.

**MR LAW:**

It's serve the notice of desire sir, serve the notice of desire for 1510 on Mr Chand?

10 **THE COURT: JUDGE NEWHOOK**

Yes, he might be a bit interested in this concept of leasing.

**MR LAW:**

I see, okay right, yes we'll do that.

15 **THE COURT: JUDGE NEWHOOK**

We've got this view up here, Mr (inaudible 15:34:20) seems to think this is amusing but I don't think we do actually and that is that where Mr Chand might perhaps be interested in granting a lease but is instead having his land taken as to freehold, the reverse seems to be happening to another party  
20 whose wishes are the reverse. There's just a little irony in that I think.

**MR LAW:**

Yes sir.

**1535**

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

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

**MR LAW:**

Excuse me sir, could I just clarify one thing about that last request. I assume the answer will be yes, but since the correspondence was sent to the Body Corporate for 1510 and contains confidential information such as – which  
5 essentially is their privacy information such as the amount that's being – I think it contains the amount that's being offered. Does it normally do or not?

**MS LINZEY:**

It does have some values in it sir.

10

**MR LAW:**

Whether we have the Body Corporate's agreement to –

**THE COURT: JUDGE NEWHOOK**

Yes, well that's a good question and if they have a concern about that the  
15 figures could always be blanked out. Do you gentlemen have a resistance to (a) these exhibits going onto our project hearing website, which is where everything that takes place in this room is destined, or unless it's covered by an order of confidentiality, or any wish to blank out any of the figures?

20 **MR CASSIN:**

Not at all Your Honour. The notice of desire was in respect of one of the 15 units in the complex owned by Apartments Limited. Apartments Limited had Mr Andrew Tauber's, a director, along here today and there's no difficulty –

**THE COURT: JUDGE NEWHOOK**

25 He freely handed the exhibit to us?

**MR CASSIN:**

Yes. Yes Your Honour.

**THE COURT: JUDGE NEWHOOK**

30 With the rest of you?



**MR CASSIN:**

Yeah.

**THE COURT: JUDGE NEWHOOK**

Okay, well thanks for raising the point Mr Law. It's the proper thing to do, but  
5 there is no difficulty.

**MR LAW:**

Thank you sir.

**THE COURT: JUDGE NEWHOOK**

10 All right, well Mr Gallen and your client, thank you very much for your  
attendance.

**MR RICHARDSON:**

Sir may I say something which is not to do with us, but it's to do with the  
15 previous questions that were raised about the difficulty of obtaining clarity in  
terms of the Public Works Act and acquisitions (inaudible 15:37:09). There is  
a paper which was presented and it has been published by the Government in  
October of last year on this very topic. Are you aware of that?

**MR DORMER:**

20 I wrote one of the papers which (inaudible 15:37:20). And you have two of the  
best advisers in the country at your side.

**THE COURT: JUDGE NEWHOOK**

Now next party is Mr Steven Hart. Now have you got some paperwork that  
you're going to speak from or are you just going to address us orally?

25

**MR HART:**

I did some paperwork for the submission, but I'm just generally going to talk  
really.

**THE COURT: JUDGE NEWHOOK**

Okay well if you'd like to either read from that or talk succinctly and we'll have it recorded.

**5 MR HART:**

My wife and I have lived in Waterview for the last 10 years and we have a son that goes to Waterview Primary School. For six months of that 10 years we were actually in Hillsborough and we lived right next door, probably 50 metres away from the construction zone on the (inaudible 15:38:35) motorway. So  
10 we have some experience of what it's like to live in a construction zone. We're sort of worried that the noise and the vibrations from the construction going on too close to the school is going to interfere with our son's education. What I remember strongly about living next to the construction zone is the vibrations that you get through the ground. It's continuous, from the digging  
15 and they were drilling underneath the house to do stabilisation, and also the reversing beepers of the trucks. They're continuous. Beep, beep, beep, beep. I just think that's going to be quite a distraction for the kids and I'd like to see some sort of mitigation at the school if it's double glazing or a soundproof fence put around the outside or something done to try and  
20 minimise that.

**THE COURT: JUDGE NEWHOOK**

On the issue of the beepers, we've actually grilled the acoustic engineers who have been giving evidence here about that and about alternative approaches that don't result in that insidious sound.

**25 1540****MR HART:**

And of course when they started at Hillsborough it was 7.30 start and they tended to reverse into site at 7.30 and it's quite a recognisable sound and it really does sort of strike you.

**30 MR DORMER:**

It's a wake up call isn't it?

**MR HART:**

You notice it most on Sunday when it stops, that's when you actually notice that the noise – that it's a problem. So really we are looking at the impact, the stack is obviously something that I put in my submission, I thought should be  
5 in the middle of spaghetti junction and Pt Chevalier, the interchange, but I'm, our family are kind of willing to accept the community's view that it should be on the other side of the road to BP, we think that's fair. We support the tunnel, just I forgot to say that. We do support the tunnel, we march for that. I've got a couple of other things that I talked about. One is I'm a player at  
10 Metro and Ponsonby Mt Albert soccer teams over the last 10 years, which are local teams and we have been forced to play historically on grounds that I think are really inferior, one of them in particular is Alan Wood which, because of the motorway, they have done absolutely nothing to it and we have practised two teams in a bog under one light because no money has been  
15 spent on the facilities there and I think the historic cost needs to be factored into the future. We've put up with really bad fields for a long time and the facilities have been – had no sort of, no upgrading or no concern or interest put in them because of the motorway and I think if they use Waterview for a construction zone and then they re-do the Reserve, they want to look at  
20 putting sand bed soccer fields in so the actual fields will be useful.

**MR DORMER:**

That's – they've undertaken to do that.

**MR HART:**

25 Okay, I've been to all the meetings put out by Transit Authority but things have moved on since those consultations, I would say.

**THE COURT: JUDGE NEWHOOK**

The Auckland Council, whether or not you are right, that it has neglected these fields, has produced a couple of very interesting witnesses on the topic  
30 of open space and sports fields who have come here and expressed some strong views about the mitigation that they consider should be undertaken by

NZTA to provide good quality sports fields, amongst many other things in the urban space and recreation area and we've appreciated their input.

**MR HART:**

Waterview has a real lack of community facilities really and if you consider  
5 that the school is now fenced, the whole playing field, with quite a gnarly  
looking galvanised post fence, you know, the kids used to go down there and  
kick their football over the, over the posts there, so that's really been cut out  
and so if you are a young boy in Waterview and you want to go you have to –  
the only place to really go to kick a football over some posts is down at  
10 Waterview Reserve, and I mean things are getting more and more difficult for  
the youth round there, I think it's a bit of a shame that, in a way the beauty of  
Waterview is it doesn't have any facilities, but in the same way, same time,  
the youth have to do something. So, yeah, I think the field should be  
improved both at Metro and over the construction period. And I'm just talking  
15 about Waterview Park, I'm a nightly dog walker and I walk down to, round  
Oakley Creek and up back round through Waterview Reserve, down the  
walkway around Howlett Street and then back through the streets of  
Waterview. I would like to see the netball courts put back and put into action,  
the netball courts are like the soccer fields at Alan Wood, they have just been  
20 completely neglected and it's just a big asphalt pad and it's just atrocious  
really.

**THE COURT: JUDGE NEWHOOK**

The shipment unfortunately are examples and striking examples perhaps of  
the uncertainties and the difficulties that arise in a neighbourhood when a  
25 major project is proposed and everything goes on ice and everything slips and  
the uncertainty continues to build for the people living there. We are well  
aware of that, there is not a lot we can do to make it better.

**MR HART:**

Well historically you can't make it better now, but –

**THE COURT: JUDGE NEWHOOK**

In relation to the historical difficulties we can't turn back the clock.

**MR HART:**

No, no, but –

**5 THE COURT: JUDGE NEWHOOK**

But what we have is a proposal for a project that is going to cast a burden on a community for the good, we think, of the region and perhaps the Nation, and in those terms the proposer of that project ought to be mitigating, compensating, in a proper way, and that's what we can put in focus.

**10 MR HART:**

Definitely, that's why I am here. I mean if you talk about the early NZTA consultations or committee meetings, they talked about land for land and at none of the meetings or any information that I've had, are they actually going to replace the land for land? I mean is that happening?

**15 THE COURT: JUDGE NEWHOOK**

They say they are. Other witnesses have said no they are not, and have said so in quite some detail and we've been questioning all of those people and we now have a big bunch of information about it to assimilate –

**MR HART:**

**20** Uh huh.

**THE COURT: JUDGE NEWHOOK**

- and make decisions on, but there has been a lot of work done on it in this hearing room.

**MR HART:**

**25** Because there is a lot of difference too between the quality of the land and the quality of the facilities. I mean there's no point in having a nice quiet park bench right next to the motorway on-ramp, I mean, I'd personally like to see a

lot of the facilities that are down at Waterview Park at the moment, I'd like to see them upgraded and replaced, if they are going to get bulldozed down, like the, the facilities there, there's a toilet block and a playground and a sports field, a basketball court and a net – a volleyball court, you know, and the walkway around to Howlett Road, I mean these are facilities that are there at the moment and they are going to end up being in a construction zone and I think as a bare minimum, that they should be replaced and maintained, especially public toilets.

**THE COURT: JUDGE NEWHOOK**

10 Just take it from us that we have been putting the witnesses through the hoops on all of these issues and one of the first things that we started to grill them about in the hearing was quality as well as quantity. I am afraid they have heard that phrase from us from the start of the hearing.

**MR HART:**

15 I have a general mistrust of Transit and their contractors from being in Hillsborough, I've always been active in the community and I can give an example of a situation that came up at Hillsborough. That involved – we were on Hendry Ave, which runs exactly parallel to the big cut going up to Hillsborough Road and the consent, as far as I am concerned, left a metre on the side of the curb, on the other side of the road where they had taken the houses away for a grass verge, and it ended up, they moved the motorway over a metre after the consultation process, they put huge big concrete bollards actually on, physically on the road, inside the gutter, which reduced the width of the road and then put a fence up behind that. And because the road had been cut in half to stop people using it as a through road, they had trucks coming down doing work and the road wasn't wide enough for trucks so they drove over the footpath and when I complained to the Fulton Hogan liaison guy about this he said, "It's not his problem because it's outside their designate area and it was Auckland City Council's." And I complained to Auckland City Council and then they came along and they replaced the footpath just outside my house and nothing else. You know is this, to me the only way we can get justify – justification for what we do is, is coming here

and letting you guys tell them here and now, because once the process starts the community is going to have absolutely no say, nothing. They, they dug out, excuse me, they dug out two trees in our local reserve because of a roundabout they had to put in, and they haven't been replaced.

**5 THE COURT: JUDGE NEWHOOK**

Well I'm not going to tell you that we have the magic bullet.

**MR HART:**

No, that's fine, I'm just letting you know –

**THE COURT: JUDGE NEWHOOK**

10 And once we have made our decision we go out of existence as a Board and we aren't there as the policeman, but I will give you this as well, and you haven't been able to be here and watch all the work that has gone here but we've put this issue under the spotlight too and we have required a lot of work to be done on the conditions of consent, in the hope that Auckland Council will  
15 enforce those conditions and they have included many of the sorts of concerns that you have here, including nominating contact people, phone numbers, liaison, community liaison groups, education liaison groups, to try and get a better standard of communication going during the course of the project. The consent that was granted for the Mt Roskill section of  
20 State Highway 20 was done some years ago and I think it's probably fair to say that the conditions of consent for projects like this have become more sophisticated as time has gone by. They may not have been as nearly as robust as what we would have in mind to impose on this project if we grant it consent. So we're very mindful of the sorts of things you're talking about.

25

**MR HART:**

And another one that comes to mind is the construction zone at Hillsborough, they compacted the clay and then they planted pohutukawas straight into the clay by digging a half a metre deep hole and putting the pohutukawas in and I  
30 mean they're just not going to grow.

**THE COURT: JUDGE NEWHOOK**

We know the sorts of things you're saying, and we appreciate you taking the time and trouble to come and tell us about them.

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

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

Q. I just note here in your submission, you're talking about the consultation, "After 10 years of supposed consultation the decisions maybe rushed through." They won't be?

10 A. Yeah it's funny that the duty planner who was assigned to the community to give us liaison with you guys, he told me not to mention the consultation process.

**THE COURT: JUDGE NEWHOOK**

Q. Was that the man with the bowtie was it?

A. Probably. He said, "You don't want anyone to know that."

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

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

**THE COURT: JUDGE NEWHOOK**

20 Thanks very much indeed for your time and your considerable trouble Mr Hart. We're going to take a short break and then we are going to endeavour to conclude the business of the day before we hear from Ms Cuthbert, you'll be next, followed by Mr East and Paul and Kathryn Davie.

**WITNESS EXCUSED**

**COURT ADJOURNS: 3.53 PM**



**COURT RESUMES: 4.08 PM**

**THE COURT: JUDGE NEWHOOK**

Yes, all right, Barbara Cuthbert please.

5 **MR DORMER:**

In terms of disclosure sir, I should also make it clear that Ms Cuthbert was the One Tree Hill Borough planning officer when I was a very young lawyer, and I was the Borough solicitor.

**THE COURT: JUDGE NEWHOOK**

10 She probably taught you plenty.

**MR DORMER:**

I think we learnt a lot together.

**THE COURT: JUDGE NEWHOOK**

15 Good afternoon Ms Cuthbert.

**MS CUTHBERT:**

Good afternoon Your Honour.

**THE COURT: JUDGE NEWHOOK**

20 Thank you for your patience, it has taken a bit of work to marshal the many people that want to talk to us, you have been most patient, thank you.

**MS CUTHBERT:**

Thank you.

**THE COURT: JUDGE NEWHOOK**

25 And thank you for your constructive participation in the caucusing and working through issues with other parties that we have been aware of.

**MS CUTHBERT:**

Thank you very much.

**THE COURT: JUDGE NEWHOOK**

We hope it has been bearing some fruit, we think it might have been to some  
5 degree anyway.

**MS CUTHBERT:**

I actually deal with that in my introduction, thank you.

**THE COURT: JUDGE NEWHOOK**

Okay, thank you.

10 **MS CUTHBERT:**

I can start?

**THE COURT: JUDGE NEWHOOK**

Please proceed.

**1610**

15 **MS CUTHBERT:**

Just by way of introduction, as you're aware we put in quite a detailed  
submission and obviously I don't intend to repeat a lot of that, but I take it that  
you're obviously aware of the role of Cycle Action, but I'll just briefly touch on  
that and then what I plan to do is deal with our main issue to do – which  
20 obviously is to do with the section 8 cycleway. But just briefly there seems to  
be quite a lot of confusion within the community about the role of Cycle Action  
Auckland. We're actually a body that represents people who cycle for  
transport rather than those who are interested in cycling for sport. They're  
represented by a large body called Bike NZ. So the whole focus of  
25 Cycle Action really is making conditions on our roads safer for those who wish  
to cycle, for what we call every day transport. And that's just whether it be to  
the local shop, to the supermarket or to work and we see that as an increasing  
role of cycling within Auckland, and there's evidence for that.

**MS CUTHBERT READS REPRESENTATION**

“So just if... sector 8 cycleway.”

5 And I say, and I hope we’re not being seen as arrogant in this, but we actually are probably the only body to appear before you whose only interest is in delivering that part of the project in terms of cycling for transport. There are many residents who have spoken I’m sure very firmly for it and I very much respect their views. Our sole and only interest is to deliver that cycleway.

10

**MS CUTHBERT CONTINUES READING REPRESENTATION**

“The cycleway is... of Tamaki Drive.”

15 And just to give an update there NZTA is currently looking at the design of that final section, it’s bringing it right through. So this is a very, very significant cycleway.

**MS CUTHBERT CONTINUES READING REPRESENTATION**

20

“The new State... hugely popular cycleway.”

We’ve had a huge increase in cycling in Auckland, which I’ll refer to here within my submission, but a lot of it has – that the first time ever cycling has  
25 been given first quality facilities. They’re visible and people are using them more and more.

**MS CUTHBERT CONTINUES READING REPRESENTATION**

30 “State Highway 16... by long detours.”

And just as a personal anecdote there, I don’t have a car, I cycle about 100 k a week around Auckland roads and I’ve got to say, cycling on this section of

road through here is absolutely terrifying and I'm very, very seldom terrified on a bike.

**MS CUTHBERT CONTINUES READING REPRESENTATION**

5

"The cycleway walkway... achieve these goals."

And in my view it's these offroad cycleway lanes that are actually delivering the raised profile and the results for commuter cycling across our city.

10

**MS CUTHBERT CONTINUES READING REPRESENTATION**

"The desirability of... many private submitters."

15

I've got to say that was a surprise to me. I'm aware of the fact that cycling often doesn't have a particularly good rap, generally because the cyclists who go through red lights, but to see the breadth of this interest in delivering the cycleway is something that must be respected, I hope Your Honour.

20

**MS CUTHBERT CONTINUES READING REPRESENTATION**

"We were very... and pedestrian network."

25

I was somewhat surprised, in fact extremely surprised, to see in the latest report only delivered on the 7<sup>th</sup> of March at the end of this hearing, that I regard as somewhat strange, a very offhand comment now about the cycleway. No reasoning given and I must admit I struggle with the logic of that.

30

**MS CUTHBERT CONTINUES READING REPRESENTATION**

"We accept that... the cycleway route."

And those policies and objectives are detailed as you'll be aware in our submission. I think it's also worth noting interestingly that the City Council, if they're concerned about providing the cycleway, in their own document Cycle Action Plan 2007 number 12 they list here a series of projects, including  
 5 State Highway 20 Waterview. One has to ask, "If that's a council publication what commitment have they shown to delivering it?"

### **MS CUTHBERT CONTINUES READING REPRESENTATION**

**1620**

10 "We ask the... in its wake."

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

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

Q. Ms Cuthbert, you referred to the existing SH20 section of cycle and pedestrian way, which I've got a general understanding of, certainly the  
 15 section that stretches back to Hillsborough Road. Can you tell the Board what exists on the ground on SH20 south of Hillsborough Road or is planned south of Hillsborough Road. I'm thinking of certain network terms, like where to from there, is anywhere?

A. South of Hillsborough Road?

20 Q. Yes.

A. Well it actually goes through to the section that the minister opened recently at Manukau Harbour Crossing.

Q. Goes right down –

A. Where there are actually some of "the" most superb cycling facilities that  
 25 I've seen in some time and I'm not just talking – I go to Melbourne regularly to cycle because it's far more friendly than it is in Auckland, but honestly Manukau Harbour Crossing is a superb set of new bridges, really wonderful, what I call cycling eye candy because they're so good. And not just that, I'm currently working on bringing the national cycleway  
 30 to Auckland and that link is absolutely critical there because it's such a good cycleway through there.

Q. So it gets, if I'm understanding you correctly, it goes south from Hillsborough Road across the new Manukau bridges?

A. Yes it does.

5 Q. And where does it go from there Ms Cuthbert, or is planned to go from there?

A. Well at that point there's no dedicated cycleway, but if you think of the geography there, there's the most lovely off-road route that goes around the foreshore of Manukau, it goes through Ambury Park. Watercare have provided really, really good off-road cycle and facilities through there and then it goes into the – it's not yet formed, but what I'm working with, is it then goes through the Otataua Stonefields and through a series of very, very quiet roads as far as Auckland Airport. This is a very strategic section of motorway, because of that extension it basically – I think Tommy Parker might have been talking about the motorway linking the airport through, well that's what we're hoping to do with cycleways as well, we need to be able to do that.

10

15

Q. It's my understanding that the Regional Land Transport Strategy provides for what the Agency, would probably call the missing link. Am I correct in understanding from your evidence at the top of page 2, that the Regional Land Transport Strategy also has a policy plank that provides for, or it seeks to achieve an increase in walking and cycling of the orders that you've set out there in the first paragraph. That's also a firm policy is it?

20

A. That's a goal, that's a target of the Land Transport Strategy, yes it is. But not just that, if you look at Auckland Council's own policies –

25

Q. Sorry, could we just hold, just deal with them one at a time. I admire the enthusiasm, step by step. Can you give me a reference, I think you had the RLTS there?

A. I did have there but –

30 Q. Do you have a reference, a page number or a policy number?

A. No, it's a goal.

Q. A goal number?

A. Sorry, a target, let's be specific.

Q. A target?

A. A target. I may have listed it actually in our submission, if I could just have a quick look at that please.

**THE COURT: JUDGE NEWHOOK**

5 Q. Could you perhaps – we’ve got some other people that we’re needing to hear from this afternoon and I don’t want to rush this and we do want the answer Ms Cuthbert, but could you email that to Kim Morgan at the EPA, which is our administrative support after the hearing?

A. Yes of course I could.

10 Q. That would be most helpful. I just feel the need to keep moving, interesting and maybe important though this are.

**THE COURT: COMMISSION DUNLOP**

I would appreciate the opportunity to sort of ground that and put it in context, to sit alongside other parts of the RLTS that have been drawn to our attention.

**QUESTIONS FROM THE BOARD: MS JACKSON**

15 Q. Just by point of clarification Ms Cuthbert, it says, that same paragraph on page 2, “Increasing walking and cycling from 17.2%,” that’s a 17.2% increase on what, where’s the baseline?

A. The baseline is the 17.2, most of our –

Q. In 2010?

20 A. Yeah, but most of that is walking now. So as I said to you I think it’s about 1.5% of that is cycling.

Q. 1.5% of the 17.2?

A. The difficulty is that the Land Transport Strategy doesn’t actually differentiate, doesn’t break up walking and cycling, they lump them in together each time.

25

Q. Maybe because they’re often shared pathways?

A. Although no, because it talks about “trip-legs”, so look I can’t explain why they do that.

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

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

**THE COURT: JUDGE NEWHOOK**

Thank you for your extensive and constructive participation in the processes that the Board has organised during the last few months, it's much appreciated and I think, as you've acknowledged is bearing fruit in certain areas and thank you for the further information today. If you'd email the answers to Ross Dunlop's questions, we'd appreciate having that to add to our reference as well.

**WITNESS EXCUSED**

10



**THE COURT: JUDGE NEWHOOK**

Are Mr and Mrs Davie here, would you like to come forward. Good afternoon Mr and Mrs Davie, we understand that you may have been a little concerned about the time that it's taken to reach your presentation. Please bear with us.

5 There are two things that I'd like to say about this. First, we have large numbers of people interested in this very big project. No three things actually. Secondly, our support staff on the EPA are doing a sterling job working the phones and working with people to try and arrange timeslots, but it's not easy in view of those numbers. And the third is, perhaps you've observed as  
10 you've been sitting here, we're just not trying to sort of move people through like shelling peas out of a pod. We actually want to hear what they're saying, offer some responses, as some questions and gain some more information. So we're actually trying to offer quality, not just a quick rush through, so I'm sorry you've had to wait and thank you for bearing with us and we'd now like  
15 to hear from you.

**MR DAVIE:**

Firstly, our names Paul and Kathryn Davie, we're residents of 19A Craddock Street. Craddock Street is partially affected by the strata title  
20 issues and was on the table for the emergency exhaust stack.

**THE COURT: JUDGE NEWHOOK**

Q. Now gone.

A. Supposedly gone at present yes.

Q. No it's been taken right off the table so far as we're concerned, it's not  
25 going to get consent here, it's gone.

**1630**

**MR DAVIE READS REPRESENTATION**

That's one of the things I wanted to bring up, but I come to that firstly. Firstly  
30 is air quality. We are concerned about the lack of any New Zealand standards around this particular issue. I've got two bullet points under air quality. This first is that the – we were told during the consultation process by NZTA that it

would be measured against International Best Practice, that's a pretty vague term and, and the second point is there is no New Zealand Standards and, subsequently, there is no measureable, tangible, table to which NZTA can be held accountable to and we think that needs to be, to be changed in this

5 process, so that we have something that is measureable. Secondly is the portal stacks, the current, whether they be 15 metres or 25 metres portal stacks, are both visually intrusive upon our communities and their locations, potentially, are impactful upon the liveability of the surrounding communities, such as the Waterview Primary and, dependent on the wind direction,

10 surrounding residential areas as well. Throughout the consultation process, well a matter of fact, early on in the process, there were examples of overseas tunnel portals displayed to the community, which included portal venting. Now I've asked throughout the process for information on this process and, unfortunately, nothing has been forthcoming, because I believe that a fan

15 assisted portal venting system, particularly with respect to the northern portal, has some merits, because it is pointing out across the Waitemata Harbour and any, any tunnel emissions that are evicted in that particular method would be completely non-intrusive upon the community, either visually or healthwise.

**THE COURT: JUDGE NEWHOOK**

20 Have you had the time and energy to dip into the extensive materials that have been placed before us?

**MR DAVIE:**

Your Honour. No I haven't, I'm quite often still working at 3 o'clock in the morning.

25 **THE COURT: JUDGE NEWHOOK**

To look to see whether that actually might be in there.

**MR DAVIE:**

So, no I haven't.

**THE COURT: JUDGE NEWHOOK**

Yes you've drawn it to our attention and we certainly have a task of looking through those extensive materials and –

**MRS DAVIE:**

5 It is extensive Your Honour.

**MR DAVIE:**

Yes it is.

**MRS DAVIE:**

Box loads in our dining-room.

10 **THE COURT: JUDGE NEWHOOK**

Yes absolutely. We have no doubt that NZTA consider that they need to present such volumes of materials concerning such a large project, but we can well understand peoples' frustrations.

**MS DAVIE:**

15 I have a daughter that was living in Sydney with the Lane Cove tunnels so, you know, and I know the community were on that one, so I've, sort of tried to get some information on how that is the same basically, try and get some comparable, but there is nothing basically that they can tell me, hey this is comparable to what we are doing here.

20 **THE COURT: JUDGE NEWHOOK**

All right, well you have drawn it to our attention and we will be looking at it.

**MR DAVIE:**

So in that under – that you will be looking at the potential of the portal venting as an alternative?

**THE COURT: JUDGE NEWHOOK**

We will be looking at all the materials on the topic, that have been presented to us to see whether there is something in there that matches up with what you are describing to us, as apparently existing in other tunnels.

**5 MR DAVIE:**

The tunnels in particular were those in Japan and in the Nordic country – it was either Denmark or Norway, I'm not sure which one, from memory. My third bullet point is Alan Wood Reserve. Again throughout the consultation process I've requested a cost comparison between the proposed southern  
10 portal, where it is currently proposed being midway through Alan Wood Reserve and having it moved back to, and incorporated with, the Richardson Road over bridge. Once again that information, I don't know whether it has been done, but it certainly hasn't been forthcoming upon request. My personal belief is that, should it be moved to the Richardson Road over  
15 bridge, it would save a lot of social issues and open space issues that are currently being imposed upon the Owairaka community in particular. Thirdly is pedestrian/cycle bridges and cycleways. These bridges and cycleways have been offered continuously throughout the consultation process by NZTA as a means of mitigating community severance and basically a bit of a  
20 backhander for having to put up with the motorway. At the very last moment these have been withdrawn from the table, there are no more –

**THE COURT: JUDGE NEWHOOK**

It shouldn't even have been seen as a backhander, I wouldn't have thought, but anyway.

**25 MR DAVIE:**

All right, a little bit of inappropriate phraseology.

**THE COURT: JUDGE NEWHOOK**

I'm not saying that we yet are in a position to know whether they should be imposed, but –

**MR DAVIE:**

Yes.

**THE COURT: JUDGE NEWHOOK**

5 The community shouldn't regard them as a backhander, they are either required or not.

**MS DAVIE:**

Well what about "calming us natives."

**MR DAVIE:**

10 Okay, so by removing the portal back to the Richardson Road over bridge vicinity, it also removes the squeeze that is put on the rail corridor through Alan Wood Park, and potentially the need to take all those people out of their Hendon Road properties, which they have – some own and some rented for some considerable time and, obviously, call their homes. So, I think there is certainly a strong case for looking at moving that portal back. We understand  
15 there is going to be costs associated with that, but there is social costs for not considering it.

**MS DAVIE:**

I just want to go back – at the moment I am on the local Whau Board, I've been on the Avondale one –

20 **THE COURT: JUDGE NEWHOOK**

Sorry, the local what, the local what board?

**MS DAVIE:**

Local Whau.

**THE COURT: JUDGE NEWHOOK**

25 What is that?

**MR DAVIE:**

Auckland Council Local Board.

**MS DAVIE:**

When – it joined us with New Lynn and Kelston and – taken part of Waitakere.

**THE COURT: JUDGE NEWHOOK**

Yes, yes.

**5 MS DAVIE:**

I was on, 15 years on the Avondale Community Board and now I am on the Whau Board, but I'm still taking interest in this one, and so I've been going recently to the Auckland plan talks, the 20 to 30 year plan, of course, is talking about that urban plan and how we are going to be getting to the stage where  
 10 people can't afford to get in their cars because the petrol, and it is going to be more living within your community and walk, safe walkways, safe cycleways, and ways of people getting around and connecting up with the different areas. So that's another reason, but they put in the cycleway afterwards on the Mt Roskill stretch, I don't know what happened to it, but they decided to do  
 15 that after the motorway being put through, so I don't want to see that happening again, and there are connective motorways – cycleways, all up through from out West, through Pt Chev and Mt Albert. So Auckland City have done a lot towards promoting those cycleways and connectivity along the motorways for that. So, just my little bit as to why we shouldn't stop there  
 20 and have to think about it in 10 years time, it's going to make it harder.

**MR DAVIE:**

Okay, the next bullet point for me is open spaces. Once again, as been suggested by other presenters, it is important that open space is dealt on a like for like, on the basis of quantity, quality and location, because it's not, it's  
 25 no good giving people passive open space where they can't run and kick a ball, like that which is proposed around the ramps at the northern end, it's a very pleasant walkway, but it's not passive recreation where kids can go and kick a ball and families can go and sit and play together. So the use of the open space certainly needs to be taken into context, as well as just, you know,  
 30 acre for acre, for example. And subsequently so does location, because I mean, the likes of Owairaka are losing a huge hunk of Alan Wood Reserve

and replacing that with something somewhere else in Mt Albert, or somewhere in Avondale, or even Waterview, would – well possibly meet the criteria, but it certainly doesn't help the people who have actually lost that community facility.

5 **MS DAVIE:**

And once again, when we are looking at the 20 to 30 year plan, urban plan, we also need to consider those, that there is liveable space around those communities.

**THE COURT: JUDGE NEWHOOK**

10 Yes well, unfortunately we can't make directions about the –

**MS DAVIE:**

No but we have got it there so –

**MR DAVIE:**

Yes.

15 **THE COURT: JUDGE NEWHOOK**

They are the council's plans.

**MS DAVIE:**

Right.

**MR DAVIE:**

20 The next one was the central emergency stack and I understand that it has been removed, but we just want to make sure that, at no stage during the project, is it openly reintroduced and reconsidered.

**THE COURT: JUDGE NEWHOOK**

It certainly can't during the process that we are in charge of.

25 **MR DAVIE:**

Excellent.

**THE COURT: JUDGE NEWHOOK**

It can't. It is off, they are gone, it's – they have taken it away and if they wanted to bring it back next week they would be too late.

**MS DAVIE:**

5 Okay, no, I don't –

**THE COURT: JUDGE NEWHOOK**

I'm not – we can't direct them never to walk up with a new application for a designation for one at some time in the future, we can't, we can't control that, but it's –

10 **1640**

**MR DAVIE:**

In this process.

**THE COURT: JUDGE NEWHOOK**

- off the table for this – for our decision making.

15

**MS DAVIE:**

It just was a concern because it was brought in at the last minute, the meetings were around Christmas time –

**THE COURT: JUDGE NEWHOOK**

20 No, don't even talk about it anymore, it's off. It's off, it's gone.

**MS DAVIE:**

No I just, I was speaking to two NZTA staff, I asked them outright if they would like it next door to them and they emphatically said, "No."

25 **THE COURT: JUDGE NEWHOOK**

Now please I do have to move you forward because there's others who are anxious like you were.



**MR DAVIE CONTINUES READING REPRESENTATION**

5      Roading upgrades is the next one. Great North Road, the Waterview section  
has been acknowledged throughout the consultation process to suffer a  
potential increase in traffic volumes as a result, a direct result, of the  
State Highway 20 project being completed. NZTA should be responsible in  
that fact to upgrade the road to ensure it has the capacity to meet that  
increased volumes, because currently it is an at volume piece of roading  
structure. The traffic through there at peak time is literally at standstill and it  
10     can take as much as between 15 to 20 minutes to travel from the intersection  
of Blockhouse Bay Road and Great North and the Waterview interchange.  
The other one is the Tiverton/Wolverton Road, which was included in the  
Auckland City Council's plans a few years ago, but got removed from the  
budgetary process, but again it is a section of road that suffers with the  
15     completion of the motorway to the extent of the Maioro Street interchange  
now. And also the roads being Boundary Road, Terry Road, Blockhouse Bay  
Road between Terry Road and Bolton Street and Bolton Street down to  
Portage Road. Again it's local roads that suffer from gridlock at peak times,  
morning and afternoon, simply because of the change in the traffic flows.  
20     People that live in a little street off the intersection of Tiverton and  
New Windsor Road, which is in the vicinity of the end of Maioro Street where it  
meets Tiverton Road, they claim that it takes them approximately 15 minutes  
to exit that intersection at peak times.

**THE COURT: JUDGE NEWHOOK**

25     But Mr Davies, I'm afraid our jurisdiction doesn't extend to fix all the roads and  
the intersections in this area. I'm sorry I don't want to spend time on those  
right now. Where they have an interaction with the motorway we have  
jurisdiction, but we don't have – we're not the Auckland City Council or the  
Auckland Council and we can't range far and wide across the district looking  
30     to fix the gridlock. NZTA's traffic experts have said to us that by moving  
regional traffic through instead of making it negotiate from Maioro Street all  
the way up to the Pt Chev interchange there will be some improvement. You  
shake your head I see. I don't think it would be productive –

**MS DAVIE:**

It's not the same traffic.

**THE COURT: JUDGE NEWHOOK**

5 - for us to sit here and debate it, but that's the sort –

**MS DAVIE:**

It's not the same traffic going down there and out west.

**THE COURT: JUDGE NEWHOOK**

10 - of thing we've been hearing. But look, we can't sit here and start redesigning some of these intersections with you.

**MS DAVIE:**

I suppose we're just thinking about the potential.

15 **THE COURT: JUDGE NEWHOOK**

You need to –

**MS DAVIE:**

See what's happened there then –

20 **THE COURT: JUDGE NEWHOOK**

You need to talk to the council.

**MR DAVIE:**

25 I just bring you, take you up on the point you say about the interaction between State Highway 20 traffic and the local roads. It's the State Highway 20 traffic and the interaction at the Maioro Street interchange that is causing this gridlock. It's not a basic flaw with the roading network within Auckland City Council. Subsequently I don't see it as an Auckland City Council/ratepayer responsibility.

**THE COURT: JUDGE NEWHOOK**

I'm sure the situation there is pretty horrible at the moment with all the traffic arriving at Maioro Street coming up to State Highway 20.

**5 MR DAVIE:**

But that's westbound traffic, that's not northbound traffic. Subsequently the completion of that network will not alleviate that issue. That's traffic that's coming from West Auckland in the catchment out of Kelston, New Lynn, Green Bay, Titirangi, Swanson, Ranui, that all come through that way. And  
10 that's not going to change by completing the network. Subsequently it is State Highway 20 traffic.

**THE COURT: JUDGE NEWHOOK**

Yes, all right. Look I'm sorry but I do need to move you into the next section of your statement.

15

**MR DAVIE CONTINUES READING REPRESENTATION**

Compensation. It's my belief that with the strata title conditions being imposed upon any property that is vertically above the tunnel corridor then  
20 they need to either have the option of the property being purchased outright or a negotiated settlement for the loss of property value. Now NZTA has said at public meetings that it's their opinion that this strata title won't impact upon property values, but when you take for example the value difference between  
25 a freehold title and an unencumbered freehold title and for example a cross-leased property of the same size, the same construction and the same sort of age, then there is a comparable difference in property. And any encumbrance upon a title will do that, the same as a cross-lease does so I think it's a relative importance.

**THE COURT: JUDGE NEWHOOK**

30 This is probably going to sound unfair, and you're probably thinking I'm just trying to brush you off on this issue too, like the intersections but we don't have jurisdiction toward compensation for substrata stuff running through

under people's properties. We don't have jurisdiction to order compensation for people who suddenly wind up being able to see a ventilation stack from their backyard, as one of the Waterview residents who came to see us this morning will suffer. We just can't do that in law. It's not part of our inquiry.

5 So those are, to some degree, Public Works Act matters and we hold the view, some of us up here, that the Public Works Act has shortcomings itself in relation to this issue, but there's nothing we can do to fix that. That's for Parliament. So I really don't want to spend any more time on the issue of compensation this afternoon.

10

**MR DAVIE:**

Have you been able –

**THE COURT: JUDGE NEWHOOK**

I'm sorry.

15

**MR DAVIE:**

- to give any other people direction on where to go to to address that particular issue?

**THE COURT: JUDGE NEWHOOK**

20 You would need to take that up at a political – a national political level.

**MR DAVIE:**

Okay, MP.

**THE COURT: JUDGE NEWHOOK**

25 Yes. Start with the MP and work from there.

**MR DAVIE:**

No problem.

**THE COURT: JUDGE NEWHOOK**

30 Yes, go for it.

**MR DAVIE:**

No problem there.

**THE COURT: JUDGE NEWHOOK**

5 We're not discouraging you, off you go.

**MR DAVIE:**

10 Well I don't know what's in my statement that might be relevant, but I'll read it anyway and you can take from it what you will.

**MR DAVIE CONTINUES READING REPRESENTATION**

State Highway 20... the affected communities."

15 And just to reiterate that, the project solves problems for people on either side of our affected communities, but has some serious consequences for them. Please ensure our communities live on into a safe and viable future for generations to come. Thank you.

20 **MS DAVIE:**

And I'd just like to also add further plan, 20 to 30 year plan. What we want to leave for our children and grandchildren.

**THE COURT: JUDGE NEWHOOK**

25 Yes, we understand the sentiment, but again I'm afraid it's not our task.

**MR DAVIE:**

Okay.

**THE COURT: JUDGE NEWHOOK**

You'd need to take that up at regional level.

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

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

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

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

5 **MR DORMER:**

Many other times throughout the hearing Mr and Mrs Davie a view has been expressed from up here that there is an element of unreasonableness.

**MS DAVIE:**

10 Thank you.

**MR DORMER:**

About the cost of these nationally significant works being borne by local people and then being, to some extent, who are unnecessarily short-changed.

15

**MS DAVIE:**

Thank you.

**MR DAVIE:**

20 Thank you for that.

**MR DORMER:**

The sentiments you've expressed are (inaudible 16:49:03).

**WITNESS EXCUSED**

25

**THE COURT: JUDGE NEWHOOK**

Now we're going to endeavour to hear the others on the list today, and I'm just going to find out whether there's anybody who is under greater pressure of time than others. Mr Easte is indicating –

5

**MR EASTE:**

I was due home at 4 o'clock so I'd very much like to speak as soon as possible.

**THE COURT: JUDGE NEWHOOK**

10 Sorry, you what?

**MR EASTE:**

I was due home at four.

**1650**15 **THE COURT: JUDGE NEWHOOK**

You can say the Judge gave you a leave pass Mr Easte. Now thank you for your patience in turn Mr Easte, you've been waiting a while to deliver. Equally I know that you've taken a close interest in the proceedings in any event because we've seen you here a lot and so we know that you've been here for  
20 two purposes. Now in the interests of making sure that we do get to endeavour to hear everybody that we want to hear and we do finish by half past five because one of my members at least has a plane to catch and they don't wait and she's got to fight her way through traffic to get to the airport, I'm going to ask you as you move through your submission to try and avoid  
25 adlibbing, adding to it, and also to invite us to take as read and then re-read later for ourselves anything particularly that's already been in the materials that you've lodged.

30

**MR EASTE:**

Well I've stuck with the same format at my first submission but I've rewritten the first three sections, the last four are pretty much as before and the eighth no longer applies.

**5 THE COURT: JUDGE NEWHOOK**

Well we can focus on the ones where there's been some shift.

**MR EASTE READS REPRESENTATION**

10 So it's really the first three pages in some detail and the rest just edited highlights. I want to make clear, because I was written down somewhere as being "neutral" on the motorway. I've also been very strongly opposed, I mean I could follow Michael Tritt's script basically. I've been involved in, as I say in my second paragraph, I've been involved in a number of campaigns  
15 against State Highway 20 projects since even before the Western Ring Road strategy was formally announced, in fact there was really just the Onehunga stretch of State Highway 20 that was in the form of motorway, the rest was basically arterial road and my very clear submission here is that this is a regional or a national project, it's running to the tune of national priorities but it  
20 is the local people who are bearing the cost, not in dollar terms of the construction, but in terms of the effects –

**THE COURT: JUDGE NEWHOOK**

Look Mr Easte, we really do understand that, we know it's a point of view you hold, even the NZTA witnesses have acknowledged in their evidence that it's  
25 of national and regional benefit and an imposition on the local community, so you don't have to stress it, we've got it well and truly in our heads.

**MR EASTE:**

30 But comments coming back from the Board have shown that you're on tune with that, but it's just that we keep hearing from the Agency that nevertheless there's a limit to how much money they're prepared to spend on mitigation, and I don't think that's terribly helpful.



**THE COURT: JUDGE NEWHOOK**

Can we come to the southern ventilation building please.

**MR EASTE CONTINUES READING REPRESENTATION**

5

This is my bit point in my initial submission, I called it “a shocker”, it is simply unacceptable to think about locating the building above ground to the extent proposed and in the location proposed. Can I refer you to the drawing that I have prepared. This is only a sketch but I think that’s actually helpful because a lot of the other drawing or photographs have got so much going on it’s a bit difficult to see the wood for the trees. So this just shows the very bare essentials and what I’m showing there in that diagram is the dashed sausage shaped thing, the oval, which is the proposed ventilation building. It’s not only at “a” pinch point in the park, it is “the” pinch point, it is the narrowest part of the park –

10  
15**THE COURT: JUDGE NEWHOOK**

Look you don’t need to emphasise it, we’re very aware of it. We’ve walked it, we’ve got countless drawings of it, everybody says it’s the pinch point, I think we need to move on.

20

**MR EASTE CONTINUES READING REPRESENTATION**

But I really do want to emphasise that at that point the land to the south of the creek is elevated and so there’s a visual, you can’t see beyond it if you put a building there –

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**THE COURT: JUDGE NEWHOOK**

Please, Mr Easte, we know it really well.

**MR EASTE CONTINUES READING REPRESENTATION**

30

It’s just that I did hear one of your Commissioner’s asking whether we could have a smaller building at that location. My answer is, “No building at that

location”, it’s not the appropriate point, if it can be avoided to have a building. So in my discussion, particularly in my second paragraph. At the time I made my submission the southern portal building did not include the administration function, which was to be located near the Waterview portal. As this is a significant change made after submissions closed I feel entitled to comment on the aspect now. I’m adamantly opposed at locating an office function anywhere in the park. When we had council park staff here they would have told you that council policy is not to locate club buildings and other such paraphernalia in parks if they can avoid it because the open space is required for the public and shouldn’t be cluttered with buildings that don’t need to be there. There is no particularly reason to put it in the park, it could be located almost anywhere. Conceivably even at the NZTA office in Queen Street, or I could add it could be outsourced to someone in Mumbai, because basically it’s a monitoring function performed by staff using computers and monitors displaying data transmitted presumably by cable or possibly by my radio from sensors and cameras in the tunnel and its approaches. There is some logic in being relatively near one of the portals to allow staff to enter the tunnel if and when required. I can’t actually imagine why they’d need to, but possibly. But not so close that park space will be taken to make way for it. So I’m proposing or suggesting that a suitable domestic scale building could just as easily fit between the houses along Hendon Avenue and again, like the arguments about the northern buildings, using details and finishes designed to blend into its surroundings. Carparking for both administration and machine haul staff should also be outside the park, so that the only vehicles in the park will be those with an actual need to be there, i.e. delivering or removing equipment or consumables to the machine haul itself. My next paragraph really relates back to the diagram and the discussion about the pinch point.

**THE COURT: JUDGE NEWHOOK**

- Q. Shall we take it as read then?
- 30 A. Well no, because I do go on a bit more there.
- Q. By taking it as read I mean we’ll have a read of it later.
- A. Yes I think you’re right.
- Q. If it’s about the pinch point, can we read it later?

A. Okay.

**MR EASTE CONTINUES READING REPRESENTATION**

5 So option 3 of the next paragraph, or some variant of it, because I'm not saying we'll necessarily take it as completely a finished design, it's only a concept or a principle. There are various ways in which it could be arranged. So for example option 3 at the moment includes the administration function, I'm advocating that goes away, meaning you've got less building footprint to  
10 worry about –

**THE COURT: JUDGE NEWHOOK**

Q. Mr Easte, you've told us about that, please avoid repetition.

A. Well I don't see it as repetition, but anyway.

Q. You've told us extensively you don't want an office in this thing.

15

**MR EASTE CONTINUES READING REPRESENTATION**

I also make the point about the walking/cycling path not having to detour. It's important to arrange paths in a way that people have confidence, they know  
20 where they're going without need to refer to maps or extensive signage. Signage should be a backup rather than a way round a problem, so let's not have the problem in the first place. So basically I emphasise again, this is a bottom line, I think it's the one you've heard the loudest. A great deal of work needs to be done on getting the bulk of this building underground. The  
25 northern ventilation, this no longer includes the office function but there are some arguing for burying the northern building, I think that's a bit of a mistake, I don't see any particular need to bury the northern building, providing that its bulk is not so great that it's out of keeping with its surroundings and we've largely achieved that. But the next para, I'm also pleased to see that we've  
30 now moved to an argument that I was advocating, not the only one, but the idea of breaking the building up into chunks, which are roughly the size and bulk of a house. That fits more in with the keeping but there's still some argument about the finish or the look of the buildings and we've got people

wanting to celebrate things and make them eye popping or somehow a distinctive feature. I think they should recede into the general neighbourhood, using the vernacular or domestic treatment, e.g. weatherboard or brick, pitched roof forms et cetera which echo the detailing of neighbouring houses.

5 Next para, one of the silliest things we've heard from design experts is it is imperative on grounds of design integrity to have the stack which vents the fumes located right next door to the building from which the fumes originate. This form follows function argument, maybe a perfectly valid consideration but it's only one consideration and it does not trump all others and so I think  
10 others have made this point well, I simply add my voice in support. But then having accepted this argument we then obviously, we can discuss various places to locate the stack. Now I did put in some supplementary information, that's the other attached drawings there and this became known as option 3, I think, which was the one where the stack would be north of Herdman, but still  
15 within Waterview, this was because, I understood, that moving the thing across the motorway was near to impossible, based on what NZTA people were saying. Now they say, yes it's expensive, but we can do it. And so, given that there is such strong support for that, I put my support behind the eastern solution. But I note that the option of placing it within the BP land  
20 seems to be, in some minds, completely off the table. I'm suggesting that, in my next two paras, that it could still be considered, and I don't know the strict legal position, but I do not know why you cannot give a sort of an either/or condition, saying that either option 1 or option 2 is acceptable and that gives time for them to negotiate with the private property owner, BP, to see whether  
25 something can be arranged. If BP don't want to play ball or the price is too high, then obviously that's ruled out. Anyway I leave that for your consideration.

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

Let's just take that in and think about it.

**MR EASTE CONTINUES READING REPRESENTATION**

5 Yes okay, and my final para on that third page is the Unitec submission about their bridge. I've been dealing with this matter for many years and they have been pushing it for at least 12 years, to my knowledge, to have a road bridge across that road. Now frankly I will lie down in front of bulldozers to stop that, I am utterly opposed to it. It would completely change the character of the Oakley Creek valley, which presently has no road bridges across it for quite  
10 some distance, and also, what is not taken into account is you can't possibly restrict it to public transport, it would be used by cars and they wouldn't just stop in the campus, they would carry on across Carrington Road and through all sorts of other residential neighbourhoods which presently are more or less backwaters. And so I am not saying this is impossible, but there needs to be  
15 a widespread discussion with the entire community as to whether this is acceptable, obviously there is pros and cons to any project, that's not something that should be decided differently because it suits Unitec.

**THE COURT: JUDGE NEWHOOK**

Okay.

**20 MR EASTE CONTINUES READING REPRESENTATION**

But there is so much opposition to it, I don't think it will ever happen and so I don't think you should worry yourself about whether any proposal on the table will affect this very unlikely future project. So the last few conditions are ones  
25 that I have previously spoken about, about how I believe that the design of the vent stack, I know some people say you should just be honest, but I think we can have something which looks reasonably handsome, given that it is a vent stack. I mean you simply can't hide the thing, you can't disguise it with a bit of shrubbery.

**THE COURT: JUDGE NEWHOOK**

I'm – look we've, we may even be in tune with some of this Mr Easte and I have read ahead and I have seen that you have mentioned the work of the excellent local sculptor Virginia King.

5 **MR EASTE:**

Yes, but I would, I am also suggesting a condition.

**THE COURT: JUDGE NEWHOOK**

Whose work I personally admire, but can we keep moving forward.

**MR EASTE CONTINUES READING REPRESENTATION**

10

Yes, but, so my final point is that I think there should be an explicit – one of the conditions is that the urban design panel – and I have seen this done before, I sat on the hearing for the Victoria Park Tunnel project and we referred some matters to the urban design panel for their approval of the detailed design.

15

**THE COURT: JUDGE NEWHOOK**

All right, look, we know that panel, we know that panel very well.

**MR EASTE:**

Okay.

20 **THE COURT: JUDGE NEWHOOK**

Please do keep moving, for two reasons, first I'm wanting to hear the others as well -

**MR EASTE:**

No, I am going to be very quick.

25 **THE COURT: JUDGE NEWHOOK**

- and your adlibbing is actually prolonging their agony.

**MR EASTE:**

Well, with due respect, some people have gone on for considerably longer than me.

**THE COURT: JUDGE NEWHOOK**

5 And I have endeavoured to not control them, but to shepherd them and be fair to them.

**MR EASTE:**

Yes, I will be very quick, just –

**THE COURT: JUDGE NEWHOOK**

10 But Mr Easte your adlibbing is not helping because you have taken the trouble to write it all out carefully.

**MR EASTE:**

Okay.

**THE COURT: JUDGE NEWHOOK**

15 Can't we just have it from here, and obviously you are late home.

**MR EASTE CONTINUES READING REPRESENTATION**

I'm not getting any (inaudible 17:04:40). I also want to underscore the point in my para 4, about this naming issue about paths. I keep hearing cycleway,  
20 cycleway, cycleway, I do want to emphasise the fact that these are shared paths and it isn't just a label, it does affect the way the thing is designed.

**THE COURT: JUDGE NEWHOOK**

Yes, yes we do know about lanes and widths, we have got a lot of evidence about this.

### **MR EASTE CONTINUES READING REPRESENTATION**

Yes, but I, I've seen some projects which have been, they are really cool for  
 5 the cyclists, but they are bad news for the pedestrians because the  
 pedestrians were not involved in the design. The St Luke's interchange, I  
 know that this is outside the designation, but it is impacted by the motorway,  
 so I suggest a condition there requiring that they can't their tunnels until they  
 have done something about the St Luke's interchange. So this is not a case  
 10 of telling them what they must do, it's just simply telling – you can't open your  
 tunnel until you have addressed the capacity issues at the – which will be  
 exacerbated because residents from Pt Chevalier will be encouraged to use  
 their tunnel but the only way they are going to get there is via the St Luke's  
 interchange. So there will be some increase in use of that. And finally, on the  
 15 open space, I am talking about the like for like thing, and I want to make the  
 point that the open space and the close vicinity of the building in Alan Wood  
 Reserve, for example, I think the quality of that open space is going to be  
 diminished by the sheer presence of the building, so that's one example  
 where it is not just a case of square metre for square metre. My final point is  
 20 about quiet road surfaces. We are told that we don't need noise walls on the  
 ramps and some other locations because we are going to have these super  
 quiet road surfaces, and that's great, but we need to make sure that they are  
 there is perpetuity. So that should be an explicit condition, that they are not  
 just put in at the outset, otherwise they might be maintained out of existence  
 25 in the future. That is my submission, thank you.

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

Thank you very much Mr Easte for your energy and your participation.

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

- Q. It is about the blessed bridge Mr Easte.  
 30 A. Yes.  
 Q. Which you are firmly against.



A. Yes.

Q. When you were adlibbing about your reasons for being against it you were talking about it being in terms of a vehicle, vehicular traffic bridge?

A. Yes.

5 Q. Would you be similarly opposed to a pedestrian bridge?

A. Absolutely not, in fact I have advocated a pedestrian bridge in that location.

Q. Right.

A. And cycling.

10 Q. I misunderstood.

A. Yes.

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

15 Q. I have a question of clarification really. Mr Easte, as I read proposed condition DC.8, which is the one that deals with the outline plan of works for the, in that case the northern ventilation building and stack.

A. Uh huh.

Q. There is a condition K which alludes to consultation with the manager, urban design. I haven't satisfied myself yet that that is in an appropriately worded form.

20 A. Uh huh.

Q. But if consent were forthcoming, it seems as if the Agency does have some formalised contact with the urban design people at council in mind.

25 A. Right, that particular person is actually directly connected with the urban design panel, he is not a member of it, but he is in charge of it. I don't know the precise connection and, of course, because we now have the super city, that is having to be, if you like, reinvented, and the Mayor is about to make an announcement any day about that. So there is the intention to continue that panel, it might be slightly rebadged and it  
30 might be slightly re-jigged in terms of how it functions but, essentially the same thing will continue.

Q. And if consent were forthcoming there could be a condition that reflected the contemporary situation at the time of the decision?

A. Yes. Well, well this is very common, like with planting campaigns, programmes, to say that they be “to the satisfaction of” –

Q. Yes.

A. – a stated official or department of whoever.

5 Q. Thank you Mr Easte.

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

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

**THE COURT: JUDGE NEWHOOK**

10 Thank you Mr Easte, thank you for your participation and I hope you are not in too much trouble at home, hope you are not in too much trouble.

**MR EASTE:**

I think I will survive, thank you.

**WITNESS EXCUSED**

**THE COURT: JUDGE NEWHOOK**

Right, now, Mr and Mrs Atherton, Mr Atherton is with us.

**1710****MR ATHERTON READS REPRESENTATION**

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I'm in the middle of pretty much with everything that's going on. I live in Oakley Ave so I'm very close to the whole proposal of the construction and so on. And years ago we were opposed, well myself and a group of us were opposed, completely against it, but I'm in the construction game. I'm in the development game, you know, more (inaudible 17:10:45) just in residential so I mean progress does have to go forward and I think if it started tomorrow and it took three years, in three or four years we'd look back and go, "Well how did we live without it," sort of you know but as long as it's taken into consideration the damage it's going to have and the effect it's going to have on the community. And one of the main things is like the vent stack, you know besides it being ugly and in a location that's not really friendly to the community, it is going to affect the community massively. Not just in monetary side with the valuation, but also in the what actually holds a community together. And years ago we were always told that it was sort of the church was the centre of a community, but I don't think it is. I actually think it's a school. The church will only have a select amount of people that go there. You're not going to get Buddhists or Hindus or Muslims or anyone else go there. The school is centre point for everybody as a melting pot and does come together and then of course there's health reasons on top of that. But right now the Waterview Primary and the kindergartens are a central point where a lot of people meet each other in the community because of their kids going there. And then there's the sports that you know to try and fund their – sports centres are important, but you have a choice whether you go to a sports centre or not and the school, your kids have to go to school. So it is extremely important. The information that we've been given through the NZTA I think a lot of it's – I don't, well I'm dubious about it because I'm used to tenders and quotes and so on. I always know there's other options and it's

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what information (inaudible 17:12:06) that say you make the decisions and I don't think we've got all the information as far as the pricing of how – what it would cost to relocate the stack. I've had, on the TV when we had a story, there was a story done about it there was, it was said there was millions and  
5 millions and millions of dollars to relocate it, but you know I don't know where the source of that information came from and unless an independent company, an engineering company, came in and actually said what it would cost to do it then I would sort of take it more on board, but right now I think that to move it to the east side of Great North Road is without question, has to  
10 be that way and decorating it up a five storey building or whatever it's going to be is not – where it is presently located or proposed to be isn't acceptable to the people around there. And then there's obviously the health issues around it, and that's where I just want to (inaudible 17:12:48) the emissions and depending on which way you put it, winds are blowing, we're going to be  
15 affected massively, you know we really are. But in saying that I know that it has to happen, I know the motorway's going to go through and I think, like I said I think it will in the end it'll be a good thing. I use the sou'western motorway now a lot and it's fantastic, you know but people around there have had to pay the price as well for us to be able to benefit from it. There is going  
20 to be devaluing of local, of our properties in the area. I've got a fairly sized good chunk of land that I wanted to do building on. I've put everything on hold for years now. That's – it's just not going to happen. That's going to hit me massively and I planned on that years and years and years ago. I own a couple of properties in the area and have built and done development in the  
25 area, so that's something that's going to affect me hugely. I know that as I before. You don't have any access –

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

Interestingly, while we don't have any jurisdiction to direct that compensation be offered to you, like (inaudible 17:13:36) compensation, it is within our  
30 jurisdiction to consider the effects in the locality that may be causing the lost value.

**MR ATHERTON:**

Exactly. That's right.

**THE COURT: JUDGE NEWHOOK**

And so we have been given a great deal of quite detailed information about  
5 how to start to tackle some of these major effects. And the northern  
ventilation stack would probably be top of the list, closely followed by the  
southern stack and buildings.

**MR ATHERTON:**

10 Yep, sure.

**THE COURT: JUDGE NEWHOOK**

Closely followed by two or three other issues. The case has homed in very  
much on these kinds of things.

15 **MR ATHERTON CONTINUES READING REPRESENTATION**

Well that's one of the things that you know as far as I would like to try and turn  
it and think that the, having the motorway and that's one of my other points is  
Your Honour, onramps and offramps and I'd like to sort of turn it that in the  
20 future it would be a more desirable, or not as undesirable area, that you got  
access to anywhere you want. You can get to the city, you can get to  
South Auckland or anyway because we're in such a you know a crossroads of  
an area, as long as it's made not just to the benefit of the region or the  
roading, but to the benefit of the people in the area too so that we don't get  
25 roadlocked, because we are just an enclave. We're like an island and once  
we get locked in then anyone who wants to come and purchase in our area,  
whether it's region or purchasing, there's one going to go, "Well we're stuck in  
here with atrocious roads to get out onto, plus we're looking at a stack," so  
those things are really going to compound it. And so if we know we could  
30 have the stack moved to a more reasonable place and if there was into  
consideration that people have got to get on and off that motorway and we've  
still got to get access for ourselves to get to Pt Chev or out west to New Lynn

where a lot of us will do our shopping and we go out that way to avoid the traffic in the city, it's – Great North Road is hugely busy because that's an arterial route that everyone uses. So we want to make sure that we can still get access basically and not be locked in, because otherwise once you get to Heron Park that's it, that's the end of the road for us. We're just an enclave. And there's a saying in Waterview that you either live there or you're visiting. That's it because you can't get through to anywhere else, unlike Pt Chev where twice a day, every day, you've got Meola Road and Pt Chev Road which are chocker with traffic going through to Cox's Bay and up into Herne Bay and we don't want to be that.

**THE COURT: JUDGE NEWHOOK**

Seems to us that one of the attractions for people who live in Waterview is that sort of enclave, that peace and quiet of being just off the beaten track a bit and close to the water.

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**MR ATHERTON:**

And close to Oakley Reserve.

**THE COURT: JUDGE NEWHOOK**

And the reserve.

20

**MR ATHERTON:**

Yep. So I mean that's, you know we know we've got a jewel there that's being used by a huge amount of people in the area. I would sort of put it on par with people who use Meola Reef when they walk their dogs and go for a walk. That used to be a desolate area, but people –

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**THE COURT: JUDGE NEWHOOK**

It's a lot better than it was –

**MR ATHERTON:**

Oh a hell of a lot better.

30

**THE COURT: JUDGE NEWHOOK**

- but I would agree with you that your Oakley Reserve is a jewel.

**MR ATHERTON CONTINUES READING REPRESENTATION**

5

It is and it's, you know, you can't replace that, you can't just regrow it and replace it. We've got pheasant and rabbit and everything else flying around there. It's a really special area and people drive from out of the areas to come there and walk and enjoy it, and I've been enjoying it for 10 years. I've been walking my dog through there and Heron Park and Meola Reef, I've done hundreds if not thousands of walks in the area. And I think the other guy who was here before, Stephen Hart, he had a very similar parallel. He was playing football for Metro and he's going to be affected. I was playing for a rival club to him, Western Springs – my club's better – so you know, but he's the same – I actually think I've seen him down at Oakley Creek walking his dog. It's that sort of a community area where we do see each other, we do meet people in the street and I would think it can be improved, it could have better lighting, but the way the motorway goes in if they rip snort and smash their way through they're going to lose that sort of a treasure. I would like to see it cleaned up.

20

**THE COURT: JUDGE NEWHOOK**

I've written down the first thing you said, "The Oakley Reserve is a jewel."

**MR ATHERTON:**

25 It is and –

**THE COURT: JUDGE NEWHOOK**

You can expect to see it in our decision.

**MR ATHERTON:**

30 Well I think –

**THE COURT: JUDGE NEWHOOK**

Whatever the decision is you can expect to see to see that phrase (inaudible 17:17:19).

5 **MR ATHERTON:**

I might patent it. I think –

**THE COURT: JUDGE NEWHOOK**

No you've given it to us.

10 **MR ATHERTON:**

I think the flipside that they could even get in and actually clean up the stream. The stream to me is one of the, you know I do a lot of outdoor pursuits. I'm involved in – I'm trying to get into search and rescue, involved in tramping and volunteer work for DOC and when I go through from the Waitakeres where I normally play around most weekends and I come into here and I see this disgusting stream running through it, they should actually get in and clean that up too and spend some, you know, if they're going to do some struction –

**THE COURT: JUDGE NEWHOOK**

Don't denigrate the work of The Friends of Oakley Creek.

20

**MR ATHERTON:**

Oh well that's good, but I've –

**MR DORMER:**

25 I think he's denigrating the council.

**THE COURT: JUDGE NEWHOOK**

The council.

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**MR ATHERTON CONTINUES READING REPRESENTATION**

Well you know they need, you know – it's worth it. They just – that's the (inaudible 17:17:56). It is worth it and going through – so that brings me  
5 through to – so I've gone through the access to and from the offramps. The pollution discharges into the estuary and coastal areas is of concern, being a bit of a greenie myself. I'm concerned about what's going to spill out. I think the mangrove areas around there now are disgusting to look into and it can only get worse, so maybe it can be cleaned up to a point where people can  
10 actually enjoy it. Going on some of the things you see around Australia and place in different parts of New Zealand it's actually enjoyable, we've got a coastal front that we don't seem to utilise, but now adding a motorway in is going to be a huge demand on the area and just where those discharges go, the surface oil from vehicles and so on and so on, it's got to go somewhere  
15 and that's a concern.

**THE COURT: JUDGE NEWHOOK**

Been a lot of evidence about that here.

**MR ATHERTON:**

20 Yeah I – well that was a bit of concern I had as far as being as preparation is that, you know, it's a catch 22 is that we like to be informed, but I was also getting so many emails which attachments led onto attachments which led onto another attachment. You just can't possibly –

**THE COURT: JUDGE NEWHOOK**

25 It's not easy is it.

**MR ATHERTON:**

- read all of it and absorb it, you can't, you know and I'm used to reading house plans and building plans and so on, but there's only so much you can  
30 sort of absorb and then make a decision –

**THE COURT: JUDGE NEWHOOK**

We understand.

**MR ATHERTON:**

5 - on it, you know. So, you know, the pollution and that in the area is sort of  
coastal and estuary really needs to be looked at because there's enough of it  
now coming in from New Lynn and the discharges and that needs to be, you  
know, taken into consideration but this is going to add a big burden on it. And  
as I've got in the last one there, well noise from vehicles. I've yet to know how  
10 that's going to be dulled down I guess or be allowed for in the area there.

**THE COURT: JUDGE NEWHOOK**

Okay, well perhaps we could finish you on this note about that, that we've got  
the three acoustic engineers helping us, giving us evidence. We sat them all  
down there, swore them in on the Bible the other afternoon and grilled them  
15 and things like air brakes on trucks and acoustic continuations through walls  
and barriers and mounds and we took it to a whole nine yards. We got a lot of  
help, so believe me that, amongst a whole lot of other things like the northern  
stack and the tunnel stack and many things, but noise is of a particular  
concern to us and we've spent a lot of time on it.

20 **1720**

**MR ATHERTON:**

Well that's the two things that won't change.

**THE COURT: JUDGE NEWHOOK**

We're not finished with it yet.

25

**MR ATHERTON:**

Well it's the noise and the fumes that when the construction's finished, those  
things will continue and you know there's a construction but there is a light at  
the end of the tunnel as far as the construction goes because it will come to  
30 completion one day, however long that takes, two or three years, whatever, it  
will finish but the noise from that point, the emissions are going to continue,  
that's why the stack is such a concern you know, and things like that. And as

you see there, the Oakley, I've just got the existing Oakley Reserve and the wildlife that's there and I think, yes and the waterfall, you know we've got the only one in the area. I think it's underrated sometimes just what's in that area and there is nowhere else, unless you take the next drive, it's another  
5 30 minutes to get to the Waitaks, that's it. So anyway, thanks for listening.

**THE COURT: JUDGE NEWHOOK**

Thank you very much, you've fleshed out this rather brief looking statement fantastically well and we really appreciate people like you coming in and giving us all this information, we're most grateful.

10

**MR ATHERTON:**

So take it all on board.

**THE COURT: JUDGE NEWHOOK**

Yes, look we're taking a lot on board and you're not the least of it, thank you  
15 very much indeed.

**WITNESS EXCUSED**

**THE COURT: JUDGE NEWHOOK**

Mr Spring. Sorry to squeeze you in at the end of the day Mr Spring, and you've been very patient waiting there to have your turn.

**5 MR SPRING READS REPRESENTATION**

The things I really want to talk to are the idea of the extension of the reserve, so as was my written submission it's in support of what has I guess Mark Bellingham has put in, Michael Coote and the reset of Forest & Bird  
10 Waterview Inlet Restoration Group. But I really want to speak to the community and education parts to it. So to seek an extension of the reserve and I mean I've brought this, D R Simmons, who wrote a book called *Maori Auckland*, said that, "Between the Manukau and between the Waitemata, Maori used to be able to hold stick up and they would – that's how  
15 they took the shore birds," you know and the sort of things. When I'm normally dealing with things about New Zealand birds it's because they're flightless, they can't move but you know that there was such a density of birds in this area that you could put a stick up to it and knock them down. You know and you guys have obviously done all the walks, you've seen you would  
20 have seen how much shore birds there are now. That's just one thing I'd just like to contextualise, you know obviously we're talking about five or 600 years ago maybe and it's oral evidence and I feel that there's a weight to that. In terms of learning, you know David Bellamy, when I was a boy, I was about 17 years old, did a map, half of North Island and had all these bits of kauri  
25 bark on it and then it all blew away and he said, "That's how much is left," you know. So one thing I know you're having to make so many judgements and decisions but I would just say that if we can look to doing the extension of the reserve and sorts of things and I've seen that people have said, "Well that's out of our jurisdiction but it strikes me that if it's within the jurisdiction – out of  
30 the jurisdiction of the RMA –

**THE COURT: JUDGE NEWHOOK**

Q. You're talking the marine reserve?

A. Yeah, but it strikes me if it's in the jurisdiction that you can look at limiting or infringing on a reserve then I think –

Q. Sadly we didn't, you see we didn't write the law, we didn't pass those laws in Wellington, we've just got to administer them.

5 A. But that was one point that I'd make that if everything's been looked at in terms of infringements on marine reserves then that seems you know there's a path there.

Q. It is another issue and it's a most interesting one but it's one I think I'd invite you to take up with your local MP because it's a matter of  
10 legislation.

**MR DORMER:**

The law can be an ass sometimes.

15 **MR SPRING:**

Yeah that came to my mind but a friend said that to a Judge and he got, "Can you explain what you mean?" He was a Judge, I was a lawyer at that time.

**THE COURT: JUDGE NEWHOOK**

Well Member Dormer's a –

20

**MR SPRING:**

I could imagine you'd have a problem saying that in front of these people today sir.

**THE COURT: JUDGE NEWHOOK**

25 Member Dormer's a lawyer, I'm a Judge and you're not in trouble because we agree with you.

**MR SPRING CONTINUES READING REPRESENTATION**

30 With fern birds you know, there's fern birds on that island, you know it's been established on Motu Manawa. Now I've been a guide on Tiri Matangi, I've been involved in that as a volunteer guide since 2005. Our fern birds came

from a motorway extension in Orewa and that was an emergency trans-location, they were taken there and I struggled from 2005, 2008 to see fern birds. It's only very rarely, once everyone had gone, you'd walk down one of the roads to the wharf and you might see them. I'm doing a PhD study on guiding and its benefits there and you know now when I've been observing guided tours, twice visitors have seen fern birds and the guides been able there to talk about them. And when you capture people's imaginations like that. I got involved in terms of community involvement, I got involved firstly with a group called, Ark in the Park and that happened in 2002, 2003 and I went to the zoo and for the first time in my life I saw a moorpork, I'd heard the buggers all my life and I was told and I was explained why this one was there, it was a foundling because someone knocked their trees down and you know and then they just said simple community messages, "Hey look, if you don't cut your branches down during the springtime and the summer, leave it till the winter, then you know," those sorts of messages and, "Hey you can get involved because there's a project, there's a community project and we'd ask you if you'd spend some time doing that," which I did with my daughter, so what I'm saying is that if you've got something there within that, whatever within your jurisdiction of supporting the reserve and community access to it, then we – with working with Tiri working with Ark in the Park, we can deal with the off cuts, give us your off cuts. You know whatever off cuts you can fine, as long as you know that's another point, the culvert and probably there's been lots of things about the culvert and water quality, but you know if you give us something to work with and you talk about community. The other thing I would just raise my fingers to show three – most people say, I mean yet again it's social science, but most people use community resources within three kilometres of where they are.

**THE COURT: JUDGE NEWHOOK**

Can I just stop you there for a second while I just consult with one of my members. Carry on Mr Spring.

**MR SPRING CONTINUES READING REPRESENTATION**

So I mean if the installation of pathways and signage and things like that, if you can allow people – I was a boy in a place called Plymouth, and I managed  
5 to work out how to get to places through you know – if you don't have that  
access, I guess what I'm saying is people won't make use of those places and  
if you've got those places where people can see a reserve, can see  
something that they can hold onto, think that's where your community – looks  
like you know I've had a lot of submissions where people are feeling like their  
10 guts have been ripped out a bit, you know in terms of the community and  
that's their perception and you guys are here to make judgements and sorts of  
things and I respect that. But what I'm saying is if you leave off cuts, if you  
give assemblance of access and installation of things to that, I think such  
things like Moto Manawa and an extension of reserve or whatever you can put  
15 into it can help the re-healing process. I mean I heard the gentleman  
previously talking about hares and pheasants which are great but you know  
our actual (inaudible 17:29:06) native species, you know we need that sort of  
understanding and contact. So and, yeah I'll just leave it on that so thank you  
very much for your time and those are the points.

**20 THE COURT: JUDGE NEWHOOK**

If you like and just to put us into context a little bit, without talking about each  
and every one of us. I will tell you that there is certainly on my part, no lack of  
sensitivity about the sorts of issues you've been speaking about. You're  
talking to somebody who has spent the last 10 years planting 14,000 native  
25 stems into a few hectares of degraded steep hillside country in the  
Coromandel and subsequently releasing and controlling weeds and the like.  
So we may look like a bunch of grey suits, well the males of us anyway.

**MR SPRING:**

30 The people I see in Ark in the Park, the people I see in supporters of  
Tiri Matangi when I go down to Maungatautari I've been involved and done  
some work at Tongariro Natural History Society. It's from all ilks, and sorts of  
things.

**THE COURT: JUDGE NEWHOOK**

There's a huge - there's growing appreciation of these issues in society is really what I'm saying.

5 **MR SPRING:**

And really what I'm coming down to is that in your brief, when you are considering how to make a judgement of Solomon if you like, that any of those off cuts, any of those sorts of criteria than can help that ecological strength and vitality and if you can allow people to get to it, then you know I think  
10 community will come through, thank you.

**THE COURT: JUDGE NEWHOOK**

And thank you very much, we appreciate your time and energy and interest, thank you so much.

**COURT ADJOURNS: 5.30 PM**

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