

**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

**Transcription of HEARING
Day 4 – Wednesday 16 February 2011**

COURT RESUMES ON WEDNESDAY 16 FEBRUARY 2011 AT 9.30 AM

THE COURT: JUDGE NEWHOOK – HOUSEKEEPING

MS JANISSEN CALLS

AMELIA JOAN LINZEY (AFFIRMED)

Q. Is your full name Amelia Joan Linzey?

A. Yes.

Q. And have you prepared a statement of evidence-in-chief in relation to social effects dated the 12th of November 2010?

A. And have you prepared a rebuttal evidence in relation to social and consultation matters dated the 3rd of February 2011?

Q. Yes.

A. Are your qualifications and experience as set out in paragraphs 3 through 4 of your evidence-in-chief?

Q. Yes.

A. Are there any matters in the evidence that you'd like to correct at this stage?

Q. No.

A. Do you confirm for the Court the contents of your evidence are true and correct?

Q. Yes I do.

THE COURT: JUDGE NEWHOOK

Now Mr Lanning, you're going to question on behalf of Auckland Council are you, concerning the social effects?

MR LANNING:

Yes sir, that's correct.

CROSS-EXAMINATION: MR LANNING

Q. All my questions are going to relate or revolve around paragraph 105 of your second statement of evidence, dated 12 November 2010, so you might want to have that in front of you.

- A. Is that paragraph 105, is that correct?
- Q. Yes, that's correct. Now in that paragraph you make a link between effects on open space and social effects don't you?
- A. Yes I do.
- Q. Now based on that paragraph, would it be fair to say that adverse effects on public open space potentially create adverse social effects?
- A. Yes.
- Q. And in that regard you rely on Mr Little's evidence don't you, in terms of the linkage between open space effects and social effects?
- A. No, I rely on Mr Little's evidence in regard to the effects on open space and from that I am assessing the social effects on the project.
- Q. And that's why you say there, don't you, you say, "On the basis of that –

THE COURT: JUDGE NEWHOOK

I'm sorry Mr Lanning, I'm going to get you to pause. You took your eye off the bench, if you'd looked you would have seen that we were fussing around trying to find what it is your cross-examining about.

MR LANNING:

Sorry sir. It's paragraph 105.

THE COURT: JUDGE NEWHOOK

Well the way you phrased it I thought you were talking about 105 of her supplementary statement but there isn't 105 in there. You said "the second statement", do I assume you mean the rebuttal statement?

MR LANNING:

No, it's –

THE COURT: JUDGE NEWHOOK

Because that refers to a 42A report.

MR LANNING:

It's entitled, "second statement of evidence", it's evidence-in-chief, sorry sir.

THE COURT: JUDGE NEWHOOK

All right, evidence-in-chief and which was the number?

MS JANISSEN:

Sir, witness number 21.

MR LANNING:

My apologies sir.

THE COURT: JUDGE NEWHOOK

Just face the counsel and have a bit of an eye on what's going on up here or you stand the risk of just completely losing your audience.

MR LANNING:

So it's entitled "second statement", perhaps that's the –

THE COURT: JUDGE NEWHOOK

Yes, headed "Impacts on Recreation Opportunities", that makes sense.

MR LANNING:

Would you like some time to read that sir?

THE COURT: JUDGE NEWHOOK

Yes, thank you.

CROSS-EXAMINATION CONTINUES: MR LANNING

Q. So Ms Linzey, you've relied on Mr Little's evidence to conclude in that paragraph that the project has mitigated impacts of the community's wellbeing and way of life in respect of their access to appropriate open space and recreation opportunities, haven't you, you've relied on Mr Little's evidence to make that conclusion?

A. And further the evidence of Mr Fisher and Dr Black in respect to the air quality effects in that area as well, but yes, that's correct.

- Q. Now do you accept that the open space experts, including Mr Little, believe that the effects on a passive open space function of Alan Wood Reserve are unmitigated?
- A. I was at that caucusing session. There are three paragraphs I think you're referring to in the open space caucusing, which perhaps I can just track that.
- Q. Page 14, open space caucusing starts.
- A. Thank you. And in that caucusing there was an acknowledgement that not all the effects of the project on the open space are fully mitigated, that the second two paragraphs go on to allude to what that residual issue was and that was primarily associated with the noise. So the noise effects were acknowledged as a change in that open space area. And Siiri Wilkening went on to talk about how that noise was comparable to other passive open spaces in the Auckland area.
- Q. Do you accept therefore that the social effects created by these unmitigated open space effects are also unmitigated?
- A. I think my conclusion after having talked through that caucusing session and with Siiri was that although there is a substantial change and I think that is also reflected in the social report in that environment, those noise levels are not inconsistent with other passive open space areas in Auckland and functioning passive open spaces in Auckland. So while it was acknowledged as a effect that had not been fully mitigated, it wasn't a change that was out of keeping with passive open space in the rest of Auckland and so in that sense it was perhaps concluded more as a change in that environment, rather than necessarily a significant adverse effect on passive open space in that environment.
- Q. Just looking at the – going back to the linkage between open space and the social effects. What are the beneficial social effects of having good quality open space available to the community?
- A. Again I would refer to the social report in detail, but just to capture some of those –
- Q. Just briefly?
- A. The opportunities for people to have places for recreation, for community cohesion and connectivity, meeting places, socialising

areas. With the increasing urban density and development, these places also become important outdoor areas where residential properties themselves tend to have less of these spaces, so they serve all those functions, sort of a space, a time out space and a meeting place and recreation area and connectivity sorry, would be the last one.

Q. Sorry what was the last one?

A. Connectivity.

Q. Just looking again at Alan Wood Reserve and those beneficial aspects of having open space. Would it be fair to say that the people who enjoy the benefits of Alan Wood Reserve are more the local community, rather than a sort of regional community?

A. Again we have done some open space usage surveys and that is in the social effects report. Actually the highest use is the sports fields themselves, in terms of – and that would probably be more of a district wide or even region wide resource. But certainly the spaces in between would be an important local resource, absolutely.

0945

Q. And by the places in between you mean the passive recreational –

A. That's correct

Q. – function of that park?

A. Yes.

Q. Just going back to the points here, you've listed out some positive benefits of having this open space function at Alan Wood. We now have the open space experts saying that those passive – effects on that passive open space are unmitigated. Is it still your –

A. Sorry Mr Lanning I don't think they're saying they're unmitigated, I think they're saying that they're not fully mitigated, and as I say the consequential – the subsequent discussion to that not fully mitigated was noise effect.

Q. Well I'm reading they say it's not mitigated, but okay even if we accept –

THE COURT: JUDGE NEWHOOK

Well no just – I think a little bit of accuracy on this. The witness perceives something important and we might as well. I'm looking at the end of

paragraph 78 of the caucus statement where there is an agreement amongst a majority at least that the quality of passive open space is not fully mitigated. That's the phrase the experts have used. If you're looking at another phrase in another paragraph you need to direct us and the witness to it. There might be some difference.

MR LANNING:

The paragraph, I think is a distinction between the temporary effects during construction and the permanent effects, at paragraph 76 of the causing statement. They have there David Little, Duncan McKenzie, Bill McKay and (inaudible 9:46:53) agree that there will be unmitigated effects.

THE COURT: JUDGE NEWHOOK

Well perhaps you just need to make your questions crisper in relation to the construction period and the permanent effects, operational effects.

CROSS-EXAMINATION CONTINUES: MR LANNING

Q. So you accept Ms Linzey that during the construction period there will be unmitigated effects on the passive open space function of Alan Wood?

A. Yes, and I think the qualification they're looking at the current what is used as open space it would be the open space and rail land function that is not – that connectivity in particular and then the disruption during construction would be the two effects there as I understand that are not mitigated, unmitigated.

Q. So coming back to the point I made before, would you not agree that if there are unmitigated effects on the passive open space function there are also unmitigated social effects associated with those effects on the open space?

A. In – during construction?

Q. Yes.

A. I think that the mitigation measures that are proposed for the social impacts appropriately respond to those effects in the open space during the construction period.

Q. The point is Ms Linzey you do not agree that during that construction period large parts of Alan Wood will not be available for people to enjoy the benefits of passive open space that you referred to before?

A. There will be some areas, in particular the, as I say the continuous connectivity areas, that will be and there will be physical reduction in the area that is available, but there will be areas of open space available in the Alan Wood community throughout construction, and I think that the social conditions, in terms of the community liaison and the public information about those and then the detour routes and maintaining access to those areas are appropriate mitigation to provide access, albeit not as convenient access as they have without construction, over the construction period to address those effects.

Q. And you still say that even though you're aware that, you must be aware that construction period is going to last anywhere between sort of five, six, seven years, that's correct isn't it?

A. That is correct.

THE COURT: JUDGE NEWHOOK

Now, for Unitec.

MR LAW:

Sir I think our Unitec had advised that they were not questioning Ms Linzey.

THE COURT: JUDGE NEWHOOK

Thank you very much. Albert Eden Local Board.

0950

CROSS-EXAMINATION: MS DEVINE

Q. Just to wind matters back to the broader, where Mr Lanning started, do you accept that the majority of the benefits of the project are regional, with some more particular significant effects locally held on a social effects perspective, don't you?

A. I accept that there are primarily regional benefits from the project. There are some local benefits from a social perspective from the project,

but certainly the majority of adverse effects, particularly construction, are realised locally rather than regionally, yes.

Q. And of the various witnesses I'm sure you will appreciate that this a very large project isn't it that's caused the experts to analyse effects, sector by sector and issue by issue and phases for you, particularly planning, construction, operation and that has meant distilled issues on a segmented basis, but you've had to pull a number of these issues together in your report haven't you?

A. Yes, I suppose the only point I'd make there is it's a good social practice to look at those phases irrespective of the size of the project. So the planning, construction, implementation and post-implementation of a project would be a standard social impact assessment but certainly the geographic divisions is a reflection of the size of the project.

Q. And from a social perspective you have said that the impacts are generally considered to be most severe in sectors 5 and 79 haven't you?

A. That's correct, yeah.

Q. I want to focus on those areas which I perceive to be generally Waterview and the Owairaka subdivisions and look at construction and operation and social effects separately. Now you've said that the construction phase most significant social impacts will be experienced by those living adjacent to the construction areas, don't you?

A. Sorry most?

Q. You've said that the most significant social impacts will be experienced by those living adjacent to construction areas, haven't you?

A. Yes, yes that's correct.

Q. And you may be familiar with the maps that are annexed to the noise caucusing statement which identify houses that are affected by noise that need to have notice of noise effects. Those are adjacent to construction areas aren't they?

A. That's correct, yes.

Q. It's a large number of houses isn't it Ms Linzey?

A. Those areas I think have been drawn at a hundred metre buffer, or maybe – but I would need to check that. I have seen them, yes it's a large area.

Q. I've had a look at your social report in some detail and I notice that it does go into the details in some more – it goes into more detail on the social effects and I want to just talk about those briefly before asking you a few questions. You say that the construction activities are considered to result in reduced liveability during the construction period, that's the phrase you used isn't it Ms Linzey?

A. Yes, do you have a specific reference that you're talking to?

Q. I do, page 118 of your report, the social report. There are a number of different pages that I refer – but broad concept you refer to “reduced liveability” for people during the construction period don't you?

A. That's correct.

THE COURT: JUDGE NEWHOOK

Sorry, which folder is the social report contained in please?

MS LINZEY:

G14.

MS JANISSSEN:

Sir, do you have that?

THE COURT: JUDGE NEWHOOK

Yes I'm just going to find it electronically, page?

MS DEVINE:

Page 118.

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. There are references in the pages surrounding 118 and I'll take you to those relevant points if we need to. Broadly you discuss in pages 117, 118, 119, 120, the effects that reduce liveability on residents include,

and I want to just briefly note some of those so we all recall them from the social report. These include noise impacts and vibration don't they?

0955

A. Potentially, yes.

Q. A fear of subsidence you mention don't you?

A. That's – yes.

Q. Increase in dust potentially affecting health, that's another one isn't it?

A. Yes.

Q. Dust on houses and car and clothes washing, is another?

A. Sorry for that one could you give me a page reference.

Q. You don't recall that one?

A. I would just like to confirm it please.

THE COURT: JUDGE NEWHOOK

So would I.

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. That would be on page 117, paragraph 3, mid-paragraph on that page which starts off "construction of this project". The second sentence talks about dust and causing dust deposits on and in houses, cars and washing. Can you see that Ms Linzey?

A. Yes I have, thank you.

Q. There is also reference there, and I'll have to take a moment to find the precise part of the paragraph to – potential to reduce use of outdoor spaces as a result of perceived effects. Would you accept that is a possible reduced liveability effect on people in the area resulting from the project?

A. Yes I would.

Q. You also refer to a significant change in amenity of the neighbourhood, the look and feel you refer to of the neighbourhood, especially when you can see the construction yards. Is that also an effect?

A. Yes it is.

Q. You mention that there will be worries about further increases in crime due to an extra thousand temporary workers being in the vicinity of the

neighbourhood, is that one of the effects that you've identified Ms Linzey?

- A. That's an issue that has been raised in the community consultation, yes.
- Q. You also mention the possibility that sleeping patterns may be interrupted, don't you?
- A. That is identified as a potential effect, yes.
- Q. Daily traffic disruptions also being a potential effect?
- A. That's correct, yes.
- Q. General annoyance of the disturbance of the way of life for the community, another?
- A. Yes that's also another.
- Q. And for some potentially a change in property access, so they have to divert their entrance to their properties?
- A. Again, that was identified as a potential social issue, yes.
- Q. We'll put open space aside for the moment so just the liveability matters, and you conclude that this may result in moderate negative impacts on people's way of life and wellbeing, particularly for those near State Highway 16 and that Great North Road interchange in sector 5 and the Alan Wood Reserve sector 9 don't you?
- A. I believe also the Te Atatu interchange.
- Q. I think that's correct. Focusing on the Waterview and the Owairaka subdivisions for the moment. You also consider that there may be potentially significant negative impacts on community facilities and community composition and character don't you?
- A. Yes, in the Waterview area in particular for community facilities I believe.
- Q. Your answer to all of these effects is – or to these particular effects, and we talk about other effects, open space et cetera separately – is to rely on the construction environment management plan to manage the effects, generally to respond to complaints et cetera, and to manage those effects as much as practicable, isn't that right?
- A. Not exhaustively. Certainly the construction environmental management plan is an important tool for management of most of those issues. There are further conditions that were made and

recommendations that were made in this report that are reflected in the conditions to address some of the other matters that were considered to be potentially beyond what the CEM – sorry the construction environmental management plan could address.

Q. So you're not saying that liveability won't be reduced?

A. No I'm saying that there were other mitigation measures that were put forward in that report that addressed things that it felt – that I felt from the social impact assessment report that wouldn't necessarily be addressed simply through construction environmental management plan measures.

Q. Let me rephrase. Do you consider that all of the conditions will stop the effects that we described which have the impact of reducing liveability?

1000

A. I consider that they will appropriately manage them, that they will set up a communication system with the community and an engagement system with the community where people understand what those effects are. Are you saying will construction still be a nuisance and have disappeared, no I'm not saying that. Sorry if that's – you know in terms of will there be no effect, no I'm not saying there will be no effect during construction, socially.

Q. There will still be an impact on liveability for those people in that area we've been discussing?

A. For the duration of construction I would consider there will be nuisance impacts and similar disruptions, yes.

Q. Now turning briefly to open space. In your report, and I'll give you a page reference, page 120 of your report, you acknowledge that open space is particularly important for lower socio economic communities, where recreation opportunities may be more limited than for better resourced neighbourhoods, don't you Ms Linzey?

A. That's correct, I do.

Q. And Waterview and Owairaka are in this category aren't they?

A. Yes, they certainly are, as is in fact Te Atatu, parts of Te Atatu.

Q. In the social report at page 121 you acknowledge that the main impacts on people's leisure and recreation opportunities from this project will

occur at Waterview Reserve and Alan Wood Reserve don't you. Let me take you to that paragraph, part way down that page, sir do you have that?

THE COURT: JUDGE NEWHOOK

Yes.

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. "The main impact on people's leisure and recreation opportunities will occur at Waterview Reserve and Alan Wood Reserve, 100% of the active reserve part of Waterview Reserve and approximately 75% of Alan Wood Reserve/Hendon Park are required throughout construction. Loss of this open space will, without mitigation, result in decrease in leisure and recreation opportunities for local residents, including both formal recreation opportunities, sports fields and playgrounds and informal recreation opportunities, passive recreation including use of walkways, linkages and children playing. These reserves also perform an important community function of meeting areas and social spaces." Sorry to read that part out in full, I appreciate you conveyed some of that to Mr Lanning already. Do you accept generally that there is an impact on people's leisure and recreation opportunities at Waterview Reserve and Alan Wood Reserve from the project?

A. Yes.

Q. This area that we're talking about has one of the lowest ratios of open space in Auckland doesn't it? I understand it's at 1.6 hectares per thousand population. Is that your understanding?

A. My understanding is that that is for the Eden Albert Ward, yes, rather than these local areas specifically.

Q. And would you accept that that is a low ratio of open space to people?

A. In terms of my assessment of that I would probably defer to Mr Little in terms of his open space expertise.

Q. Appreciate that Ms Linzey. Putting that aside, would you say it's very important to get open space right for Waterview and Owairaka residents, isn't it?

- A. Yes I would.
- Q. From a social effects perspective it's not acceptable to have less open space, either quality or quantity during or after construction is it?
- A. I definitely agree in the part of the question in terms of "after construction", I think we have to acknowledge construction activity, as I've said is not going – there is no way to completely hide the construction activity from this community or from this area. So I don't believe that it's realistic to have no impact during construction on those areas.
- Q. Sorry, I'm not sure you appreciated my question. Not focusing so much on the nuisance here, we're looking at open space. And let's focus on construction because this is the area of dispute. It's not acceptable to have less open space during construction for this area is it?

1005

- A. I think I would need to defer that to Mr Little in terms of the open space requirement during construction for that community, but I think that it is important to maintain from a social perspective access to open space and recreation areas during construction, yes I do think –
- Q. So from your expertise the answer is yes?
- A. No sorry, from my expertise it is important and essential that the project provides access to recreation and open space areas during construction. The question you asked was at exactly the same level or exactly the same quality, I think that those, that that's probably where I'm – I have a different qualification on that because I recognise that construction is going to have a quality disruption over that period.
- Q. I appreciate to need to put these questions to Mr Little, but given you're speaking in relation to social effects I just want to put it to you again that that's about people and how they're affected by the project, particularly during the construction period, and you've said that open space is really important to people generally, specifically where you've got lower a socio economic situation, and they already have a low ratio of open space, so wouldn't – why wouldn't you accept from a social effects perspective that it's really not acceptable to have less open space from a social effects perspective during construction?

- A. Ms Devine I suppose one point, locally these community – it depends on where you look at the open space provision. As I say, over the whole ward the local – the distribution of open space for this ward is quite low. For these local communities that is not the case, so the actual proportion of reserves per person in the Waterview area and in the Owairaka area are not as low as the numbers you cited. In fact in some cases they have quite high levels relative to others.
- Q. With respect Ms Linzey I'm not sure you're answering my question. Let's put it aside for the moment. I think you've accepted that after construction it's not acceptable to have less quality or quantity open space, isn't that right Ms Linzey?
- A. That's correct
- Q. And you're not sure about the acceptable of having less quality or quantity from a social effects perspective on open space?
- A. Yeah I would defer in terms of the amount of open space that that community needs during construction to Mr Little.
- Q. So that's the quantity?
- A. And the quality of open space during construction to Mr Little.
- Q. And your reason Mr Little would be better placed to answer those questions is because he can comment on the social effects as they arise from the open space?
- A. Sorry Ms Devine. I consider that there is access to open space during construction. I consider that there are opportunities for those open spaces to be used for the opportunities that they have now in terms of recreation, active sports fields and some passive uses, and walking areas. In terms of the specifics of adequacy in terms of numbers and quality on that basis I would defer to Mr Little, but in terms of social functioning I consider that those areas are available during construction.
- Q. Let's have a look briefly at the conditions, condition OS9. And once you find OS9 perhaps you could also find your social report at page 23.

WITNESS REFERRED TO CONDITIONS BOOK

THE COURT: JUDGE NEWHOOK

Page number in the condition book please Ms Devine.

MS DEVINE:

Page 50 for OS9 in the conditions book.

THE COURT: JUDGE NEWHOOK

If counsel could please give us page numbers, it's an extensive document.

MS DEVINE:

Sorry sir.

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. And if you, while you have OS9 open in the conditions book, if you could also turn to, Ms Linzey if you could turn to your social report and have that open at page 23. Have you got that Ms Linzey?

A. Yes thank you.

MS DEVINE:

Your Honour do you have that reference?

THE COURT: JUDGE NEWHOOK

In a moment. Headed "351 Waterview Reserve"?

MS DEVINE:

That's the one Your Honour.

1010

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. The first sentence in your social report Ms Linzey says, "The proposed reinstatement package includes replacement land and funding to offset visual impacts at Waterview Reserve, as well as an expansion to Saxon Reserve." Isn't that right?

A. That's correct.

Q. And on the following page, at page 24 you've got a map there that shows Saxon Reserve with a light green and a dark green and the dark green indicating the expansion of Saxon Reserve, isn't that correct?

A. That's correct.

Q. And Mr Little also addresses these matters too doesn't he Ms Linzey?

A. That's correct, there are revised plans attached to both my own and Dave Little's rebuttal evidence on these as well.

Q. If we have a look at condition OS9 now, OS9A there, if you can read that?

A. Yes that's correct.

Q. That doesn't deliver Saxon Reserve does it?

THE COURT: JUDGE NEWHOOK

Just pause, what page are you looking at now?

MS DEVINE:

Sir, the conditions book, page 50, condition OS9A.

THE COURT: JUDGE NEWHOOK

Yes, you're moving a bit fast for it at the moment, we were on page 54 a moment ago. Just bear in mind that the witnesses are extremely familiar with all this material, you have made yourself very familiar with it for the purpose of your questions, but we have to follow you and others in the room do too, all right. So we haven't got the state of preparedness that you and the witness have.

MS DEVINE:

Certainly, I understand Your Honour.

THE COURT: JUDGE NEWHOOK

So keep an eye on us, and just if we're drowning, pause, help us if you can, all right, thank you.

CROSS-EXAMINATION CONTINUES: MS DEVINE

- Q. Looking at condition OS9A, which refers to the development of Saxon Reserve, it doesn't deliver Saxon Reserve to the community does it Ms Linzey?
- A. It identifies that it will be delivered where that is practicable.
- Q. But it doesn't offer Saxon Reserve as mitigation of this project, does it Ms Linzey?
- A. It identifies that land area out – it identifies a land area that is outside the designation, so it requires a separate land purchase to acquire it. Two of those properties have been purchased, and as I think was touched on in opening submissions, the consent for that facility have been sought from the Auckland, or are being sought from the Auckland Council currently.
- Q. The situation is Ms Linzey that the development of Saxon Reserve, the “expansion” to Saxon Reserve, as you refer to it in your social report, is not being presented to the Board of Inquiry as mitigation at this time. The possibility of Saxon Reserve is, isn't it?
- A. The commitment, as I've identified is progressing with that, but certainly it was not land that the NZTA considered that they could designate to assure its acquisition in the – within the project, because it was some distance from the project works and it would have required, it was considered a challenge in terms of that process, so there was a commitment to do that outside the designation and consenting process, that's being sought now.
- Q. Saxon Reserve may not be obtained as an expanded reserve for the Waterview community, is that right?
- A. No, well as I indicated, two of the four properties required and the two largest properties have been acquired by the NZTA and applications are being sought for that area to use it for recreation purposes, which does require a consent from the district plan. There are two further properties that are still in the process of acquisition, as I understand it.
- Q. Ms Linzey, you're familiar with Mr Little's evidence and you'll be familiar that he includes Saxon Reserve as part of his calculations for open space that will be available, doesn't he?

A. Yes he does.

Q. That's even though, at least two of the properties have not been purchased and the conditions do not reflect that Saxon Reserve "must" be provided as a community park, isn't that right Ms Linzey?

1015

A. That's correct. If the two properties that are currently being sought were not successfully purchased then we – well there's two issues there. One, the amount of open space in that quantum exercise would still in fact be in excess of the land required, and secondly we would continue to work with Auckland City to identify other areas of open space as an alternative, but certainly that is their first preference and that is the area that the NZTA is currently seeking to acquire.

Q. When you say in your social report at page 23 that the proposed reinstatement package for Waterview Reserve includes that a work on Waterview Reserve as well as an expansion for Saxon Reserve, that's not correct is it? It doesn't include the expansion to Saxon Reserve at this time does it?

A. As I indicated it includes it in terms of NZTA has purchased that property and is seeking consents for that property currently.

Q. So it would like to, it wishes to, it may or may not happen, is that right?

A. It does need to go through the council's consenting process for it to be completed that's –

THE COURT: JUDGE NEWHOOK

All right Ms Devine –

MS DEVINE:

We'll move on.

THE COURT: JUDGE NEWHOOK

We get it. Please don't be too repetitive about some of these issues. You're getting the same answer, she's a tiny bit (inaudible 10:16:19) about it, but she has given the answer.

CROSS-EXAMINATION CONTINUES: MS DEVINE

- Q. Let's look at OS9(b). That also uses the word "where practicable" doesn't it Ms Linzey?
- A. That's correct
- Q. That doesn't provide any certainty of the outcome for the matters addressed at (b) which are the existing pathway connections at Howlett Reserve and the access out to either Howlett Street or Oakley Avenue?
- A. Again, this is the same situation as Saxon Reserve.
- Q. And in relation to (c) there in condition OS9. Again, uses the words "where practicable". Does the same situation apply?
- A. There are opportunities to advance some of that walkway with Auckland Council's approval, but certainly the completion of that walkway is the same as Saxon Reserve. So that the land acquisition is the issue there, yep.
- Q. Just moving sideways a bit now. The pedestrian cycleway links broadly can provide access to or between open space areas, can't they?
- A. Certainly, yes.
- Q. And in that way you can – NZTA can increase the open space available to the community of Waterview and Owairaka, couldn't it?
- A. The cycle – sorry those cycle and pedestrian bridges would confront the same issue that the Saxon Reserve and Howlett Reserve that you have pointed out would, they would require additional consents and additional land.
- Q. Sorry I'm just talking broadly. Broadly the concept is –
- A. Certainly.
- Q. – accessways can provide – links can provide access and increase open space exposure for residents?
- A. That's correct
- Q. You accept that any financial contributions provided, that's OS4 on page 47 of the conditions, open space condition number 4, just turn your mind to that, broadly I understand Ms Linzey that you accept that financial contributions for open space should be applied locally in your expectation, is that correct?

- A. Yes that's correct.
- Q. Now this OS4, the conditions simply don't reflect that do they? In OS4 there was an exception half way down that page, after (a) and the roman numerals it has "with the exception of financial contribution these facilities are to be provided locally"?
- A. Again I would refer to the expert caucusing statement there where the agreement, as I unders – was that the sports fields facilities were a wider district wide or regional citywide facility rather than necessarily solely a local facility.

THE COURT: JUDGE NEWHOOK

Page and paragraph number please.

CROSS-EXAMINATION CONTINUES: MS DEVINE

- A. Sorry I will just track that down. Page 11, paragraph 53.
- Q. Your Honour may appreciate knowing which statement that's in?
- A. Sorry that is in the open space –

THE COURT: JUDGE NEWHOOK

It's the open space one, yes that's what we've been working with, thank you.

CROSS-EXAMINATION CONTINUES: MS DEVINE

- Q. You've just said Ms Linzey that you think the financial contribution should be spent locally from a social effects perspective?
- A. No, sorry, you asked me if "generally" I did, and that would be generally the case, but in this instance with the sports field, which is what has been accepted in this proposed condition from the caucusing, that exception was made because there was an acknowledgement from those experts that the sports fields were a regional, rather than local resource.
- Q. From a social effects perspective you have no problem with the loss of a social – with a sports field in Waterview Reserve?
- A. As I say, at the expert caucusing session there was agreement from all those parties there that the sports fields were a regional resource and

on that basis I do consider that space for the community, open space for kicking a ball and using more passive but active recreation area, informal active I suppose, is important in the Waterview community.

Q. I'm going to turn to some of the operational effects now, if I may and the social impacts on the operation of the motorway. You have summarised these broadly as being potentially moderately positive, to significant negative impacts haven't you Ms Linzey?

A. That's correct. Could you give a page reference again, just for – I do accept it though.

Q. I think I'll bring a page reference when I – but you accept that broad term?

A. Broadly, yes.

Q. And I think broadly the following column will also be correct. You consider that there'll be an adverse effect on people's way of life for residents in sector 9, isn't that correct Ms Linzey?

A. Yes that is correct.

Q. And there's a change, there's a few – you talk about change, there's change happening in these environments and you recognise that operationally once the motorway is running there'll be a lot of changes that the residents have to confront. And that is a changed noise environment, isn't that right Ms Linzey, that's one of the factors?

A. Certainly acknowledge a change, yes.

Q. You mention that like with the construction effects, people might stop using their outdoor spaces in relation to stacks, potentially initially. I think your evidence suggests –

A. I think it was put, we were talking about the perception effects and the concerns people have. Again, if you give me a page reference I can confirm that that's –

Q. Page 116 of your social report. Sorry that's not correct.

A. No, I was going to say, that's still construction.

Q. I'll just move to the next point. You acknowledge visual effects at page 132 of your report associated with the operation elements of the motorway?

A. Yes, certainly on the basis of the assessment undertaken by Mr Brown.

- Q. And those are associated with the removal of mature trees, isn't that right? A number of factors, such as the removal of mature trees?
- A. In sector 9, sorry, or are you talking generally now?
- Q. In a number of sectors there are removal of mature trees aren't there Ms Linzey?
- A. That is correct, in sector 5 in particular.
- Q. In some instances there'll be residents viewing noise walls instead of open space areas?
- A. Instead of the current open space area, yes.
- Q. And they'll have views of ramps and portals et cetera, would that be right? Some residents will have?
- A. Residents in Owairaka would have, and some would have a view of the portal, but I believe Mr Brown talks about a fairly limited catchment there, certainly at the Waterview end there will be people who will have view of the ramps.
- Q. Page 133 of your report, you talk about visual impacts having a perceived or actual loss of privacy, loss of views over open areas, generally a lower sense of satisfaction with people's homes and neighbourhood?
- A. Again, they are the potential impacts visually, yes.
- 1025
- Q. You also note that the prominent northern and southern ventilation stacks will represent a change from the suburban character and scale of these areas?
- A. That is correct.
- Q. And there's also a high degree of change for those who physically move out of the neighbourhood, whether by choice or not, especially for those who cannot relocate in the area. Isn't that right Ms Linzey?
- A. Yes there are individual effects at that level, yes.
- Q. Regardless of efforts to soften these changes they will occur and will have to be dealt with by the local residents, won't they?
- A. Some of those I would agree with, yes. Some of those effects will be on the community, yes.
- Q. Social housing has an important role in society doesn't it Ms Linzey?

- A. Yes it does.
- Q. I think you've said that eight or 8.5% of houses for Waterview will be taken by this project, is that right?
- A. That's correct, 8.5% from the Waterview census area unit.
- Q. And there's a large percentage of those are social housing, isn't that right?
- A. That is correct.
- Q. I understand that Housing New Zealand's not buying private homes to enable people to stay in the area, is that right or your understanding?
- A. Again, Housing New Zealand have a relocation policy that they are operating to and I would defer to Ms Atimalala to answer those questions.
- Q. It's fair to say that your social report recognises that loss of houses in a community has a number of knock-on effects?
- A. Yes it does.
- Q. And I think you conclude in your report and in your evidence-in-chief that there will be minor to potentially significant negative impacts on community cohesion structure and stability?
- A. That is correct.
- Q. And this is mostly to do with the fragmentation of a residential area in Owairaka and the residential take in Waterview?
- A. That is correct.
- Q. So these are real adverse effects that the remaining residents are likely to experience, aren't they?
- A. Yes.
- Q. So in Waterview for example, you have a smaller community which you refer to as being compounded isolation?
- A. That is correct, yes it is geographically isolated.
- Q. While the Agency has picked a level to support the school, Waterview School, with some funding, so they've picked a year to continue supporting the school, the parents of the children at Waterview School aren't going to base their views about sending their children to that school solely on the Agency's proposed conditions are they?
- A. I'm sorry?

Q. Parents of children going or about to go, or having a choice to go to Waterview School, aren't going to make the decision based on conditions in NZTA's designation? They're going to make their own decisions about where they send their children aren't they?

A. Yes, yes I would agree with that.

Q. And if they think there's an effect from the stacks on their boundaries then they'll move their children won't they?

A. I identify in the social report that that is a possibility if people perceive an effect from that stack, yes.

Q. Regardless of the funding that NZTA is offering to the school, if there is a small school that has the potential to get smaller and further compound the lack of sense of community and the place of belonging and all of that inter-relatedness that could mean community cohesion that you talk about. Isn't that correct?

A. Sorry, if the school gets smaller it will have those effects?

Q. That's right.

A. Again, yes I would consider that while ongoing viability of the school is important a reduction in the school size – sorry, the school population size would also have a social impact, yes.

Q. And NZTA providing funding doesn't address those community cohesion social impact issues does it?

A. The condition is to recognise the anticipated fluctuation in the school role over the construction period.

Q. So NZTA could fund 140 students to continue attending Waterview School, in fact a far less significant number could actually attend and those social effects of a very small school would be real from a social perspective, could you say Ms Linzey?

1030

A. The funding level it's 155 students, and certainly over the construction period it would, yeah if the school reduced in size significantly, it would be resourced sufficiently but it would have effects in terms of the community connection cohesiveness potentially.

Q. Moving towards the stacks as we're inching that way. Thinking about the northern ventilation stack, which is next to the school. Fewer people

would be affected if it was located on the other side of Great North Road wouldn't it?

A. I think I would defer that to Mr Brown in terms of the visual viewing audience who would be affected by that.

Q. You don't want to make a comment on the visibility to the Waterview community from a social perspective?

A. I think I would leave that to Mr Brown to advise on what the visibility for that community would be. I do note that in his report he makes a conclusion with the stacking as it is, that it has quite a limited exposure to residential properties being bound by the school in particular.

Q. You would accept that there is likely to be a perception of effects on the community and the school children?

A. I do, I touch on the perception issues in my rebuttal evidence, and yes I do acknowledge that there are and have been concerns raised over the consultation in terms of perceived effects of the stack.

Q. Do you accept that the location of the stack will have a social impact? If it was shifted for example, that impact may be reduced?

A. In terms of distance, have you got a –

Q. This is the option, there were two options of moving it, the northern stack across the Great North Road to the BP station or to the option which is to the south of that. Are you familiar with those options Ms Linzey?

A. I am familiar with those options. I note that option 3, I think it was referred to in the Waterview Reserve would still be on the school boundary.

Q. That's correct, that's the third option.

A. And options 1 and 2 would be on the boundary with the separation distance of Great North Road.

Q. I'm not sure you answered my question. Do you accept that those options which are across the road would have a reduced social impact?

A. No I would not accept that.

Q. Do you accept that the character and the form of the existing urban environment, which you discuss in your social report, will be changed, depending on the location of the stack?

- A. Again, I would defer, I would refer that to Mr Brown, who did not reach the conclusion that it had significant visual benefits to relocate it.
- Q. Your social effects are relying on Mr Brown's analysis in that regard?
- A. As I set out in the social report, I'm relying on the expertise of others to advise me how visible and what visual catchments will see those stacks, that's correct.
- Q. Let's look at the southern ventilation stack. You have provided the supplementary caucusing statement, and I think we need to go to it. And in that you say that there are positive attributes to option 3, which is the third option Mr Allan expanded on in your presence, I think earlier this week or last week. Are you aware of that option I'm just referring to Ms Linzey?
- A. Absolutely, yes.
- Q. And you acknowledge that there are positive attributes including landscape, visual, amenity, land use, open space and community in relation to option 3, isn't that correct?
- A. Again, that assessment is based on a number of expertise comments that are identified in that table but certainly they all identify those positive effects.
- Q. And they're all relevant to social effects aren't they?
- A. That is correct, yes.
- Q. Would it not surprise you, that the community prefers option 3?
- A. No it would not surprise me.
- Q. Given your reference to the importance of open space for these communities, would you also acknowledge that option 3 opens up access to open space, it moves away from that pinch point around the Avondale Motor Camp?
- A. It certainly does open up more open space and I think that is reflected in Mr Little's open space assessment. The pinch point that you're referring to, I believe is also created by the rail designation and the rail corridor through that sector, section. So that, it shifts it from that geographic pinch point.

1035

- Q. Back to your social report, page 64. For completeness I feel I need to raise this with you. Now your social report's prepared in July 2010, is that right?
- A. That's correct
- Q. And at page 64 you mention the Auckland City Council future planning framework?
- A. That's correct
- Q. And in that paragraph on page 64 you also note that that framework sets out outcomes and aspirations that the council, Auckland City Council, wanted to achieve by 2030 at that stage, and that included an improved pedestrian cycle environment along Great North Road to State Highway 16 and along the Waterview Esplanade Reserve, isn't that correct?
- A. That's correct
- Q. Since you have written that social report the exercise that Auckland City Council undertook has been finalised hasn't it?
- A. Yes, that's my understanding. That may – well in May 2010 some of the structure plan, concept plans were adopted and the future planning framework progressed up to, I believe, the council elections, yes.
- Q. So there's a version 3 released on the 9th of September 2010, are you familiar with that?
- A. I am. I do have a copy here if you could give me just a moment I'll –
- Q. Thank you, perhaps I can –
- A. – track it down in my bits of paper.
- Q. – provide to the bench some relevant documents. Perhaps exhibit 1.

THE COURT: JUDGE NEWHOOK

This is material that we have nowhere else in 80-odd folders of material is it?

MS DEVINE:

Sir to be fair NZTA, and I've just referred to it, Ms Linzey included reference to this briefly and I just for completeness need you to understand where this process has got up to.

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. What has been presented and the EPA or Madam Registrar may want to ensure that the witness has the same copy as been presented to the Board is version 3 with the map and just the beginning front end of the future planning framework version 3 dated the 9th of September 2010.

WITNESS REFERRED TO AUCKLAND CITY COUNCIL REPORT DATED 9 SEPTEMBER 2010

Q. I don't intend to spend much time on this and certainly appreciate that the bench is receiving enough paper as it is, but for completeness Ms Linzey are you familiar with the process – are you familiar, I think you've already said that you are, with this future planning framework. You appreciate that the draft, that there were plans shared with the community over a period of time, commencing in March 2009, seeking feedback from the community about how the city and their particular areas could grow and change?

A. Yes.

Q. And that resulted in a final version of the future planning framework version 3.0 that you have before you?

A. That's correct

Q. You're aware that in April 2010 this future planning framework won a Planning Institute award, a Nancy Northcroft Planning Practice Award at the New Zealand Planning Institute conference in April 2010?

A. Yes I was at the conference.

Q. Given the context in the file we have a version of this plan and I think the 3 version helps see it more clearly. There is a pedestrian link identified or an improved pedestrian and/or cycle environment between the northern aspect of Waterview and across the State Highway 16 over to Pt Chevalier isn't there Ms Linzey?

A. Yes there is showing on that plan, conceptually, yes.

MS DEVINE:

Can the bench see where that is identified?

THE COURT: JUDGE NEWHOOK

Is that the heavy dashed blue line?

MS DEVINE:

No sir, it's an orange line with an arrow.

1040

THE COURT: JUDGE NEWHOOK

Oh, yes, got it.

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. So that went through a public process and had several versions resulting in that outcome didn't it Ms Linzey?

A. As I understand it, it did, yes. There's also another plan that I think that looks at this area in more detail, which would be the Pt Chev/Western Springs precinct plan from the same document.

Q. I accept that. I don't think it adds to much to the conversation in terms of – there's a suggested link between Waterview and Pt Chev in the aspirational plans, which are now dated 2050, not 2030, as you have noted in your report, just –

A. So that the second plan that is included for the Pt Chev/Western Springs precinct plan shows the same area and it shows the connection through the Great North Road interchange.

Q. I don't think – we haven't put that to the bench or the Board.

A. Certainly, I'm just referring to it as a plan that is in that same document.

THE COURT: JUDGE NEWHOOK

It sounds to me as though counsel and the witness are agreeing that the information that shows on that other map, is at least consistent with what is shown on the map that we have, if not in fact offering identical information.

MS LINZEY:

The second map offers a link that goes through the Great North Road interchange, the first map, the Avondale/Blockhouse Bay one shows also an aspirational link through the Eric Armishaw Park as well.

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. So that distinction of being one's bridge and one's pathway that goes around the roads?

A. That's correct.

Q. I think we can leave that point there. I just need the information to be produced.

THE COURT: JUDGE NEWHOOK

Q. One question of clarification, does the second one have both, or is it simply the area to the north of this one?

A. No, it simply has the one through the Great North Road interchange it does not have the Eric Armishaw Bridge on it.

MS DEVINE:

And that reflects the consultation views of the community by area, so what the area – so they were brought together as an amalgamation areas. So the Waterview area sought the bridge that went over across to Pt Chev and vice versa, they saw a link going from Pt Chev, people saw a link going around the northern interchange.

THE COURT: JUDGE NEWHOOK

Q. Well a question of clarification for Ms Linzey. If we are to make something of the material that has been put to us by counsel, is it your view that it would be useful for us to have the other map as well?

A. Yes I think it would because it's a precinct plan detail for the Pt Chevalier area, as there is a similar one for the Avondale area. They're just more expanded detail in those local community areas.

Q. Well somewhere between the two of you, during the course of the day, if that map could be presented to us. It can probably come in by consent.

This is going to be exhibit 1, inclusive of the A3 sized map, which I'm going to staple to the back of the words to form the one exhibit and the second map can be exhibit 2.

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. A couple of matters to you Ms Linzey before we wind up and coming back to the numerous effects on the locals and I believe you said earlier that the construction environmental plan in itself isn't enough to avoid remedy or mitigate all the effects on the residents in the Waterview and Owairaka areas, is that right?

A. There were additional mitigation recommendations in the report.

Q. Perhaps you wish to bring those to the Board's attention at this time.

A. Yes certainly, I'm happy to do that.

Q. Your evidence is a summary of the report, you don't necessarily have to go to the report.

A. They're certainly, perhaps just highlighting them, the relocation of the kindergarten in the conditions was identified as an important step at least of temporarily in construction, but the acknowledgement that relocating the kindergarten twice was an effect. So that was identified in the social report and is reflected in the conditions. The importance of providing information to the education facilities around the site was identified. That was included in the social conditions. The importance of the mitigation with the school was identified in the social report, and that has been, was reflected in the conditions and has been progressed in the agreement with the school, and the public information and opportunities for the community liaison group, and I think they're well canvassed in my evidence.

Q. Is that all Ms Linzey?

A. Yes, unless we want to take some time and I will collect the entire list.

Q. I'd like to put it to you that all of the effects are not avoided, remedied or mitigated so it may be that if you wish to draw our attention to any additional effects, additional controls or responses and methods to address those effects this would be the time.

A. Do you have specific detail on what effects you're referring to?

THE COURT: JUDGE NEWHOOK

Would you like to refer her to some list or schedule or description of these somewhere Ms Devine because although this witness has got a fantastic memory and knowledge, working knowledge, of the conditions and her evidence and the reports and everybody else's evidence that impinges on all this, to ask that kind of question might just be getting beyond the reasonable.

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. Ms Linzey is it your view that the social conditions and the condition that requires the construction environmental management plan are sufficient to avoid, remedy or mitigate all the effects that we've been discussing in our discourse that are on the residents of Waterview and Owairaka?

A. I would add to that list the social – sorry, the open space conditions that have been included, the public information conditions that have been included, and in fact probably the, there will be others through – like the transport connection conditions that have been included in terms of temporary traffic, but I consider that that suite of conditions appropriately mitigates the effects socially.

Q. There are still effects left on the residents aren't there Ms Linzey?

A. Yes there are.

THE COURT: JUDGE NEWHOOK

Mitigation doesn't equal avoidance Ms Devine.

MS DEVINE:

Appreciate that Your Honour.

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. And many effects that will be experienced by the locals may compound on each other, mightn't they?

THE COURT: JUDGE NEWHOOK

Now look, two things. One, you're well beyond the estimate you provided us with Ms Devine. You've obviously got an extensive book of questions there

so I'm critical of the estimate that you've provided us. Secondly, you've been moving along however quite briskly, (inaudible 10:48:19) too briskly, in order to try and rattle your way through this book of questions of yours. Thirdly, the questions that you're now putting seem to me to be just so broad that they invite a text book response and/or a flurry of identification of material right through all of this, and they're not focused. Now that last question really doesn't help us at all, any more than the previous one did. Can you focus better?

MS DEVINE:

Yes thank you Your Honour.

CROSS-EXAMINATION CONTINUES: MS DEVINE

- Q. One last question then regarding local boards and community boards. You'll be aware that the conditions refer to a community board being a condition P115, if you want to refer to it.

THE COURT: JUDGE NEWHOOK

Page?

CROSS-EXAMINATION CONTINUES: MS DEVINE

- Q. At page – five, it's page 15. It refers to establishment of a community liaison group and the people who can participate, and that's a broad group of interested parties, including not limited to a list there. You had input into that list perhaps Ms Linzey, is that right?
- A. Yes I have.
- Q. And in relation to community boards are you anticipating that is meant to encapsulate the Albert Eden Local Board?
- A. By invitation, yes, to attend.
- Q. Is the words "community board" meant to mean the Albert Eden Local Board?

1050

THE COURT: JUDGE NEWHOOK

Q. All right, let's just get a bit crisp about that too. Where we read "the community boards" on page 15, that should be a reference to local boards, should it?

A. That's correct.

Q. Change of legislation?

A. Yes.

THE COURT: JUDGE NEWHOOK

See it can be done as easily as that Ms Devine. Is that what you were driving at?

MS DEVINE:

It is indeed, thank you Your Honour.

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. Ms Linzey you're familiar that the Albert Eden Local Board was elected by a public process and it has a mandate to liaise with its constituents?

A. Yes.

Q. Hence your acceptance of –

THE COURT: JUDGE NEWHOOK

That's why they're on the list with that semantic change that we just identified.

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. In relation to SO6, the social conditions, which establishes a working liaison group –

THE COURT: JUDGE NEWHOOK

Page?

MS DEVINE:

At page 54.

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. There's a reference to Auckland Council but not a reference to community boards or local boards et cetera. Do you accept that the Albert Eden Local Board should be listed in that list of participants in the working liaison group?

A. I would consider that would be appropriate, yes.

THE COURT: JUDGE NEWHOOK

Subject perhaps to issues of delegation within the structure of Auckland Council.

MS DEVINE:

That is a matter for the internal workings of Auckland Council sir.

THE COURT: JUDGE NEWHOOK

Yes, well it's an issue that I believe is not yet resolved.

MS DEVINE:

The delegations between council –

THE COURT: JUDGE NEWHOOK

The delegations to the local boards I gather is an issue not yet concluded.

MS DEVINE:

That's correct Your Honour. And that is my last question for the witness.

THE COURT: JUDGE NEWHOOK

Well just a question for you then. Do you accept on behalf of your client that the qualification that I've just put forward is something that might need to be tacked on to the witness' last answer?

MS DEVINE:

Sir, I think that can be addressed at legal submissions. I think there's more information to convey in relation to that, other than delegations.

THE COURT: JUDGE NEWHOOK

All right, we'll note that. Mr Allan, will you make a start.

CROSS-EXAMINATION: MR ALLAN

Q. Can I take you please to the supplementary rebuttal statement of yours that was exchanged about Friday, and which included your discussion of what I'm calling option 3 for the southern building at the southern portal?

A. Yes.

Q. In paragraph 13 of that document Ms Linzey, you record the additional work that had been carried out by you and in conjunction with all the other consultants that you've referred to. Can I say thank you for collating all that material and putting it in one place it's very helpful for my client certainly. Then turn to the outcomes of the assessment, and you know from 16.1 that option 3 provides the greatest opportunity for environmental benefits compared to the base option, just so we're on the same page and my client's agree. And that's the one I want to focus on. You then say in 17, "Overall option 3 is preferred from a social perspective, however it is considered to have greater adverse impacts on cost and constructability." Would you accept that those technical issues, technical risk, complexity and potential for time delay that you refer to, are matters that can be addressed appropriately in engineering terms?

A. I would defer to the evidence of Mr Walter, but there's certainly nothing in the scoring that has been done in this evaluation that suggests that they are significant.

Q. And were you here for the evidence of Mr Walter?

A. Yes I was.

Q. And you heard me put questions to him of that nature?

A. Yes that's correct and he –

Q. And having heard that evidence, you don't think there's anything that's of concern to you?

A. No.

- Q. You then say, in 18, “In considering the change in effects between the options and the base option, it is noted that there are no newly affected people identified for any of the three options.” And my understanding of that paragraph is, you looked around the whole area in the vicinity of the southern portal and said, “Is there anybody who isn’t affected by the current proposal, who might be affected by the new one?”
- A. That’s correct, so there were some properties where there was a changing effect, but certainly no properties that were newly affected in that assessment.

1055

- Q. And the change of effect is what you then look up in paragraph 19 on the next page, where you say, “There are three cases where there may be an increase in the potential adverse effects of an option”?
- A. That’s correct
- Q. And in that paragraph are you considering on a property by property basis where there’s a particular effect in respect of which there might be an increase or greater adverse effect than was previously the case?
- A. That’s correct
- Q. And you then in 19, 1, 2 and 3 go through those issues and my reading of your analysis is that whilst you acknowledge that there may be some areas where there are adverse effects that might increase, and with respect to option 3 it’s only 19.1 and 19.3. You don’t think those increases are significant, you use the word “minor”, and you then note that in fact those increases in some effects would effectively be offset or balanced by improvements and other effects?
- A. That’s correct. So I’m drawing from the assessment there by Mr Brown in terms of the visual impacts, and that’s certainly the conclusion that he reached in respect of those properties, and from my own – from the social assessment and the open space assessment in the final paragraph 3 when we reached some of the conclusions.
- Q. And if I can – before I turn to those individual houses because I’d like to take you through those in a bit more detail. Is it fair to say that viewed overall there’s no question in your mind that option 3 is the best of the four options that you’ve looked at in terms of social effects?

A. In terms of that local social effects assessment that is documented in this assessment, yes that's correct.

MR ALLAN:

Now at that point it's probably convenient for me to ask the witness to get in front of her the paper or the pages I'm going to take her to, but then logically start questioning after the break.

THE COURT: JUDGE NEWHOOK

Yes all right, well the break could be used for assembling those materials and I've got a request to make to her too, a little homework during the break. If she needs it if she could put her hands on the district plan and be prepared to advise us whether putting a pedestrian way and/or cycle link through Phyllis and Harbutt Reserves would require resource consent.

MR ALLAN:

Just before you break sir, the document I'd like Ms Linzey and others to get in front of them is Mr Walter's rebuttal, annexure J, which is the picture which showed the option 3 (inaudible 10:57:47) portal. So that's Mr Walter's rebuttal evidence, annexure J.

MS LINZEY:

Sorry is that not the same plan that was attached to that rebuttal – further rebuttal?

MR ALLAN:

It may well be, I've got –

THE COURT: JUDGE NEWHOOK

Yes she's got it.

MS LINZEY:

Yes I've got it.

COURT ADJOURNS: 10.58 AM

COURT RESUMES: 11.16 AM

CROSS-EXAMINATION CONTINUES: MR ALLAN

Q. Ms Linzey, I can take you to that diagram we discussed earlier, it is and I think your annexure C, option 3. And I'd like to explore with you that topic we were talking about earlier which is the extent to which individual properties are affected or not affected by the change, from what you called the "base option", to the option 3, for the southern portal building. Now on the plan that's annexed to your evidence, you show with a red dotted line the outline of the quite tall and quite lengthy building that's part of the base option, don't you, on the left-hand side of that plan?

A. Yes.

Q. And on the right-hand side of that plan, we can see that the ventilation building within the cut and cover will be located below the ground, but there will be a structure with access hatches, gantry buildings above ground that range vertically up the plan, when viewing (inaudible 11:17:28) at the top. And then there is another part of that structure that comes out horizontally across the plan and that as I understand is the second set of gantry structures for the movement of equipment within the building. And that obviously is above the ground level. And then, moving further to the right again, we come to a worker parking and manoeuvring area, which I take it to be at ground level and then there is the control building and the stack itself, and that's right above the portal isn't it?

A. That's yes, my read of the plans too.

Q. So, in simple terms, what's happening with option 3, is that the motorway portal is moving 80 odd metres or 70 metres to the right in this picture, which is about south-easterly direction, and the structures are either being undergrounded or the elements that can't and aren't being undergrounded are compacted in terms of their physical footprint, correct?

A. That's correct, yes.

Q. And we end up with some relatively tall buildings, in the sense that the gantry structures have to be a reasonable distance above the ground and of course the stack itself, but they're a much smaller footprint than the original base proposal. So if I look at all the properties on the northern, sorry, on the upper side of this picture, number 61 through to 47 on Hendon Avenue, they're all properties that benefit enormously from this change aren't they, because they no longer have a large structure in front of them?

A. I think that concurs with the visual assessment Stephen Brown did for those buildings, for those properties, yes.

Q. And if take 71 and 73 Hendon Avenue, they're probably in a similar situation. Again, they did have a building in front of them in terms of the base option, they no longer have one?

A. The only, the difference for that property will be the accessway arrangement across the back of the property, but other than that, yeah.

Q. If I then look at 75, 77, 79, 81, those are properties that in both schemes have open space in front of them, in the sense that there's nothing really obstructing their views in front of them. But the above ground structure has shifted from being on the western side of the plan, if you like, to the eastern side. So that the location of where the above ground structures are has changed, but essentially they've still got some open space in front of them?

1120

A. 75 to 79?

Q. Yes.

A. Look I would defer to Mr Brown in terms of 79, but certainly 75 to 77 that, again that seems logical, but I'm working from his visual assessment, in terms of the comments that were provided in that rebuttal evidence.

Q. But I presume that making your assessment of social impacts you also had a fairly good idea of what these plans meant?

A. Yes that's true.

Q. And –

MR DORMER:

Excuse me Mr Allan.

MR ALLAN:

Yes.

MR DORMER:

I noted your question of the witness is relating to properties 75 to 81.

MR ALLAN:

Yes, I'm going to come to that.

MR DORMER:

So is my note right?

MR ALLAN:

Yes, that's correct yes.

CROSS-EXAMINATION CONTINUES: MR ALLAN

Q. So if I'm looking at the plan, my understanding is that the area within the new, the option 3 structure with the dot, heavy dotted line shows where the building is located underground, but it's only those cross hatched areas marked "access hatches, gantry building, above ground" and the stack and the control building, they're actually above grade?

A. That's my understanding too, yes.

Q. So in terms of that analysis, the space in front of 71, 79 is vacant directly in front of those properties, correct?

A. Directly in front, correct, yes.

Q. And the reason why I asked 81 is, I think by my measurement, so is the space directly in front of 81?

A. On this plan if we draw straight down yes that would be my read of that as well.

Q. Now for those properties would you accept that they all benefit from the redesign in a sense that they now have open space in front of them

instead of, essentially, the motorway disappearing into a hole in the ground and then a portal?

A. I think I make the observation that they - and again they have more visibility, I believe, in terms of the visual assessment that has been undertaken for that - of those buildings from their visual catchment rather than looking directly in a straight line out, but certainly I would agree that irrespective of whether this moved, they did have the trench at their back door previously.

Q. And I guess it's fair to say that as you move from 75 through to 81 the visual impact of the new proposal becomes more noticeable, because it's more in your field of vision from the property, 75 and it's probably a significant improvement because you've got a big building that's gone and another new one that's further away?

A. Again, yes I would agree with that, but I'm basing that off the visual assessment that Mr Brown has done. From a social perspective I would agree in terms of access out the front - the back of the property.

Q. And if we come to 83 if you like through to 89 on this picture, those are the houses where there's now a new visual impact that they see right in front of their properties, depending on how they landscape of course?

A. Yes.

Q. Whereas previously they didn't have anything above grade at that location?

A. That's my understanding of the plans, yes.

Q. But the benefits or the offsetting balancing factors that you refer to in your evidence in that case are things such as the increased open space as a result of shifting the portal to the east, correct?

A. That's correct, yes.

Q. Would it also include better connectivity around the other side of the motorway and the reserved space that will be left there?

A. I agree that assessment is also made in terms of the cycleway connection coming through the site, it provides a more direct connection for that.

- Q. And of course because they don't have a motorway going into a portal in front there's probably going to be some noise benefits and some other amenity benefits generally (inaudible 11:23:59)?
- A. Again, there are an assessment of the degrees in noise on that – on those properties identified, yes, from Siiri Wilkening.
- Q. Now on the bottom of this plan, on the lower side of the picture if I can put it that way, on the left-hand side we have the Avondale Camp which benefits significantly, doesn't it, from the relocation?
- A. Yes I would identify that that would.
- Q. And then further away, further east, below Alan Wood Reserve and not shown on this photograph are some more houses, but is it your view that while the visual – while the view changes in fact overall those houses are not really affected in any particular way by the proposal?
- A. I would defer the visual assessment to Mr Brown again, but certainly from a social perspective, no I do not consider that those houses were more affected than they currently are.

1125

- Q. In terms of your analysis of social effects, would you accept that option 3 is an effective method of mitigating the adverse effects of the current proposal for the southern building?
- A. I think option 3 provides social benefits that are identified locally in that community so, yes it would further mitigate the effects of that structure, of that facility in that area.
- Q. And having carried out the analysis that you've done and it's reflected in the evidence we've just been looking at, have you revisited or visited your view on whether it would be appropriate for the Board to require option 3 to be put in place as opposed to the base option, in terms of those mitigation measures;
- A. I think more in terms of the bal – I have, more in terms of the balancing exercise from a planning perspective and I think the consideration that needs to be made to my mind as a planner, is had the – did the original proposal adequately or appropriately mitigate the effects such that the project was consistent with part 2 of the Act and our conclusion was that it did. Certainly with the response, the design response and the

landscape and visual mitigation, so conditions that had been put forward in terms of the southern ventilation building and stack, that was the conclusion of the evidence-in-chief and my conclusion that I reached there. I consider I would still make that conclusion with this option on the table, but I recognise that this option has local benefits.

Q. What are the factors that you say weigh against the improved social effects analysis for option 3? Why, as a planner, do you think you wouldn't take the better option?

A. No, as a planner I'm saying, would the original option, if as put forward and lodged in the proposal, meet the tests of the Act and the conclusion was that it did and does. Does this revised proposal offer additional benefits? Yes I consider that it does socially. That's the conclusion.

Q. Which option better meets, for the purpose of the Act, for sustainable management of natural and physical resources in your view?

A. I think that the significant regional costs need to be taken into account and I think this is a challenge, it is a public project, we are looking at a lost opportunity for further public project from this on the evidence that has been presented by Mr Parker and again by Mr Copeland. I think those factors represent a higher regional impact and I think those are the matters that need to be considered in terms of – balanced against that local social and visual benefit.

THE COURT: JUDGE NEWHOOK

Now I think I can see where you're going next Mr Allan. I'm going to put this thought to you, and that is, that between that answer that she's just given and the previous answer, which we listened to carefully, you probably got the issues into the box, after which I think it probably is a matter for us, as to the weighing. Unless there is a particular angle that you wish to drive at in the comparison that hasn't yet occurred to us. But it seems to me that we've got to the point where it's a matter of weighing for us.

MR ALLAN:

And sir I think it's pretty clear it's a matter of cost, and I guess what I wanted to clarify perhaps with the witness next is, are we down to a dollar issue in terms of –

THE COURT: JUDGE NEWHOOK

“Dollars and other projects,” was her answer, dollars and other projects versus a clear answer on improvements in amenity or social –

MR ALLAN:

Perhaps I can ask one more then.

THE COURT: JUDGE NEWHOOK

- qualities.

CROSS-EXAMINATION CONTINUES: MR ALLAN

Q. Which other project is not going to be able to be done as a result of the call that the Board might make on this 13.5 million?

1130

A. I appreciate that complexity. As I said, I'm basing that on the evidence that I receive and we all heard from Mr Parker that it does defer projects of – that have been identified for transportation projects across the country. No detail was given but I...

Q. Can I ask you some questions about what I perceive to be a tension in your role in this project. You have, as I perceive it, quite an important role in terms of putting together the project, putting together the evidence, collating all the material in terms of the designation and making the planners, the sort of active planner's role, in terms of running the project. At the same time you are the person who's been selected to carry out the analysis of social effects on the proposal, and my perception of that is that analysing social effects is actually something that requires judgement and assessment and weighing up and balancing, in a way that perhaps noise evidence, there's a standard, do you measure it or not? There's other things that flow of course from

that, but there's nothing you can say tick, cross or whatever on social effects. Are you conscious of that tension in your roles?

- A. Yes I am, and that was the reason that we had the peer review by Julie Meade Rose and the reason that she has also presented, or is presenting, evidence.
- Q. And are you conscious particularly of the tension in terms of these issues we're looking at just now where the project interests and the local – the social interests, if I like, if I can put it that way, are a little bit in conflict with each other?
- A. I think that is reflected in the assessment that I have done that I think socially, and I have concluded that in the rebuttal evidence that there are social local benefits to this project. So I think while that tension is there, yes I think the tension is there and it is reflected in the challenge between the social assessment and the planning assessment.
- Q. It does make it very difficult, doesn't it, to make a call on this particular issue?

THE COURT: JUDGE NEWHOOK

No look I think you're getting into our area there Mr Allan.

CROSS-EXAMINATION CONTINUES: MR ALLAN

- Q. Can I move on from that picture to the ones relating to the northern portal and in particular Mr Brown has attached to his, I think, evidence-in-chief. Sir this is tab 28 of the evidence-in-chief and it's the picture I put to I think Mr Parker, which is that one. And it's an appendix B, visual simulations, attachment B3 viewpoint 7/R16. In front of you?
- A. Not quite, sorry.
- Q. Again it might be useful to have it up on the screen if possible.

THE COURT: JUDGE NEWHOOK

Yes, can that go on the screen please operator.

CROSS-EXAMINATION CONTINUES: MR ALLAN

Q. Now in response to a question from my friend, Ms Devine, you said that you didn't accept that shifting the northern stack to the eastern side of Great North Road would have any social benefits arising. Do you recall that?

A. Yes.

Q. I just want you to look at these two pictures and leaving aside the issue as to whether the version of the stack that's on the picture is an attractive one or elegant or urban sculpture, I want to ask you about how people might perceive that occurring in their community and the social effects that might flow from that. Leaving aside again the issue about whether they're going to be poisoned by what comes out of the top of it. Would you accept as a planner and a person who's looking at the social impacts that having within your residential community and next to your community's school a 15 or 25 metre high stack, no matter how architecturally designed, that exhaust fumes from a motorway tunnel might be seen as being an offensive or unattractive option?

1135

A. Yes I would.

Q. And do you accept that for the reasons put to you in some detail by my friend, Ms Devine, that might have some flow-on effects in terms of school roles and community cohesion.

A. Again yes, but again I think the issues of perception, I'd refer to the issues of perception in my evidence where I talk to this issue specifically. But yes, I would.

Q. There's a difference isn't there between a perception that something is going to cause health difficulties for somebody, which if it's wrong is something we can recognise but not really take too much notice of, and a perception that something becomes a symbol of a community, something that creates discomfort for the people who live in it, regardless of its health affects, do you accept that?

A. Yes, yes I do.

Q. And if we focus on the second one. Would you accept that the community may well feel more comfortable with this aspect of the

proposal where it shifted to the right-hand side of the road in Mr Brown's picture, eastern side of Great North Road, where at least it's not embedded in the physical residential community?

A. I accept it as a view because it has been expressed by the community, yes.

Q. When it comes to social impacts, the views expressed by the community are quite important aren't they?

A. They are, yes.

Q. And regardless of whether people think this is an attractive stack, if the community says, "We'd really rather not have a stack at all, or at least a little further away please," that's something we should give some weight to isn't it?

A. It certainly, yes as a matter of consideration for social impact assessment.

Q. Now if I take you then to the previous picture in that evidence, which is viewpoint 5/68 attachment B2, and sir that's that picture there. That's a view from the school grounds across to the current location of the stack and that view really reinforces the discussion we've just had, in terms of the views down Great North Road doesn't it, about the way that the stack can sit in this residential area and effectively impose itself upon there?

A. Yes, this is a view from within the school, but yes.

Q. Now I'd like at this point to go to another one of your attachments to Mr Walter's evidence. I don't think this was attached to your evidence this time. This is Mr Walter's rebuttal annexure E. Again it might be helpful if we can get that up on the screen. It's that picture –

THE COURT: JUDGE NEWHOOK

Now which tab in the rebuttal?

MR ALLAN:

Oh, good question, I don't think I've got that volume with me. He would be, I suspect number 2.

THE COURT: JUDGE NEWHOOK

One of the early ones wouldn't he?

MR ALLAN:

I think he's number 2. Ground metal plan, it's that one.

THE COURT: JUDGE NEWHOOK

Which annexure?

MR ALLAN:

Annexure E, rebuttal annexure E. It's the alternatives 1, 2 and 3 for the northern stack location. That's – yes that's it sir on the screen.

CROSS-EXAMINATION CONTINUES: MR ALLAN

Q. So what I'd like to take you to is alternate vent stack location 1, which is the one that rather oddly straddles the designation boundary, but it's in the general location that my clients would be comfortable with. That's proposed to be located within the area that's currently treed, obviously it would need new planting, and on the eastern side of Great North Road, agreed?

A. Yes.

1140

Q. Now what I'd like to do very briefly is to take you through the potential audiences for that stack location and do the same sort of thing very quickly that you've done in terms of the southern building. Just consider who might be affected, who might not be?

A. Sure.

Q. So if we start with the western side of Great North Road, which is currently houses, we're seeing the project buildings and then the school, would you accept that nobody on that western side of Great North Road is going to be adversely affected to a greater extent by the new location than they are by the current?

A. From a social perspective, absolutely I would agree with that.

- Q. The other landowner that's apparent in that picture is BP, whose service station is at the top left-hand corner of the picture when we look at it, the orientation is on the screen at the moment. The BP station is oriented away from alternative vent stack site 1 isn't it? It's focusing down the road towards the intersection – sorry, the interchange?
- A. That's correct
- Q. Correct. And would you agree that BP isn't adversely affected in any way by the shift from the current proposed stack location to the alternative vent stack 1 location?
- A. From a social perspective I would confer, yep.
- Q. The next area I'd like to look at is the public space and this picture shows some of that public space on the eastern side of Great North Road. It goes down the creek, it then comes up with a little vegetation to the other side to Unitec. Do you consider that there's anybody, in terms of that area, that would be adversely affected by the relocation?
- A. Think some consideration would need to be given to the walkway and users of that walkway, which you can just make out under the text "Oakley Esplanade", but... Yeah, so just for that audience, yes.
- Q. And careful planting may well, at least mitigate any effects in that regard?
- A. I would think so, again from a social perspective, yes.
- Q. And of course from that walkway currently you'd be able to see, I suspect, the current proposed site for the stack, it's a little further behind if you're walking towards the creek, but it's in a similar sort of distance away?
- A. Again, this is not – I would seek some input from Mr Brown on that in terms of the steepness of that slope. It is quite a drop down there in terms of visibility, but I would certainly expect there'd become a point where you would be able to see the stack as it's currently proposed and this location.
- Q. Would you accept that from a social impacts perspective, locating the stack on the eastern side of Great North Road rather than its current proposed location would be beneficial?

A. I think... It's still going to be – the vent, ventilation building itself is still going to be adjoining the school so you're effectively splitting the two elements of the ventilation system on either side of the road. I think that from a – that would still have some issues I think we'd need to work through in terms of the perception of those two being a joint facility anyway. I mean we're talking about people's perceptions about whether they are having an effect on them or not. You would still have that building next to you even though the stack would be an increased distance from you. I think my understanding is the stack, particularly at 25 metres, as currently on the previous plan would still be visible from that site as well.

Q. But from the public's perspective there's no need for the stack necessarily to be located immediately next to the buildings that happen to run the fans that drive the fumes up the stack is there?

A. My understanding, and again on the evidence of Mr Walter, there's no engineering reason for it.

Q. And if we drive down the road and we see a bunch of bland but attractive looking building on the left-hand side and a big stack on the right, we may or may not make any connection between the two?

A. No I –

Q. As members of the public?

A. No and I suppose the issue here is that the degree to which – the perception issues associate those two buildings together or otherwise, yes.

1145

Q. Well back to that question then. I fear you're struggling to say it's beneficial. Can I at least ask you, there's no negative social effects of shifting it to the other side of the road, is there?

A. Other than that audience of using the walkway, I would see no negative from moving it. So the only other point about that though, if you really want a qualification on that, then that would be the proposal that was submitted in Unitec's evidence for the future structure plan on that site. So their aspirational planning, they have identified and presented in the evidence of Mr Conder, I believe, has a accessway in the proximity of

that vent stack, though it is just a conceptual diagram, much like the future planning framework.

Q. And as a planner, I presume you'd agree that you could move that accessway with a bit of flexibility –

A. I would assume from the structural designs that yeah, the level of design that's been done that we could work around that.

Q. I want to address briefly with you, because I know that there's a witness coming along with connectivity, but just some very general principles. You'd recognise, I think, that pedestrian and cycle connectivity are important in terms of provision of, or the creation and maintenance of social coherence in an area such as Waterview?

A. Yes I would.

Q. And would you accept that if there's a loss of quantity or indeed quality of public open space, and I'm thinking here particularly at the southern end of the tunnel, one way to offset that is to improve connectivity to other areas of public open space that might be able to compensate for some of that loss. Would you accept that?

A. Yes I would.

Q. You said, in response to questioning from Mr Lanning, that with respect to the open space in the southern area, around Alan Wood Park, that, as I read it, "Because in terms of noise, whilst there will be a greater degree of noise in that area, but the level of noise that will be generated will be no worse than in other parts around Auckland." Do you perceive that to be a change in conditions, rather than an adverse effect if it arose? Am I paraphrasing you correctly or have I misunderstood it?

A. No, as – I think from an open space perspective that that's, in terms of the open space issue, that's correct, yes.

Q. I'm going to suggest to you that the level of acoustic amenity that one has in a park is part of the overall amenity one gains and the social benefit one gains from that park. Do you agree with that?

A. Yes I do.

Q. And that if this project leads to a loss in acoustic amenity, then regardless of whether some other parks on the corner of other roads

might have worse noise conditions, that's still a loss for the people who use that park?

A. I would agree with that and I would say that that is reflected in the caucusing, open space caucusing statement that was concluded there.

Q. One of the opportunities that's available at the southern end of the tunnel, to overcome that loss of amenity, in terms of acoustic amenity and overall loss of quality of public open space, would be to connect the southern end across through the Soljack Place area up into the ribbon of parks, if you like, that run through to the Oakley Creek again, and through Unitec. Can you see the logic in a proposal that says, "We can offset that loss of acoustic amenity and other amenity by providing that link"?

A. Yes certainly the link itself wouldn't provide that, but once you were in the reserve, yes you would experience that different passive open space, yes.

Q. Absolutely. The link itself could be quite noisy on occasions (inaudible 11:49:08). But once you're there, you're into a part with a much quieter environment aren't you?

A. Significantly, yes.

THE COURT: JUDGE NEWHOOK

Now Auckland Kindergarten, of course not represented. You were going to put some questions on Mr Ryan's behalf.

MS JANISSSEN:

Just one question on behalf of the Auckland Kindergarten Association.

THE COURT: JUDGE NEWHOOK

I should probably have had you do this before others cross-examined, but let's see how we go.

1150

CROSS-EXAMINATION: MS JANISSSEN

- Q. Ms Linzey do you support the offer of the permanent relocation of the Waterview Kindergarten, as the Agency proposes, as a means of mitigating or avoiding the social effects of the project on the kindergarten?
- A. Yes I do. The comment made in my rebuttal evidence to that effect and the revised condition that has been put forward.

THE COURT: JUDGE NEWHOOK

Friends of Oakley Creek.

CROSS-EXAMINATION: MS DOCHERTY – NIL

THE COURT: JUDGE NEWHOOK

If parties are finding that others who have gone before them put questions, got answers and they don't need to repeat them that's fine by us, thank you very much. Star Mills, Mr McCurdy.

CROSS-EXAMINATION: MR MCCURDY

- Q. My questions relate to the proposed public information conditions, page 15 and (inaudible 11:51:17) on the allocation of community liaison groups to parts of the project. And could I have your opinion on whether perhaps the State Highway 16 causeway would be better directed with the Waterview community liaison group, on the grounds that causeway works over the stretch of the estuary will affect Waterview residents and other groups who are involved with the causeway are not necessarily resident, either along that part of the works. So there is that direct connection from the Waterview residents to the causeway.
- A. There is also a direct connection for the residents of Te Atatu because they are such high users of that section of State Highway 16 during construction. So I suppose that was why they had been grouped together in that sense.

- Q. Is there some other arrangement that would reflect the interests of the Waterview residents? Can you suggest an arrangement that would do that?
- A. I suspect it could be as much a definition of the issues that each community liaison group wished to talk and discuss in terms of the construction programme. I would anticipate the Te Atatu community being particularly interested, for example, on the traffic management operations that were going on on State Highway 16 during construction, and perhaps some of the more operat – some of the elements at the Whau River crossing for example and the bridges there, that sort of construction activity. There may be other work that is of more interest to the Waterview community, which would be things such as the realignment of the stream within the estuary. That kind of detail. It's certainly not intended to exclude any of that information between those two groups. They're a suggestion just to make sure that the entire project was covered, was identified in that condition so we can certainly try and reflect that.
- Q. That answers that thank you. And PI6 on the following page at the top. "The community liaison group shall be provided an opportunity to review and comment on the following plans". I wonder should that be a plural rather than a single opportunity in that other concerns and the advice might suggest that there's ongoing input into the plans rather than a single opportunity to review?
- A. I think that that would be a good suggestion, yes. Opportunities, is that what you mean? Yes.

QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP

- Q. Ms Linzey, I should know this by now but please refresh my memory. Is there project documentation that requires the designation to be uplifted from the land not required for operational purposes on completion of the project?

1155

- A. My understanding is no that there is not. There is a commitment in the documentation, but there is not a condition to that effect.

MS JANISSSEN:

Sir perhaps if I could add there, it is quite often imposed on the Agency's designation so we could look at getting wording for that. There's usually – it's wording to the effect that land no longer or not, no longer required for construction, it's in - pull back the designation boundaries as far as practicable. Because it is recognised that there are often times some areas that are just required for construction, not for operation. I don't know what the extent of it is in this project, but we could certainly have a look because I know there's usually a normal type of standard condition that refers to that.

THE COURT: JUDGE NEWHOOK

If that's something that's normally or quite often imposed –

MS JANISSSEN:

Quite often.

THE COURT: JUDGE NEWHOOK

- imposed on these sorts of projects you're nevertheless saying it hasn't found its way into the book as yet.

MS JANISSSEN:

Certainly, I'll have a look.

MR DORMER:

Can you have a designation limited by time? Can you put a sunset clause on it?

THE COURT: JUDGE NEWHOOK

Well that's something that parties could address for us. My own feeling about it, as I sit here, is that it mightn't necessarily be expressed in terms of time as a month and a year, but by reference to works and activities. And I don't see the liberty with doing that. So thank you for that Ms Janissen, if you will make a point of addressing that.

QUESTIONS FROM THE COURT CONTINUES: COMMISSIONER DUNLOP

Q. Ms Linzey I've just turned out sheet 113 of the drawings set that was provided to the Board of PT and active mode transport routes as a convenient place to find a footprint of a designation.

THE COURT: JUDGE NEWHOOK

And if you can get the plan reference we could have it put up on the board electronically.

THE COURT: COMMISSIONER DUNLOP

The full reference Your Honour as I read it is 20.1.11-3-D-N- that's (inaudible 11:57:52).

QUESTIONS FROM THE COURT CONTINUES: COMMISSIONER DUNLOP

Q. Now I've just about forgotten the question. I think it something along the lines Ms Linzey, is the location of Mr Walter's alternative stack option 1 on the eastern side of Great North Road, which we can just see up there, within a part of the proposed designation that would not be required for operational purposes (inaudible 11:58:51)?

A. Yes it is.

Q. I just have to – I'm not going to ask any more questions about that, I'm going to mull about the implications of that, if any, what has been discussed around that subject thus far and move to a different topic and I expect you would agree that if the Waterview Primary School were to close, that would be a significant adverse social effect?

A. Yes I would agree.

Q. The evidence is that the school role has oscillated between different levels and the question I'm coming to is something along these lines. Am I correct in understanding that the quality of education provided by schools with smaller roles is not always less than the quality of education provided by schools with larger roles?

- A. Statistically, yes. My experience, schools deliver different functions for different communities, also goes to parents' choices in terms of some people like small schools and some people like large schools. So there are a number of variables there that influence a school and its performance or its education facilities.
- Q. I hear what you say about a number of variables. We don't need to go there but I think we might all have some in mind. That's as much as I want to explore on that subject. A different one, again, just part of the factual matrix, and apologies if it's in the documentation, but is the Avondale Camping Ground operated in accordance with a resource consent or some other Regulation, with a capital R, that limits its use to temporary occupation?
- A. From a social perspective, it is my understanding that there are people there that permanently reside there, but I cannot tell you whether that is a consented process or not, but that is certainly the way we have looked at it, is acknowledging that there are people there who are at least moderately long term residents.
- Q. I've had some experience of these matters from early in life and I don't want any more information than what I need but I think I understand what you're saying. And finally, again, part of the factual matrix, in Ms Janissen's opening submissions at paragraph 127, she dealt with the Alan Wood Reserve and she said that in that reserve the issues were more complex as the area perceived as open space includes land owned and managed by council as a reserve, land owned by the Crown for rail and private land owned by the NZTA and private landowners. I suspect Ms Janissen was choosing her words carefully as she walked through those matters. Coming back to the land owned and managed by council at this reserve, can you tell the Board whether that land is in fact gazetted as reserve, under the Reserves Act please?
- A. We do have information on that, some of it certainly is, but not all of it. I would need to dig round to get the details of exactly which titles are gazetted reserve and which ones aren't. We have that information, I would need to come back to you with it, but certainly it's not entirely gazetted reserve but portions of it are.

THE COURT: JUDGE NEWHOOK

Yes we'd appreciate receiving that information as soon as you're able to, thank you Ms Linzey. Member Dormer.

QUESTIONS FROM THE BOARD: MR DORMER

Q. As you may apprehend Ms Linzey, most of my questions relate to the practical questions. I have a note that amongst the last of the questions put to you by Ms Devine related to the moving of the northern stack and I have your answer in quotation marks, "Moving it to the BP site would not have a reduced social impact", and yet from some of your answers to Mr Allan, I apprehended that that may not really be the case, that you're prepared to accept that there may be some reduced social impacts from moving it?

A. I definitely confirm that there are no greater adverse social impacts, but I think the issue of what social impacts there would be would need to be detailed through the form of that stack and issues of how people, whether people separated the ventilation building from the stack in their mind or whether it had just increased the footprint of those two facilities. But certainly the community have expressed a view in the submissions that separating them would be of benefit. So those were the acknowledgements I made.

1205

Q. Now on this far as practicable business, if we could turn to page 25 of the conditions. We have a table showing the times and the days of the week and various noise levels that should be complied with and as far as practicable. And we heard yesterday that a not exhaustive list as far as practicable and there couldn't be – might include any work on State Highway 16, building bridges on the causeway, batching plants, anything to do with Great North Road and that was so far as night-time was concerned, and at daytime this noise, that it couldn't be complied with in relation to rock breaking and piling. I appreciate it's not an exhaustive list. Now who is going to decide whether it's practicable to comply with the noise limits?

- A. The construction environmental management plan and the noise management plan set out a process by which, as I understand, we've set – well as they've been set out, set out the process in which the noise limits will be reflected from the conditions how that, those activities will be managed on the site and monitored. If those noise limits cannot be achieved in a practical sense there is the list of mitigation options that are identified from that, in terms of consequential actions. So I think – sorry, in answer to your question, the practicable is going to come from the construction team informed by the environmental compliance teams within that, and presented in terms of how that construction noise management plan will be implemented, will be put through to the Auckland Council for certification. So it would be those agents, those three elements that would be involved in determining what was practicable and where alternative mitigation measures would need to be employed.
- Q. As for the first step, who determines whether it's practicable or not, that's the construction team?
- A. The construction team, yes.
- Q. So my slightly off-hand comment yesterday that whether it's practicable or not, the assessment is made by the person making the noise would appear to be correct?
- A. That is correct, yes. I suppose the balancing act that they would need to do is the subsequent con – the subsequent actions that would need to be taken if it is not practicable, also have implications like temporary relocation has consequential impacts, costs and administration and time issues as well, so it's balancing those two sides of the equation.

THE COURT: JUDGE NEWHOOK

I wonder if there's a way forward on this issue which Ms Janissen and you, Ms Linzey, are well aware is on our radar, and given that this witness is coming back at a later time to answer questions in the planning arena anyway, and with the knowledge of the sorts of questions that Member Dormer, amongst others, asked yesterday and today, whether Ms Linzey could prepare a succinct statement of supplementary evidence

perhaps using examples in construction yards or some appropriate other example and giving us, schematically perhaps, a step through of how the condition, the CEMP, the input of Auckland Council would work, the trigger points, the checks and balances is a highly –

MS LINZEY:

Certainly.

THE COURT: JUDGE NEWHOOK

- important feature for us. I wonder if you could do that Ms Linzey, as early as possible and circulate that, file that with the Board and circulate that to the parties so that we could all be drilling into it before you return for your second appearance?

MS LINZEY:

Certainly.

QUESTIONS FROM THE BOARD CONTINUES: MR DORMER

Q. So there's the question of who decides whether it's practicable. There's the question of who decides which alternative mitigation measure might be most appropriate, and there's another question is when these decisions are made. Clearly it would be unsatisfactory for folk to be subject to noise beyond the permitted standards and for them to have no remedy until they're subject to the noise, when everyone has known all along that the batching plant is going to exceed the noise requirement. It seems to me the mitigation measure should be addressed before the folk are subject to the nuisance and the plan should address how that is going to be undertaken, I would have thought. Not to suggest I've reached any firm conclusions, but that's the way I'm thinking?

THE COURT: JUDGE NEWHOOK

For myself, I anticipate that Ms Linzey's supplementary material will be making heavy references to CEMP, working to the CEMP and certification by

Auckland Council and I think she and the legal team for NZTA are also fairly well aware that we might be wanting to think in terms of some wording changes in this kind of condition. Unless there's a very crisp operation through the steps that she's going to describe for us, and they might want to turn their minds as to whether some happier wording might be helpful in these sorts of conditions.

QUESTIONS FROM THE BOARD CONTINUES: MR DORMER

Q. I wonder if, off the cuff, you know where the batching plants are proposed to be, do you have a fairly good idea how loud they're going to be in the middle of the night? One would imagine it's not too big a stretch to see which folk are going to be affected by that. Let's get their consent or sort out now what conditions, what mitigation measures are going to be applied, rather than wait till folk to phone up at 3 o'clock in the morning.

THE COURT: JUDGE NEWHOOK

Unless there is an adequate mechanism through the CEMP, but we'll see what you come back with.

MS JANISSSEN:

Sir, perhaps I could make a note since it is very specifically in relation to construction noise, and I appreciate the issues there, I think we might bring in Siiri Wilkening as well because she's got on the ground experience as to exactly how this form of –

THE COURT: JUDGE NEWHOOK

Yes that seems to be an appropriate kind of example to seize upon. I mean these words are scattered through conditions other than noise control conditions, but that seems to be near the top of the radar screen, so, yes a joint statement from those two witnesses on how this would work would be a good idea, thank you.

MR DORMER:

You might wish to include the vibration in that as well, I mean if we look at page 27, condition CNV3, we've got exactly the same formula of words in relation to –

THE COURT: JUDGE NEWHOOK

Yes, oh well.

MR DORMER:

- construction vibration.

THE COURT: JUDGE NEWHOOK

Without opening it out too greatly, Mr Millar as well. Member Jackson.

QUESTIONS FROM THE BOARD: MS JACKSON

Q. Ms Linzey, would you also include condition SO2 on page 52 in that assessment, it's where noise is likely to affect the school, that would be appreciated?

A. Certainly.

Q. If we could just talk about the community liaison group that's to be formed and I see when you did the consultation interview you sent out notices in a number of different languages. So when the community liaison group is formed, will they be able to handle those ethnic minorities and make sure that they are also informed, as part of their job that they're given?

1215

A. One of the amendments that has been suggested in response to the expert caucusing on this issue is amendments to PI2 on page 13 and that suggests that specific attention is given to inviting and including a number of new organisations through the communications plan and onto the community liaison group, and that includes groups representing ethnic and migrant communities. So while I'm not – I wouldn't envisage the community liaison group being a multi-lingual operation we certainly extended the invitation to those groups so that those organisations that

reflect those groups have an avenue into those community liaison groups and that would be the point of connection as I would see it being proposed.

Q. So I guess my question should have been how do you let those other ethnic groups know that there's meetings? Do they understand what the meetings are about and why it's important that they go along?

A. Certainly. Again, the communications plan we have put forward is PI2 as a proposed condition would set out details of how to communicate with the public. I – while it is not a condition I would anticipate that the translation services that have been going through this project would be offered through that communications plan. They've been in place now for the last seven or so years, in terms of doing that for newsletters, and for media releases and for advertising in the local radio stations as well.

Q. So when you had your project open days did you need to use the translators?

A. We had translators – we did not have translators at all open days, we did have them at some. They were very intermittently used. Some people did bring their own translator with them though I would say. Some, often people will bring a friend and that person will translate for them, rather than use someone they don't know.

Q. How do you know that the community liaison group, if they come along to a meeting and state an opinion, how do you know that that is the opinion of the residents that they're representing?

A. I suppose it depends which group you're talking about. Some of the representatives with the suggestion of people like the local boards be included would be elected representatives and I suppose they have that position affirmed through that process. In other cases you, there are opportunities I suppose if you have – if you were in doubt of that maybe you would extend a wider consultation process with the community, or if you had uncertainty that you had captured everybody represented through the community liaison group, that that represented every community view, then you, through the communications plan, which would be a wider distribution of material, you could distribute information more widely and follow up on that basis. But, as with all these

processes, you do get a subset of the community that puts the energy in to represent the community. I think, I mean it's a fair point. There are some efforts you can make, but there's not a definitive answer I can give in guaranteeing you could get that representation.

Q. So maybe there needs to be a mail-out after the meetings to just, like minutes or something, to let the others know what was discussed?

A. Again, one of the communication plan tools is the website, that's identified in the communication plan. Certainly that would be the kind of form you would put that sort of information on fairly regularly. Again it becomes a forum that is by a interest that people will use it, but it can make them – it would make that information available for wider public consumption if they wished to.

1220

Q. I want you to comment on the working liaison group, as opposed to the community liaison group. Are these things going to be structured so that the community liaison group might feel a bit intimidated that the working liaison group is going to make decisions and come along to the community group and virtually tell them what's happened?

A. There are some areas of overlap in terms of the function of the working liaison group, but the principal forum for it is to look at other agencies who are doing work in the community as well, be it Housing New Zealand or the local councils or Iwi and rail, so it's looking at bringing projects together and how better to integrate their delivery. Though there, as I say, there are some elements in terms of commenting on the plans as well but it does have quite a separate function I would see from the community liaison group in that regard.

Q. The Housing Corporation New Zealand tenants, if you wanted to temporary relocate these people, how much notice would they expect to receive?

A. Certainly we are working with Housing New Zealand in terms of the engagement and I would refer to my rebuttal evidence where we have proposed an amendment to the CEMP to reflect the need to communicate. Sorry, let me just track down the page of it. It's

annexure F, page 53 of the rebuttal, of my rebuttal evidence “social”. That sets out the process.

Q. But did I see a time there that –

A. No, that need – the timing in terms of how long Housing New Zealand requires would be something that they would then take on to do, because they contact their tenants in terms of their relocation policy. So we advise Housing New Zealand, NZTA sorry, or the contractor would advise Housing New Zealand and then Housing New Zealand would implement their relocation policy within that.

Q. Because it could be a major effect couldn't it. I mean if they have to move so that they've got to drive the children to school, rather than they walk to school or – there could be some significant issues to those families?

A. In terms of temporary relocation?

Q. Yes.

A. Yes.

Q. Just my last question is, is the NZTA going to try and make the project a bit more user friendly by involving school children in site visits to see the big machines and the different construction activities that's happening?

A. I've seen that successfully employed in projects and again that is the suggestion through the education liaison group to offer that sort of opportunity, but it would be at the enthusiasm or the, you know, the interest of those particular schools and education facilities that are included there.

Q. Because another way you can get community ownership is also to have like a art wall where you put up a temporary, maybe a timber noise barrier and have the kids do some art on it and it works terrific, it cuts down graffiti by I believe up to about 80% and also the kids feel that they have an attachment with the project?

A. Yes. I agree with what you're saying, I think the idea of the importance of the community involvement in the project is a big opportunity socially to address and if – mitigate I suppose some of those construction impacts we've been talking about socially. They're not put forward as conditions, I think compelling, requiring people to do it would – it's a

difficult balance there between requiring, offering it, and requiring it to be done in terms of getting a positive social outcome from it.

1225

THE COURT: JUDGE NEWHOOK

I think Member Jackson, like myself, is a keen amateur bulldozer driver. I'll own up anyway. Member Hardie.

QUESTIONS FROM THE BOARD: MS HARDIE

Q. I think most of my questions have been covered. I've just got the one Ms Linzey. Just with regards to your evidence-in-chief, paragraph number 134, it says in there that NZTA, regarding opportunities to retain parking and management the construction activities for the Somoan Assembly of God and Church of Tonga. Has that been sorted?

A. In the case of the Church of Tonga, the approval from NZTA I understand has been given for them to use the carpark within the designation area and there has been some work done in terms of how that carparking would be, might need to be temporarily rearranged during construction activities but could be reinstated following construction, so the area that is required is a construction one. The Church of Samoa, sorry Samoan Assembly of God, it's a property, part of the property negotiation that is currently underway on the Public Works Act, in terms of purchasing some land and maybe offering some alternative land, that has not yet, is my understanding, concluded.

QUESTIONS FROM THE COURT: JUDGE NEWHOOK

Q. Ms Linzey, I signalled to you before the morning break that I wanted you to consider the issue of the need for any resource consents to put a cycle pedestrian way through Phyllis Reserve and Harbutt, by way of example. How did you go with that?

A. Yes I – so we have undertaken an assessment of the consent requirements for the entire cycleway and the bridge components that have been put forward.

- Q. All right, well if you perhaps isolate the two that I've asked about first of all, if that's possible and then round your answer out with the other information.
- A. Sir, the first being the Soljack and the Harbutt route, Harbutt/Soljack Bridge. The consent requirements there and there are a few assumptions there, but assuming the height of the bridge complies with the definition of a building, which includes bridges over or under a public place, it would be a non-complying activity in the open space 2 zone and the discretionary activity in the open space 3 and there is a combination of those between Soljack and Phyllis. But the bridge that is identified, sorry there's just – there's a few bridges here, the bridges that have been identified running from Soljack Bridge across the railway is open space 2 land, so that would be non-complying. The property issues there also that would – it's a designation for the North Auckland Rail Line, some of that designation extends northwards. So the final landing place of that bridge and possibly the footway connection from it may also have some property requirements or property negotiations required from Kiwi Rail. Sorry, the second bridge zone Your Honour.
- Q. I was thinking in terms of the cycleway through, not just that area but also into Phyllis Reserve.
- A. Certainly. So Phyllis there are, again it depends on the alignment, but there are potentially two or three residential properties that would be required for the physical cycleway itself. There have also been, and this is referred to in the open space options report from Mr Little, who will talk later. Some (12:29:29) issues identified, some crime prevention environmental design issues identified there and the potential to acquire some other land to open that walkway up for passive surveillance, increased passive surveillance. But putting that to one side, it's just those three property, residential properties potentially to get a cycleway compliant alignment through between Phyllis and Harbutt, that doesn't currently exist.
- Q. Any non-complying activity consent necessary through there?

1230

- A. The only – well the issue would be for earthworks, again assuming that they exceed five cubic metres for that cycleway, then that would be a non-complying activity as well.
- Q. Five cubic metres?
- A. That's correct
- Q. That's not very much.

MR DORMER:

So would the cycleway activity require (inaudible 12:30:23).

QUESTION FROM THE COURT CONTINUES: JUDGE NEWHOOK

- Q. Yes, and the cycleway activity, a useful additional question from Member Dormer.
- A. Permitted in all open space zones.

MR DORMER:

- Q. But it wouldn't be open space zone unless you rezoned it?
- A. The residential properties?
- Q. Yes.
- A. Yes, yes and that's an issue in terms of recreation open space uses on residential properties, that is also a non-complying activity I understand, in terms of what we're doing at Saxon.

QUESTION FROM THE COURT CONTINUES: JUDGE NEWHOOK

- Q. And was there any further information further north of that that you wanted to offer us to round the thing out?
- A. The Alfred – I suppose there are a few other issues which are trees, general tree protection issues, but one might assume you could work around a lot of those, except work within the drip line.
- Q. Well I think those come to an end in January next year, don't they?
- A. That is correct, yes. Potentially the regional council earthworks provisions as well. Again, will just depend on the ultimate volume. They are much greater. Then the other issues are the land and designation

requirements so in addition to the Kiwi – the rail designation, which is H1309, there's the Unitec designation and landowner issues.

Q. Thank you for that answer Ms Linzey, that clarifies things more for me.

MS DEVINE:

Sir, may I just before Ms Janissen steps up, and my apologies for the delay in coming to you. There was just a point of process you asked us to come back in an hour and Ms Linzey to produce the map that she was referring to.

THE COURT: JUDGE NEWHOOK

Yes, thank you.

MS DEVINE:

Annexure to, and I have copies of that to provide.

THE COURT: JUDGE NEWHOOK

Yes if you would provide those to the registrar, those will be exhibit 2.

MS DEVINE:

Yes to produce them she would need to put one to the witness so she agrees. I think she has that in front of her, but that's the set of them for forwarding for the witness. Ms Linzey, if I may Your Honour just ask Ms Linzey to produce that and put that into the record.

THE COURT: JUDGE NEWHOOK

Just ask her to identify it as the map that you were previously questioning her about.

FURTHER CROSS-EXAMINATION: MS DEVINE

Q. As Your Honour has said, is that the map that we were previously discussing Ms Linzey?

WITNESS REFERRED TO MAP

A. It is the overall one, there is also the Pt Chev/Western Springs precinct plan which is the concentrated area between Carrington Road and

Eric Armishaw Park that I was specifically referring to. However, I would confirm that that shows the same detail that is on that plan.

Q. The orange line being the same improved connectivity, or the key cause in this case, with the arrow across the road there, the motorway? The orange line?

A. In fact – yes, the detail is probably slightly better in this plan in terms of showing how that configuration works, but the principle – in principle the concepts are the same.

RE-EXAMINATION: MS JANISSEN – NIL

WITNESS EXCUSED

MS JANISSSEN CALLS

JULIE MARGARET MEADE ROSE (SWORN)

Q. Is your full name Julie Margaret Meade Rose?

A. Yes it is.

Q. And have you prepared a statement of evidence dated 12th of November 2010 in these proceedings?

A. I have.

Q. Are your qualifications and experience as set out in paragraphs 2 through 5 of your evidence-in-chief?

A. They are.

Q. Do you have any corrections you'd like to make to that evidence?

A. No I don't.

Q. Do you confirm then that the contents of your evidence are true and correct?

A. I do.

THE COURT: JUDGE NEWHOOK

Mr Allan?

MR ALLAN:

Having asked my questions of Ms Linzey, I don't think I need to ask this witness any questions at all sir, thank you.

THE COURT: JUDGE NEWHOOK

All right, that's fine, thank you very much. Questions from the Board, starting with Member Dunlop.

QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP – NIL

QUESTIONS FROM THE BOARD: MR DORMER – NIL

QUESTIONS FROM THE BOARD: MS HARDIE – NIL

QUESTIONS FROM THE BOARD: MS JACKSON – NIL

QUESTIONS FROM THE COURT: JUDGE NEWHOOK – NIL

WITNESS EXCUSED

MS JANISSSEN CALLS**DAVID RUSSELL BLACK (SWORN)**

Q. Is your full name David Russell Black?

A. Yes it is.

Q. And have you prepared evidence-in-chief dated the 11th of November 2010?

A. Yes I have.

Q. And rebuttal evidence dated the 1st of February 2011?

A. Yes I have.

Q. And your qualifications and experience as set out in paragraphs 2 through 6 of your evidence-in-chief?

A. Yes.

Q. Are there any corrections you'd like to make to that evidence?

A. No there are none.

Q. Do you confirm that the contents of your evidence-in-chief and rebuttal are true and correct?

A. Yes I do.

QUESTIONS FROM THE BOARD: MS HARDIE

Q. I've just got one question with regards to air quality.

A. Yes.

Q. You've considered Mr Fisher's evidence with regards to distances from residential houses to the causeway. I think he refers to a distance around 20 metres as being a reasonable –

A. Yes.

Q. – distance? I'm just wondering because most of us don't live in our house and we live in our, the environment in our backyard, are there any health effects associated with the distances proposed in this project, in terms of the backyard distance from the edge of the causeway?

A. There are inevitably health effects associated with the use of internal combustion engines and this is a road, but by that distance and using Mr Fisher's techniques of dispersion, the levels of effect are in fact below those which would be routinely encountered in suburban roads. There are many roads around Auckland which are, in which yard spaces

are much closer. So the answer to your question, literally, is that I can't say there are no health effects for that proximity to engines burning hydrocarbon fuels, but they are more than acceptable. There are roads in Auckland which are a much bigger concern, or which are in fact a concern. This proposal is not a concern in the overall protection of public health.

Q. When you say, "There are more roads in the Auckland area that are of a higher concern," are you comparing that with – because this is a tunnel as opposed to an open causeway, or are you just simply stating distances in –

A. I'm talking about – perhaps I misunderstood your question, but I think you were asking, I thought you were asking about the distance of houses from the motorway?

Q. Yes that's (inaudible 12:44:08).

A. Well if we take roads like Manukau Road, Dominion Road, busy roads round Auckland in which there is traffic which is running at uneven speeds, stopping and starting, which has a very significant effect on emissions, those are – and which there are yard spaces which are only a matter of maybe less than 10 metres away from the roadway, they're of much more concern than 20 metres from a road in which traffic is running admittedly at high density, but at relatively constant speeds. So that's – and that's why as I say in my benefit there, I mean the reality is we are, at this stage a society with heavy use of internal combustion engines. A motorway like Waterview is an efficient way to use that technology, and one in which the technology minimises its output of potentially harmful discharges.

QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP

Q. Dr Black, a couple of questions arising out of paragraphs 39 and 40 of your rebuttal?

A. Yes sir, I'll just turn to that.

Q. In one of these paragraphs you're discussing the air quality section 42A report?

A. Yes.

- Q. And in particular, the materials proposed in that report on the subject of regional air quality air targets, the PM2.5s?
- A. Yes.
- Q. And you indicate your agreement that fine particulates are of particular concern to public health and you tell us that you're confident that the predictions made by Mr Fisher are reliable and that you're reassured that the project will not overall adversely impact on public health?
- A. Yes.
- Q. Even having regard to the fine particulates?
- A. Mmm.
- Q. Now it seems to me, the way you've crafted that sentence you've moved from the subject of the potential effect of PM2.5s and their alignment with the regional air targets. In a particular locality, potentially, you're telling us what your conclusion is overall?
- A. Yes I see that.
- Q. You see my point?
- A. Yes I do sir, yes I do.
- Q. So my question to you might be something like this. How can you hold that opinion that the accumulative effect if the project is to cause regional air quality targets to be exceeded in a particular locality?
- A. Because sir, the regional air quality target, there's a target, not an absolute standard. And because there may be peaks of exceedance, but the extent of those overall will be small and any overall effect on breathing air, breathable air in the region of the project will be minuscule. Therefore, in my view, in the real world, which you know, I as a public health physician I have to work in, I find that acceptable. But it is important to acknowledge that those targets are not always achieved and the reasons why they're not achieved have much more to do with the current vehicle fleet and our policy of not requiring emission control or emission control testing, than it has to do with the design and location of our roads.
- Q. I'm not sure if the Board's got a jurisdiction over the former Dr Black, we're here to deal with the latter –
- A. Well I'm –

- Q. – as well as we can.
- A. Absolutely sir, I'm not suggesting it has, but that is the reality of an assessment that I have to make. It would not be practical to say that we have to redesign our roading network to accommodate the facts that we have large numbers of Japanese imported vehicles with poor emission quality control, for example, not just those.
- Q. I imagine there are multiple regional air quality targets that apply across the metropolitan region. Do you know whether there are other instances across the metropolitan region where those targets are exceeded?

1250

- A. The way I tend to look at things sir is not so much in terms of whether targets are, the specific targets are exceeded, but I have looked in many instances as whether acceptable levels are – or unacceptable levels are found. So you know that's just, reflects my role as a public health physician rather than an air quality expert. And the answer if you'd accept me answering that question in that way, the answer is yes absolutely. A very near one to here is Queen Street where the canyon effect of Queen Street creates some really quite unacceptable and air quality results. There are some ongoing debates which are well-known. That there are tens to hundreds of deaths in Auckland every year caused by air pollution, most of which, or much of which, arises from motor vehicle emissions. That is, in my work as an academic in the university, those debates go on, but there is some substance to them. The point of having targets is to try to give some direction as to where those levels should be, but as I said the design of roads in many cases is not the biggest problem.

QUESTIONS FROM THE BOARD: MS JACKSON

- Q. Dr Black we are aware that there is one special case, I think the people have some children that they're concerned about with air quality. Is that – that's under control I understand from reading your evidence?
- A. There is one case that I identified where a submission was made, it came through a submission where some children have an unusual medical condition and I considered that that was a case that I should

consider as a one-off because – and the principle of that is that standards for the general population cover the most susceptible to the most resistant members of a continuum of the general population, in other words to each tail of the calcium curve. If people maybe outside that curve, they may not be protected by a generalised population approach and I considered that in that case, that value you're looking at. Now in that case I have been in touch with the doctors involved. I have been in touch with the people, I have been given permission to sort of change my hat to being a medical practitioner and therefore I – that, whilst that is – I am continuing to look at that and I will be giving specific advice to the Agency on that matter. The clinical details I regard as medical in confidence, but to answer your question, yes I am undertaking to continue to pursue that. I will be giving advice, both to the family concerned and to the Agency, and that advice will also be a result of discussions with the medical practitioners, both the specialists and the community practitioners involved in the care of that family.

- Q. Your paragraph 50 on page 13 of your rebuttal evidence.
- A. Yes.
- Q. Can you just look at the statement you've made there, Ms Wilkening's calculations?
- A. Yes.
- Q. "Night-time noise limit of 45 dB decibels for residential dwellings in areas with low ambient noise"?
- A. Yes.
- Q. "Background noise level plus 10 in areas with high ambient noise". Am I correct when I say but that in no case will exceed 60 decibels? For the areas of high –
- A. That's what it says –
- Q. – ambient noise?
- A. – "which in this case provides a proposed limit of 60 dB L Aeq with areas with high ambient noise". Well that is a, that is taken from my understanding of Ms Wilkening's evidence and has also been checked by her. So I have taken – particularly after having got it wrong once, I've taken considerable care to make sure that we have got that correct now.

- Q. So in no case will outside noise exceed 60 decibel. I'm right in saying that aren't I?
- A. Let me just read it again to make certain where we are. That's night-time. "The noise from construction will be within the levels allowed by (inaudible 12:55:53) three. A night-time noise limit of 45 dB (inaudible 12:55:58) low ambient noise. A background noise (inaudible 12:56:01) a proposed limit." Yes. I think you're right. I would suggest really that, I mean I'm relying on Ms Wilkening's evidence and to absolutely clarify that it would be a good idea to ask her.
- Q. Well I did yesterday so I'm trying to get some confirmation. But that's what it says here. That's fine.
- A. What I have is from her.
- Q. Just the last question is about perception of effects.
- A. Yes.
- Q. And this is particularly significant to the very elderly and young children. And I read that "people get used to this in time, we just need to educate them about it."
- A. Can you point me to where I'm – are you referring to my evidence?
- Q. No not necessarily.
- A. That's fine, okay.
- Q. But then we're told that is a construction period of five to seven years. What sort of thing are you going to do, or would you propose, for an elderly person that just said, "That's enough I can't handle this any more"? There's people that just can't handle these sort of things, whether it's because it's unknown, they don't know what's going on, they think their house might fall on them. Some people really cannot handle these things.
- A. Well there's –
- Q. How would you mitigate that?
- A. There's quite a lot of different ideas in that and one thing I would say is, in terms of the perception, is that the period leading up to something happening is the time in which there is the unknown, and at that point people who aren't quite clear what they're being told, I mean they're being told levels and decibels and it may mean, it probably means

nothing to most people, and so that is a time in which people do become fearful and anxious and it can be very difficult. And as you say elderly people often feel that they're not particularly in control of a situation which they had come to rely on if they've lived say in an area for many years. The way in which that's dealt with is by talking to them, by ensuring that they do have access to people who will answer their questions and who will listen to their concerns, readily. Then the situation's quite different once it starts and in my experience, usually much better, because if there is noise associated with a project in my experience if that noise is noise which is associated with something they understand, in other words they know that that particular noise is this particular bit of the work being done, that helps enormously. In fact, in most cases it helps completely. And so you come back to involvement of the community with the project and it's got to be seen as something which is happening in their community and which has a desired outcome, and also an end. With children that anxiety phase that I've talked about leading up to the job doesn't exist unless someone else puts it into their mind, because children don't become fearful of something unless someone says, you know, someone actually, adults usually always put that in. So with children what we have to be concerned about is the actual effects at the time and the big one there is interference with activities such as education, and also with normal routines such as sleep. So one big issue for all age groups of course is disturbance of sleep, arousal during sleep, and both the standards and also Ms Wilkening's work and the parameters that have been used in the planning of this project have been concerned with ensuring that people are not disturbed from sleep. When it comes to the education, there's considerable work been done in providing mitigation for any possible effect on educational facilities and that's been both in the original planning and also discussed in caucusing. In terms of perc – to go back to your question, in terms of perception, perception can become reality if it's allowed. You know perception can lead to psychosomatic illness, if it's allowed to run, and the key to that is communication and one of the points that was very much agreed in the caucusing was that

that communication also needs to identify where people will turn to if they have problems. And one of those of course is the community medical facilities, so it's really important for the managers of the project to make sure that there are connections into community medical facilities, particularly the local doctors, and that has been agreed to do that.

COURT ADJOURNS: 1.02 PM

COURT RESUMES: 2.19 PM**QUESTIONS FROM THE COURT: JUDGE NEWHOOK**

Q. Dr Black, would turn to paragraph 60 of your evidence-in-chief please. There's our old friend, ventilation stacks?

A. Yes.

Q. The last sentence of that paragraph reads, "Once the community is assured of this," this is lack of health risks, "and once the tunnel and motorway (inaudible 14:20:20), but stressing, "Once the community is assured of this and with the benefits of the project becoming tangible, public concern over health issues from the highway is likely to disappear." Now I want to focus particularly on the first of those words "once the community is assured of this", and I want to ask you a double-barrelled question. If you have experience of it, how do you go about getting that assurance across to the community, and I think we're talking about a little bit more than Member Jackson's elderly folk and so on. And if you do have experience of this, can you tell us how you've gone about it?

A. Yes sir.

Q. With projects like this?

A. Yes sir. Not projects quite like this, but other projects in other areas where there has been escalating community fears of a health risk. In fact I would say that the projects that I have been involved in a lot are probably where there are high levels of fears but probably less grounds for a concern because we are dealing here with a discharge. So I mean it is something real and it is something which is noxious and toxic.

Q. We're dealing with a public perception, not only of a discharge but a concentration of a few hundred discharges into one pipe?

A. Yes, yes absolutely. In the end though, that discharge would happen if the road was on open ground and it would just simply dissipate above the road. The way in which –

Q. Yes I think the perception is about this concentration pickle I asked you about isn't it?

- A. Yes it is sir, and that's something which I have discussed extensively with the Agency and with Mr Fisher, who has done calculations. And the way in which the stack will work, is that it will –
- Q. No, no I think you're now departing from my question.
- A. I beg your pardon sir.
- Q. And I better remind you about it because we've got extensive evidence about the stack and we're even thinking about whether it could be 15 metres instead of 25 and we get to hear from Mr Fisher and I think we'd rather ask him about those things.
- A. Yes, much better sir.
- Q. My question to you, you say, "Once the community is assured of this", that is as to lack of risk, "public concern over health issues from the highway is likely to disappear." Okay, how will the community be assured of it, can you bring us any examples of how you've gone about educating them, getting the message across, in order to be able to express that very confident final statement, "Public concern is likely to disappear."?
- A. Yes sir.
- Q. That's pitching it right up there isn't it?
- A. Yes it is and I'm sorry, I did deviate from the specific question. We are now relying on predictions based on physics and Mr Fisher's calculations et cetera and members of the public don't necessarily, I won't, don't necessarily trust that, I mean some may not trust it but some may just, you know, have been their experience in life has been that you can't necessarily rely on assurances.
- Q. Well no, they can't understand them, they're not trained like you and Mr Fisher.
- A. And they can't understand them, no exactly. And so the important factors are first of all to ensure that information that's given is well-founded and accurate and as understandable as possible at this stage, and then, when the system is built and operational to be able to demonstrate that what was predicted is happening.

Q. And then how do you convey it to the general community in such a way that their concerns are likely to disappear. Have you any experience of communicating it?

A. Yes, I have and perhaps the area in which I have done most of my work and in fact the area of my academic expertise is in mobile phone technology, which I've been involved in from the very beginning. And people were initially very fearful of that and there were, a parallel thing, there were robust standards, there were right through really and there were – there's been a great deal of research and there were people who challenged the science in the Environment Court. There were people who continued to express fears and concerns and the technology has been developed to the point that it's now absolutely ubiquitous and everywhere and it is – and it's got to the stage now where most people, including myself, have effectively a mobile phone transmitter in the form of a cordless phone in our kitchens.

Q. But has public concern about those transmissions really disappeared?

A. Yes it has sir. To the extent that there is public concern now, in my experience the matter of health effects is confined to very few people who fundamentally distrust science or, more commonly, people who don't like the visual effect of, say, towers and then are looking for other angles on which to argue against them.

Q. All right well let's assume you're right about that. We don't need to debate whether you are. Let's assume that you are. Come back to my question. How do you communicate to the people of Owairaka that, in such a way that their concerns will disappear? Any experience of how you get that across to them? How do you broadcast that message in a way that gets it across and the fears disappear?

A. In terms of the dissipation of discharge from the stacks, it would – the only way you could do that would be to demonstrate that what was predicted has happened. And monitoring points are a good way of doing that. In many areas in environmental science the closed loop method as called is worthwhile, matters to predict, measure and show that the prediction was correct and where there is a gap between prediction and measurement then show, then continue working to say,

“Well why is that different to what we predicted?” People do appreciate that. People also appreciate being involved in that process and so it’s worthwhile doing that at a level of community groups. And certainly that’s – I’ve been involved in doing that with mobile phone for example, with the levels from mobile phone sites.

Q. NZTA proposes community liaison groups and –

A. Yes.

Q. – and the like.

A. Yes.

Q. Have you any particular emphasis that you would add to the work of such a group, or to some other means of communication, some other magic bullet to get the message across after you’ve collated the data and proved that your predictions were accurate? Just from your experience.

A. Yes. My experience around the world in this is that – I mean there are a wide variety of ways of doing it and I mean there are some – going back to the mobile phones – there are some countries which have gone to the extent of having monitoring websites where people can look up and see what the transmitted power of every site, and Ireland did that, for example. There are others like Australia which have a more measured approach of having, just maintaining records which are very easily publicly accessible. I think openness of information, in other words making sure that the information that arises from monitoring and from the predictions is openly and constantly available to the public. So it’s important that information isn’t given out on a sort of need to know basis, but on a right to know. And trust is incredibly important. And also it is important that the community – and I think this particularly applies to younger people, but not entirely, it also often applies to people at the other end of their lives – feel involved and that they are a stakeholder in something that has a benefit to the community. So, because then they will – so public participation in the process, in other words the concept for the people of – you know, this is a problem which has got to be solved, these are the solutions we looked at, this is what we’ve come up with –

Q. Yes, all right. Okay we start to run over the same ground now.

A. Right, okay sir.

Q. But thank you for those answers. I was particularly interested in some, including the use of a website and other means of dissemination and we'll think about those things so thank you for that further assistance.

RE-EXAMINATION: MS JANISSSEN – NIL

WITNESS EXCUSED

MS JANISSEN:

Perhaps I could just add something, this is in response to Member Jackson's questioning of Dr Black on his evidence-in-chief at paragraph 50 and there is a specific – there is about gaining an assurance about the 60 decibel level, that's actually in construction and noise vibration condition 2, it's in the table and it's specifically specified as 60.

THE COURT: JUDGE NEWHOOK

Page?

MS JANISSEN:

Page 25, sorry sir.

THE COURT: JUDGE NEWHOOK

At the end of the day, we might come back to you a little further on that and a couple of other ideas that we're hatching?

MS JANISSEN:

Certainly.

THE COURT: JUDGE NEWHOOK

On some things that you and Ms Linzey and perhaps others might be able to help us with.

MS JANISSEN:

I'll next call David Gibbs. He's tab 27 evidence-in-chief and 24 rebuttal.

MS JANISSSEN CALLS**ALEXANDER DAVID GIBBS (SWORN)**

Q. Is your full name Alexander David Gibbs?

A. Yes.

Q. And have you prepared evidence-in-chief dated the 12th of November 2010?

A. Yes.

Q. And have you prepared rebuttal evidence dated the 2nd of February 2011?

A. Yes.

Q. Your qualifications and experience as set out in paragraph 2 of your evidence-in-chief?

A. Yes.

Q. Are there any aspects of your evidence that you'd like to correct at this stage?

A. No.

Q. Would you confirm then that the contents of your evidence are true and correct?

A. Yes I do.

THE COURT: JUDGE NEWHOOK

Albert Eden Group, Ms Devine.

CROSS-EXAMINATION: MS DEVINE

Q. I just want to talk to you about the northern stack and the southern building stack. You accept that both stacks will dominate their respective areas don't you Mr Gibbs?

A. My discipline isn't visual assessment, it's the design of the architecture so – but however I think in my evidence I said that there's the potential for, potential for the stacks to dominate.

Q. Do you accept that good design for public infrastructure should reflect community desires?

A. I think right across the world there are buildings that have led desires and I think one of the buildings in Auckland that really demonstrates that

is the Sky Tower, which was, and I don't in any way make an analogy of what we're doing here to the Sky Tower, other than that was a reviled project in the beginning and now it's a symbol of love actually for a big part of the city. So I think there are some projects that have to demonstrate by leadership, yeah. To respond only is difficult.

Q. If there were options before you that there is a clear indicated public preference for an option, would you take that option into account when considering your design?

A. In answering that it's important to understand that we were engaged to prepare a design that demonstrated a possible means of meeting the brief for the project, the intention is that the project evolves with that as a guide and the conditions that have been put before the Court.

1435

Q. Are you referring to the urban design framework plan that's evolved –

A. That's, that is a document that's referenced in the conditions as needing to comply with, yes.

Q. So in answer to whether you take into the public, the public's perception of specific options you are saying that there's an evolution of design and that may or may not be appropriate? Is that your answer?

A. Well I think one approach puts the cart before the horse doesn't it, and that one has to float an idea and I think perhaps more correctly one would say does one then adapt to the public perception of what's floated? And I think we are perhaps hearing that in this hearing already.

Q. So if you hear that from this hearing at the moment does that alter your views on the acceptability of the options in relation to the northern stack, and specifically moving the northern stack across the Great North Road?

A. I think that's an issue that has a great deal of ambiguity about it. There's some people that like the stack close to the BP, other people – and having read all the submissions on that issue, there's no clear preference stated for where the stack should be. Some people like it near the entrance to the school. What was interesting in the caucusing group is that the majority of our caucusing group thought that it was better associated with the ventilation equipment itself.

- Q. That's right, your evidence-in-chief says your main concern was shifting the northern stack across the road and separate from the northern building as it will be a visual incongruity and ambiguity about its function, isn't that right?
- A. There's potential for that, for people not to understand either function once the components are separated out. And I say "potential", I'm not sure that that would necessarily happen, but I definitely think that it, that when they're together it will be readily understood by the public that the two are components that fit together.
- Q. And to tie into that, slightly later at 79 in your evidence-in-chief, you recognise that there's no means of disguising a sizeable object?
- A. Mmm.
- Q. And your solution is to make it an urban sculpture?
- A. Yes.
- Q. Is it fair to say there are several possible solutions to responding to the size of the – responding to the scale, solutions could involve shifting it, as we've discussed?
- A. Mhm.
- Q. Lowering the height, which Mr Fisher is –
- A. Yes.
- Q. – exploring, screening it?
- A. I don't think screening it would be –
- Q. Sorry, placing it amongst other sizeable things such as high mature trees?
- A. Yes. Possibly, but that would then – you know, it's a complex question you're really asking because then a mission, issues could come to bear too if it wasn't clear of the trees, for example, so that's, it's not an easy answer.
- Q. The suggestion that there are several solutions to respond to a sizeable object is fair to say, isn't it?
- A. Yes, well there's always alternative responses, yes.
- Q. In terms of the southern building, and I take it you've read Ms Linzey's supplementary statement –
- A. Mmm, indeed.

- Q. – which refers and has been discussed in causing –
- A. Absolutely.
- Q. - of three options? You accept, I think, in the caucusing statement that of the three options, option 3 was the most preferred option from an architectural option?
- A. Yes, that's correct.
- Q. And you accept that lowering the height of the building and the stack would reduce the dominance of them in this area also?
- A. Yes, that's correct.
- Q. There's some discussion about green rooves and I –
- A. Yep.
- Q. – don't want to get into those in too much details, this is the green roof on the buildings. You seem to – you like having a, I think you refer to it as, at paragraph 42 of your evidence, as having an effective visual continuation of the greenery of Alan Wood Reserve?
- A. Yes.
- Q. And that being a benefit. Isn't it true that option 3 would provide such a visual continuation of the greenery with Alan Wood Reserve?
- A. It certainly has potential to have a green roof on it –
- Q. Sorry I'm not suggesting, I'm not referring to the green roof, per se, in that –
- A. Yes.
- Q. – option 3 when they move the building to the south-east? There will be greater continuation of greenery with the Alan Wood Reserve in that option?

1440

- A. Yes, yes definitely.

CROSS-EXAMINATION: MR ALLAN

- Q. I'd like to cover the same two topics as Ms Devine did. Can I begin with the stack at the northern end of the tunnel and the other buildings that you've designed. You've commented in answering my friend's questions that there is a difficulty that may arise in terms of people perceiving the functions of the buildings on the left-hand side of

Great North Road as we head towards the interchange, and the functions of a stack, if it's put on the right-hand side of Great North Road. That's obviously something that you take into account when you're carrying out your design work, is it?

A. Yes.

Q. Do you think it's actually something that members of the public would think of as being as important as you do?

A. Probably not, I think the likely response is that there will be some unease, that they would be probably unable to express, that it would be as simple as wondering why that object is there when it doesn't have its functional partner.

Q. It's possible isn't it that some people driving down Great North Road, even if the buildings are together, would have some unease as to what the structures apart from the stack are doing?

A. It's possible, yes.

Q. And not all those structures are necessarily related to the stack, they have other functions in terms of the operation of the –

A. They all support the ventilation of the tunnels.

Q. Do you think you'd be able – well put it this way. If you were asked by NZTA to have yet another look at the design of the buildings at the northern end, in circumstances where the stack's on the right-hand side of the road, and those supporting buildings or structures above ground are on the left-hand side of the road heading towards the interchange, would you be able to devise an approach to the architecture that would respond to that circumstance and would perhaps look separately at the two structures?

A. It's quite possible, yes.

Q. And you would be able to design a building or series of buildings on the left-hand side of the road heading towards the interchange that are subdued in their architecture but still attractive?

A. Yes.

Q. And are you confident that you could design a stack on the right-hand side of the road that fits in with that environment, which in this case

would involve taller trees and more of them, than occur on the left-hand side?

A. It's possible to do all of those things, but our role is not only artistic, it is to resolve technical issues as well, and so we've been made aware through the briefing process of the difficulties that attach to having the stack remote from the equipment that serves it and Mr Walter has given you, given the Board evidence on the considerable difficulties that arise, particularly with respect to the northern building in that regard.

Q. But Mr Walter's evidence is, "We can do it"?

A. But it's with costs attached to that, yes.

Q. Well let's assume that the cost issue is for somebody else to decide and the question for you is, could you design a series of buildings, some on the left-hand side and a stack on the right-hand side, that in your view, resolved well issues in terms of both those sets of structures?

A. Yes that's possible.

Q. I'd like to then jump to the southern buildings and have you had a chance to see and read Ms Linzey's supplementary rebuttal statement –

A. Yes.

Q. – which looked at the three options?

A. Yes, yes.

Q. And the current option?

A. Yeah.

Q. I want to ask you some questions about option 3, which is the one that involves at grade servicing through gantry. Now the plans that have been put to the Board in respect of option 3 are at this stage fairly simple, and there's not a lot of detailed architectural resolution of them, which is perfectly understandable. You've seen those plans?

A. Yes, I'm well familiar with them.

1445

Q. Same question as before. If you were asked by NZTA to do some work on those above ground structures in terms of option 3, are you comfortable and confident that you could come up with a design that is artistically satisfying, functional and attractive to the public?

A. Absolutely, yes.

- Q. And is that task simpler in terms of a building, or buildings of those sizes that are now proposed in option 3, than it would be with the current proposal?
- A. Yes, of course it is, yes.

QUESTIONS FROM THE BOARD: MS JACKSON

- Q. Mr Gibbs, your green roof, when we see it in your drawings that you prepared, there's no fencing shown on that drawing is there?
- A. That's quite correct. The security report that guided whether there could be access to the roof was prepared after the evidence-in-chief was completed, so there would need to be some means of stopping people going onto the green roof to satisfy the access preferences for NZTA.
- Q. So to keep that green roof enhanced as it is at the moment, would it be maybe appropriate to use some sort of glass, coloured glass or something, would that be an appropriate means of fencing that would be an effective security measure?
- A. I'm not sure about glass, but I feel quite confident that a fence could be done that wouldn't detract from the appearance of the roof and I would add that I think that the green roof is still relevant regardless of whether there's public access onto the roof or not.

QUESTIONS FROM THE BOARD: MS HARDIE – NIL

QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP

- Q. Mr Gibbs there's evidence from Mr Brown, the landscape architect, about the merits of some evidence that was submitted about the architectural treatment of the modules that now comprise the proposed northern ventilation building, building units, call them what you will. And
-

THE COURT: JUDGE NEWHOOK

Come in close to the microphone.

QUESTIONS FROM THE COURT CONTINUES: COMMISSIONER DUNLOP

Q. Beg your pardon. Do I need to repeat that?

A. Yes, I'm sorry you do, I'm struggling.

Q. Mr Brown, the landscape architect for NZTA discusses evidence from submitters about the architectural treatment of the, I call them "building modules" –

A. Yes, yes.

Q. – which you now propose for the northern ventilation facility. And he seeks to evaluate two options of giving them, shall we say a domestic treatment, as opposed to something that is distinctly different, more institutional perhaps. I don't use that word in a pejorative sense, that's not very literate, you know – along the lines that you've adopted, to utilise your, to illustrate your approach in that first piece of evidence. Now Mr Brown's view is that it's not – as I understand it, is that it's not appropriate in this context to indulge in what I think he calls mimicry. But on the other hand there might be some people who would say, and they do, that you could bring a more domestic, you know residential flavour to those structures. I'm not sure that you've engaged that in those alternative approaches in your evidence. Forgive me if I've overlooked it, but I'd really value your take on that as a professional architect?

1450

A. I'm familiar with text that's in Mr Brown's evidence and I agree that it's dangerous territory to dress what are essentially industrial buildings with domestic clothing. I have seen examples of where that's been done and the jeopardy there is that for – to dress it as a house really requires that domestic style windows are used, all of that sort of stuff that is not needed for the functioning of that building. So the real dilemma there is that those – there's no way of livening up those windows. The building that I saw done like that looked very bizarre because all the openings appeared very lifeless and uninviting. The other aspect of the design challenge that we saw for the north build – in fact both buildings, is that we fervently believe that treating them as urban sculpture is the correct

way to go and but that carries with it quite a weight of doing that work really well. And I don't think that that approach is a comfortable fit with fo houses. Is that making sense?

- Q. You're using some fairly loaded language there and I can understand –
- A. Yes.
- Q. – why you use it, and I'm not being critical. Maybe there is, without going to fo or mimic, maybe there is room for something one step back, but be that as it may I understand you to be saying pretty clearly that form should follow function? That's, and that they are – they've got an operational purpose and that should reflect in their design?
- A. I think that's part of what I'm saying, but I think the most – I definitely believe that the success of those two projects relies on a sincere approach to them being urban sculpture, and so the form giving has to be treated seriously. And that's not only just at the concept stage, it has to be carried right through to completion, through detailed design into completion.
- Q. And I'd be surprised if there was anyone in the room who didn't appreciate the enhancement that you've brought to the proposal –
- A. Oh thank you.
- Q. – as distinct from these lodged. Do you think there is room to take it up a notch or two further yet?
- A. Absolutely, yes yes.

QUESTIONS FROM THE BOARD: MR DORMER - NIL

QUESTIONS FROM THE COURT: JUDGE NEWHOOK - NIL

RE-EXAMINATION: MS JANISSSEN – NIL

WITNESS EXCUSED

MS JANISSSEN CALLS

STEPHEN KENNETH BROWN (AFFIRMED)

Q. Is your full name Stephen Kenneth Brown?

A. Yes it is.

Q. And have you prepared evidence-in-chief dated the 12th of November 2010 and rebuttal evidence dated the 3rd of November 2011?

A. Yes I have.

Q. And are your qualifications and experience as set out in paragraphs 2 through 6 in your evidence-in-chief?

1455

A. Yes they are.

Q. Is there anything in your evidence you wish to correct at this stage?

A. No there is not.

Q. Do you confirm then that the contents of your evidence are true and correct?

A. I do.

THE COURT: JUDGE NEWHOOK

Mr Lanning, do you have questions on behalf of the Auckland Council?

MR LANNING:

Yes, thank you sir.

CROSS-EXAMINATION: MR LANNING

Q. Now Mr Brown you've spent a considerable amount of effort in your evidence assessing the effects, assessing the landscape effects on the Alan Wood Reserve, is that correct?

A. That's correct.

Q. And would it be fair to say that you've expressed some concerns about the level of effect on the landscape of Alan Wood that will result from this project?

A. Yes.

Q. And in particular, if I could take you to paragraph 44 of your rebuttal evidence. Sir I don't have the same tabs that you have, so I'm not sure

–

THE COURT: JUDGE NEWHOOK

That's right, we've been advised of which tabs they are, so we just go straight to the paragraph.

CROSS-EXAMINATION CONTINUES: MR LANNING

Q. So that's rebuttal evidence, paragraph 44, page 12?

A. I have that.

Q. At the first line of that paragraph Mr Brown, you state there that you remain of the view that the effects of the proposed development in this area, being in the Alan Wood Reserve, will remain significant and potentially high in relation to some individual properties and residence. So I don't think you need to confirm that's still your evidence, I assume it is. Now it's my reading of that paragraph is that that's referring to perceived landscape effects, perceived by the residents essentially, the people neighbouring the reserve, would that be fair, that paragraph is really talking about their perception of the reserve?

A. Yes, it's primarily addressing the people who live in part of Hendon Avenue, Methuen Road and the Avondale Motor Camp.

Q. So would it be fair to say that the same assessment would apply in relation to people experiencing the parks, people actually within the park post-construction, would they also experience those effects?

A. That's certainly true, although you have to appreciate that the very nature of the park will have been fundamentally changed by the whole range of development that is proposed, not just that which focuses more for instance on the portal area and related buildings.

Q. And "other developments", by that you mean?

A. The motorway itself.

Q. The motorway itself, yes. Turning now to this issue of shifting the portal to the south-east that's been talked about and Mr Allan's been focusing on the option 3. Now during the caucusing session with the landscape

and design experts, I understand that you expressed a view that if access couldn't be allowed onto the top of the portal building, it would be desirable to shift the buildings to the south-east, is that a fair summary?

A. Yes, to a maximum of approximately 80 metres.

Q. So now do you understand that the NZTA has decided that it wouldn't be possible to provide access to that building?

A. That's correct.

Q. So is it fair to say that you would prefer in that case, or your preferred option would be to shift the portal building to the south-east?

A. That's correct.

Q. Now I just want to ask you a question now about condition, I think it's now LV4, which is on page 44 of the conditions?

A. Yes I have that.

1500

Q. At the caucusing that you attended with the other landscape and design experts, it was agreed that the maintenance period should be the 10 years, wasn't it?

A. Yes.

Q. Do you now understand that the NZTA has decided to not accept that recommendation in favour of a five year maintenance period?

A. Yes I do understand that.

Q. Are you aware of any expert advice that was given to the NZTA before it made that decision?

A. No I'm not.

THE COURT: JUDGE NEWHOOK

Unitec, anybody representing Unitec? Yes Ms Batistich.

CROSS-EXAMINATION: MS BATISTICH

Q. Mr Brown, the line of questioning I propose is slightly different to that from my learned friend. In preparation of your evidence you would have reviewed the submission of the Unitec?

A. Sorry?

Q. In the preparation of your evidence did you review the submission of Unitec?

A. Yes I did.

Q. And you'll be aware that in that submission Unitec sought a photo montage showing the existing and proposed view of the proposal from part of its site?

A. Well I think you asked for two separate photo montages. One was from somewhere around buildings 8 to 10 and 1, looking towards the interchange and another was from a theoretical building of potentially up to 10 storeys high and an indeterminate location somewhere in that vicinity. I was aware of those two requests.

Q. In relation to the latter request, you haven't seen the need to prepare that montage have you?

A. No.

Q. And if I can just – in your rebuttal evidence you state that there is no certainty over the location, footprint or actual height of any such development, don't you?

A. That's correct.

Q. Can you please look, if you've got it to hand, the statement of evidence of Paul Conder for Unitec, attachment 2?

A. Yes I have that.

Q. In attachment 2, the first page is an extract from the district plan isthmus section.

THE COURT: JUDGE NEWHOOK

Which page?

MS BATISTICH:

The first page of attachment 2, it's a map.

CROSS-EXAMINATION CONTINUES: MS BATISTICH

A. Yes I have that.

- Q. That's an extract from the district plan showing a concept plan for the entire Unitec site and the northern area that we're talking about here is area B, which is defined as "development area building platform"?
- A. Yes, that's correct. It extends from up near, well the frontage to building 1, down to the Mason Clinic.
- Q. Yes that's correct. So my concern is Mr Brown, even though you've accepted that a potential 10 storey high building could be built on that area and that it's shown in the district plan as a building platform, that you still don't think it's necessary to show what the effects of the Waterview proposal on a proposed development there will be?
- A. Well the reason for that is quite simple, we have no idea how that building might be configured, how many floors it might actually have, which way it might ultimately be oriented, bearing in mind that as you get closer to the Mason Clinic there are a substantial number of mature trees in that area, or even where it will go on that site and all of those factors would have to be taken into account in producing any montage. And in addition to that, it's unclear whether some of the existing buildings that sit between the interchange in parts of that area B, would be removed. They of course would also have an effect.
- Q. That being the case Mr Brown, in your rebuttal evidence at paragraph 89, you say that any theoretical building will be elevated significantly above ramp 4 and other interchange structures proposed. Consequently your opinion is that the, it will be below the level of the nearby Waitemata Harbour and much more distant Waitakeres. So given that that's your opinion don't you think that there isn't currently any evidence before us to support the fact that there'll be no effect?
- A. I'm not saying there'll be no effect, I'm simply saying, as I state at paragraph 89, any building that is sufficiently tall to avoid, but still overlook the trees that I have just mentioned will also be elevated significantly above ramp 4. Now physically that is the reality, it would be, simply because of its own vertical scale, but beyond that it's very difficult to determine exactly what the effects would be in relation to a viewpoint within such a building without actually understanding what the nature of that building is.

- Q. Just one further point Mr Brown. If I can take you back to Mr Conder's evidence to attachment 1. Now I appreciate that this is not from the district plan, this is part of the structure plan prepared by Unitec, but appended to Mr Condor's evidence which you have considered. The north-western corner of that structure plan shows the potential orientation of buildings on the site. In your opinion does that layout change the statements you've made in your evidence?
- A. No it doesn't because I have no understanding which part of that building might go up to 10 storeys. Perhaps all of it might. I don't know, but it may be that it's layered with some parts at a lower level, other parts at an intermediate level and then another part that rises up to a full 10 storeys. And you would really have to have some appreciation of the way in which that building is structured and the way in which its different components overlook one another, as well as the surrounding trees and land forms before you could really gain an appreciation of the effects associated with the proposed interchange.

THE COURT: JUDGE NEWHOOK

Now, Albert Eden Local Board, Ms Devine.

CROSS-EXAMINATION: MS DEVINE

- Q. Now I would like to talk to you about the northern southern buildings and a few other issues. In relation to the northern building you have said that the current features of the northern building and the stack were designed to have the buildings and stack as far away as possible from the preschool and the school. That's in your evidence-in-chief at paragraph 117.3. You're looking at me complexed.
- A. Yes, you're referring to the construct. I'm sorry I can't remember every detail of every part of the evidence that I've written, but yes I see what you're saying.
- Q. Fully appreciate that Mr Brown. So at that time you've said that's the – the design to be as far away as possible from the preschool and the school and now technically we see that it's possible for the stack to be further away from the school and the preschool. That's the evidence of

Mr Walter in terms of the construction options being technically possible to shift the northern stack. Are you aware of that evidence?

A. Oh yes I am, but of course at the time that this evidence was written and at the time construct was briefed, no such options existed. The site, as it were, comprised the area around the existing proposed northern portal buildings. It did not extend across to Great North Road for instance, or into part of the proposed Waterview Park.

Q. Things have moved on somewhat since then haven't they?

A. Yes.

Q. What's interesting to me from that statement is that you refer to it being as far away as possible from the school and the preschool and now we have the circumstances where you can see it technically possible to move the stack, at least in relation to the northern building, further across the road. Would that, given that was a design feature that was desirable at that time, do you consider that would be a supportive reason to adopt the option 1 and 2 that are shifting the northern stack across the Great North Road?

A. Well it might be, but it's certainly not the only factor that has to be taken into account.

Q. I appreciate that Mr Brown. I also acknowledge that you've said in the caucusing statement that there are a number of factors, location preferences also linked to the scale and design of the stack, and I am conscious that Dr Fisher hasn't been able to come back to us before you've been able to present your evidence in relation to the scale of the stack and I'm not sure if the Board will benefit from hearing from Mr Brown again after hearing from Dr Fisher. It seems from reading the caucusing statement that your main concern with shifting the northern stack across the road is the effect on the Oakley Creek open space area, which you consider to be a considerable importance to the community, is that fair to say?

A. Yes I think the importance extends beyond just the local community. I think that Oakley Creek Reserve is an open space of some significance which... and is of value to the wider subregional impacts, even regional

community, largely because of its very strong links of course with Great North Road and the high degree of public profile that it enjoys.

Q. If you were to be aware that all of the community groups responding to these applications and notices of requirements, including Friends of Oakley Creek, preferred to shift the stack onto that side of the road would that alter your view on the impact of that shift on open space?

A. No because in this process I'm required to make a professional judgement and – about the effects of the different locations proposed, and that is precisely what I have done. Now it may be that some members of the community, perhaps even the majority, disagree with me, but I am still bound to make that judgement.

Q. The Board appreciates you being technically an expert for their benefit. In terms of the signature sculpture or structure that we're talking about, you'd also say that the public's views are irrelevant in that regard, consistent with your views just expressed?

A. No I'm not saying they're irrelevant at all. I think that Mr Gibbs made a very important point and that is that this is a starting point. It's not an end point. Just to put some context to that, you will be aware from my AE report that I retain significant concerns about the effects of the stack, and even the buildings, in relation to the Waterview community and the primary school and I had several discussions with Mr Walter, Ms Janissen, Ms Linzey, and others about these issues and I felt it was very important that a different approach was taken to the design of these features, because that's what they would become. They are simply too large to hide away or to try and meld into their surrounds, and I felt that the only way that these could be addressed was in a way that saw them – I suppose the best way I can put it is to positively challenge, to positively sit within their environs. And that meant adopting a much more artistic and design driven approach, a sculptural approach to the design of these buildings because I just don't think that trying to integrate them visually is going to work. The stack in particular's too tall. So that really led to a situation where Mr Gibbs and his team had to prepare concepts very, very rapidly. So I don't see these as the end

result at all, and I do think that there needs to be public consultation. But, having said that, I think the approach is right.

- Q. And to extend from where you've just taken us. In the draft conditions that circulated in relation to an outline plan of works and further discussion around design. Reference DC8 has the outline plan of works for the northern ventilation building and the final form of the buildings and stack it says, "Shall be in accordance with design principles of the urban landscape and design framework and the following requirements." And H on page 4 of the conditions refers to the location of the stack, "As far away from the adjoining preschool and primary schools as is practicable, without compromising the aesthetic value integrity of Oakley Creek Esplanade Reserve and Waterview Reserve." A lot of challenge in that design brief. Do you see scope for the movement of the stack post-discussion of this – post this hearing through the evolution of design, as you say, and we having discussions with community, et cetera. Do you see the possibility that the northern stack will be shifted to the other side of the road?
- A. I would have to accept that possibility, but I have to also say that at this point in time, based on my analysis of the situation, including the context, the surrounding neighbourhood, I don't think that's appropriate. And I think that there's been very strong emphasis in this case, for instance, on views down Great North Road. And as you drop down Great North Road from the Blockhouse Bay Road interchange and you move towards the North Western Motorway you do see that image such as viewpoint 7 R16, which clearly shows the stack in, not isolation, but it is certainly seen as being quite a very strong standalone element. But you have to realise in coming from the opposite direction, from Pt Chevalier for instance, you're going to be exposed to the interchange, succession of ramps, lighting, the portal, you'll be exposed to the portal buildings, the ventilation stack and you'll still be exposed to other elements such as the BP station on the left. And I really formed the view that the motorway elements should be seen as part of an integrated whole, and at the same time Oakley Creek should be left as free as possible. In fact I quite resent the fact that the BP station is

there, but I can't do anything about that. But I don't think that should be compounded with another piece of ad hocery by plonking the ventilation stack there.

THE COURT: JUDGE NEWHOOK

Now, I'm just going to interpose here. Ms Devine, you are cross-examining a particularly experienced landscape witness. The matter that I raised last Friday morning, which you I think probably heard me speak about, but which Mr Brown might not have, or one of them, was this. If you ask big wide open questions, you invite an experienced witness like Mr Brown to either write you a text book or just repeat and start underlining and highlighting all the stuff put in his statements of evidence. If you could please try and keep your questions more focused, put particular points from experts who might be in opposition or that occur to you as good points, to him in a closed way. Try and trap him. He's not the easiest of witnesses that have come before us to trap, I'll acknowledge, but an attempt of that sort is far better than the big open questions you're asking which, Mr Brown could you just keep your answers a bit shorter too, in answer to such open questions.

MR BROWN:

I nearly crawled under the table Your Honour but I thought I better not.

1520

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. You unbundled a number of points in your answer there.

A. Mmm.

Q. And one of the first that I just want to take up briefly is that there are, you mentioned a number of features, being the interchange, the motorway, the motorway infrastructure, and all of those are on both sides of the road, aren't they Mr Brown?

A. Well as you're coming from the interchange the bulk of them will actually be on the right-hand side. They'll be on the seaward side of Great North Road.

- Q. In relation to Oakley Creek and it's – your desire to protect that, isn't it true that NZTA has, is undertaking a large amount of earthworks, is removing a number of trees in other areas and that this is simply one more area which can be addressed by mitigation measures?
- A. Yes those works are occurring, they are temporary works. There will be mitigation associated with them, which I hope will be substantial and successful. I don't believe that the stack on the edge of Oakley Creek Reserve can be mitigated. In fact it's a sort, the sort of structure that if designed properly shouldn't need that sort of hiding away or mitigation or screening.
- Q. You talk about effects on the open space at Oakley Creek. The current proposal and design already has effects on the open space at Waterview Reserve and the open space at the school where there are active recreation opportunities, doesn't it?
- A. I'm sorry I didn't know about the school.
- Q. There are fields at the school?
- A. Yes there are.
- Q. Which are available for active recreation for the community and the school aren't there?
- A. Yes, but they're not within the construction yards or areas of development.
- Q. The current proposal, which will have the dominating northern stack, will be visible from the school field won't it Mr Brown?
- A. Yes it will.
- Q. And it will be visible from Waterview Reserve won't it?
- A. Yes it will.
- Q. And in relation to Waterview Reserve the open space will be modified due to the construction of the project and ultimately modified by the permanent design of the – redesign of Waterview Reserve too, won't it?
- A. Yes it will.
- Q. Do you accept that there will be permanent adverse effects on the residents from the northern stack?
- A. Yes I do.
- Q. Turning to the southern building.

A. Sorry can I just add there that I think that will be the case even if the stack was moved. I still think that you might reduce its profile and you might increase its sense of separation from the primary school and from some residential properties, but it will still be exposed to both.

Q. Thank you Mr Brown. If we turn to the southern building, are you aware of the three options that have been discussed through caucusing, et cetera, and you accept of the three options that option 3 is the preferred option?

A. Yes I totally agree with that.

Q. In fact you say between the base option, or the current proposal, and option 3 that there is – you say in rebuttal, that it's very little in it and in the caucusing statement it's finely balanced, or vice versa. Is this correct?

A. Yes, but that's referring to relocation of the existing building, including the existing control building. It's not referring to option 3 that has been subsequently prepared for Mr Walter.

Q. Option 3 would provide a visual continuation of greenery of the Alan Wood Reserve wouldn't it?

A. Yes it would provide more, it would retain a greater extent of open space.

Q. And it would improve the connectivity throughout Alan Wood Reserve wouldn't it?

A. No not throughout it. It would increase it in that one part of Alan Wood Reserve which involves that, the residual node of open space between 96 and 98 Methuen Road and the Avondale Motor Camp and the connection from that through to the proposed sports fields.

Q. It would alleviate the pinch point around the motor camp?

A. That's correct

1525

Q. Option 3 would provide better visual outcomes wouldn't it?

A. I believe so, yes.

Q. Mr Brown did you hear my questions to Ms Linzey this morning about open space and the importance of it particularly in relation to communities that have lower socio economic people living in them?

- A. No, I don't believe I did. I think I came in just after you had been asking those questions.
- Q. Would you accept that open space is particularly important for such communities?
- A. I actually think it's important for all communities. I think it's more important where you have a greater degree of intensification and loss of private open space and that doesn't necessarily equate with socio economic change or variability.
- Q. Do you accept that it's very important to get open space right for Waterview and Owairaka?
- A. Well I think it's important to get open space right everywhere.
- Q. Thinking about the quality of the open space and the effect on that of the project, the permanent erection of the northern and southern buildings and stacks will have an effect on the quality of open space at the end of the portals, the school end, the Waterview end and the Alan Wood Reserve ends for example?
- A. Yes I think that's inevitable. We're dealing with a very substantial piece of transport infrastructure, there are major structural elements associated with it and so it is inevitable that there will be effects.
- Q. At paragraph 14 of your evidence-in-chief, you say that the quality of open space is not achieved until five to 10 years after completion of construction, that is, so up to 17 years after construction starts, is that right?
- A. No, that's not correct. I was – it really depends on the time at which bunding and planting can be completed. The real, the main factor that drives that sense of completion, as it were, is really the point at which the trees and vegetation within open spaces of that kind start to mature.
- Q. Just have a look at paragraph 14 of your evidence-in-chief, and you talk about scars diminishing and healing over the long-term and the restoration of temporary work in the construction yards being completed, and the massive changes associated with State Highway 16's causeway reconstruction and the cut and cover operations around Oakley Creek Reserve and Great North Road?
- A. Yes, I mean what you say is quite correct, but you've got to remember –

Q. It's what you say Mr Brown?

A. No, no, no, but I'm just trying to correct you in one instance. You included Waterview Reserve there and the implication was that that's not going to be addressed until the completion of the entire project. And of course we know that for instance Waterview Reserve is one of the first mitigation, or areas of mitigation, that will be addressed in the course of construction. So what I'm really saying is that it will be progressive and there will be some areas in which mitigation is achieved before others. But that five to 10 year period after the completion of works in each reserve and open space refers more specifically to the time at which vegetation starts to mature within those open spaces.

Q. Or different points, different parts of open space areas then, some of those will be later than others –

A. Yes.

Q. – to achieve quality open spaces, is that right Mr Brown?

A. That's absolutely correct.

COURT ADJOURNS: 3.29 PM

COURT RESUMES: 3.48 PM

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. Mr Brown I'd like you to turn to the technical plans, the noise wall mitigation plans, technical plans number X17 and particularly sheet 8. I'll give you a moment to find those.

THE COURT: JUDGE NEWHOOK

Where do we find those in the materials?

MS DEVINE:

I have F15 referenced in technical plans. They may be in the (inaudible 15:49:05), Ms Janissen may be able to assist.

THE COURT: JUDGE NEWHOOK

F15?

MS DEVINE:

F17, technical plans, noise wall mitigation plans. I think someone will need to assist Mr Brown with those plans. Plan number 108, might be able to bring that up on the screen, it's on the screen. Does the bench have that?

THE COURT: JUDGE NEWHOOK

Some of us, I've got it.

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. Mr Brown, what you have been presented with is a map in relation to noise wall mitigation plans and the lime green in my plan colours on the right-hand side of that map indicate where Ms Wilkening has recommended noise walls. Now do you see that lime green?

A. Do you mean yellow?

Q. Yellow on your map, on the screen is yellow also?

A. Yes, I do see those.

- Q. If there were transparent noise walls in the location of those areas identified on that map, that would enable views of at least the marine reserve, the Oakley inlet wouldn't it?
- A. Well it's going to have two effects. I think you're essentially talking about the portland barriers aren't you?
- Q. Noise wall barriers, yes.
- A. Well they're the – the portland barriers are like the high concrete barriers that run along next to the motorway, but they're not there just for the purpose of noise attenuation. It would have two effects as far as I can see. Firstly, yes you're right, it probably would allow for more views from the motorway to the opening of Oakley Creek and the waterfront near Eric Armishaw Park. The other effect that it would have is to expose the vehicles on those lanes to views from residential properties around the end of Herdman Street and also from perhaps even, to a lesser degree, from Eric Armishaw Park as well. So it would have two effects.

CROSS-EXAMINATION: MR ALLAN

- Q. Mr Brown I'd like to ask you first if you've had a chance to read the evidence of Ms Linzey, that's her supplementary rebuttal statement which is the one that addresses option 3, the southern portal?
- A. Yes I have.
- Q. And the annexure or annexure E to that document is a comparative evaluation of southern ventilation options, multi-disciplinary option assessment. And that is prepared to be a matrix and the third line down in that matrix, in terms of substantive comments, addresses the visual impact of the building, including the maintenance and enhancement of amenity values and it then has, "assessor, visual, Stephen Brown", and that I presume was you?
- A. Yes, I wrote the parts that are under option 1, 2 and 3, I didn't actually write the commentary.
- Q. So I was going to ask you if you agreed with the summary in terms of option 3, and I presume having written it, that you do?

- A. Well I certainly agree with what I wrote in relation to those three options, yes.
- Q. With respect to option 3, you say, "Although revealing a structure that is more elevated in options 1 and 2, the much narrower profile of the ventilation building and its side-on alignment relative to Hendon Ave, would help to reduce its impacts on that quarter." And I wonder if I could take you please to the plans of that option which are attached to that same statement of evidence?
- A. Yes, I actually have the larger ones from Mr Walter.
- Q. So do I. And I'd just like to explore with you a little further what you're meaning by that sentence. If we go to that plan which is Mr Walter's rebuttal annexure J. And you were here for the cross-examination by me of Ms Linzey were you?
- A. Yes I was.
- Q. Well I took Ms Linzey through this plan in some detail and I'm presuming that you, the Board and everybody else in the room is now very familiar with it. But on the right-hand side of that plan, looking at it with Hendon Avenue at the top, there is the new ventilation building within cut and cover, below ground and we see a black dotted, heavy black dotted area, rectangular, which is, as I understand it, the area within which the structure as whole will occur. But the above ground elements of that are the cross-hatched area that's shaped like a reversed L, a little bit, that has access hatches and gantry building above ground?
- A. Yes.
- Q. And the structure to the right-hand side, which is the control building, with the stack on top?
- A. That's correct
- Q. And what I understand you to be saying in your evidence is that one of the advantages of this build or this arrangement is that people at the top of the picture, if you like, in locations such as 87 or 89 Hendon Avenue could look straight out of their properties, they do have a structure in front of them, but they could look at the gap between those two buildings?

- A. That's correct
- Q. Now you would have heard my questioning of Ms Linzey about the potential for each and any individual houses to have a greater impact upon them. Is there anything in what she said that struck you as being contrary to your general views on the matter, anything you want to raise at this point?
- A. No the only point I do need to just emphasise is that the red hatched area, or the red dotted area outlined, doesn't include the control building, which would sit to the right of that red dotted outlined area, and extends approximately – the outer edge of it is approximately 35 metres south-east of the red outlined lozenge for the main building. So it extends roughly to the label "Ventilation Building Within Cut and Cover Below Ground". So even though there may be the appearance from looking at this that the base option has no effects, or very little effect, in terms of 87 and 89 Hendon Avenue, one has to remember that they would still be seeing part of the control building and the tunnel portal, in reality.
- Q. Yes, so that the advantages of option 3 are even more apparent, or are even greater than is apparent from one looking just at this plan?
- A. Yes, I just think it's important to make the point that even though I've stressed the fact that the bulk of affected parties in relation to the base option extend from around about 35 to 77 Hendon Avenue, a lesser degree of impact would still occur in relation to 75 to 89, even with the base option.
- Q. Now the other point I'd like to discuss with you briefly on this plan is that viewed from the Hendon Avenue properties, as you say in the statement and Ms Linzey's annexure, the structures are relatively narrow so would it be fair to say that the level of interruption to a view across that area that's caused by option 3 might be similar to that which could be created quite simply through the planting of a relatively small number of trees?
- A. I'm not sure I'd use that comparison because the interruption is occurring closer to ground level. As trees mature of course it lifts. I think there's another point that you have to bear in mind in looking at these options too. That is that there is proposed mass planting within

the rail designation, which sits on the Hendon Avenue side of any or all of those options. Now that would also have an effect on the degree of exposure to all of those options, so we're not talking about a clean open sward of grass at the end of the day. I just wanted you to bear that in mind.

Q. Sure, but we do have areas behind that planting that would, under the proposed – well sorry under option 3, would be available as public open space, but which in terms of the current proposal would be either motorway, in the sense of going into a portal, or a control building?

A. Yes that is absolutely correct.

Q. Now I'd like to turn now to the northern stack if I could and I wonder if you could get Mr Walter's rebuttal annexure E in front of you, which is the options or the alternative vent stack locations plan.

A. Yes I have that.

Q. I'm going to use that as we go through the discussions, but before I do that I'd like you if you could to get your attachments B2 and B3 which are the ones that I've been putting to other witnesses through the day. This is from your evidence-in-chief, these photographs.

WITNESS REFERRED TO ATTACHMENTS B2 AND B3

1600

THE COURT: JUDGE NEWHOOK

Now just remind us please, the annexures to Mr Walter's rebuttal you want us to look at.

MR ALLAN:

This is Mr Walter's evidence-in-chief and it's annexure – sorry, the one I'm taking – Mr Walter's annexure is E from his rebuttal. But I wanted to have that available as we go through the discussion, but the ones I want to address immediately are those two pictures from Mr Brown's evidence-in-chief, and they are viewpoint 568 and 716, attachments B2 and B3.

CROSS-EXAMINATION CONTINUES: MR ALLAN

Q. Mr Brown can we begin with attachment B3 which is the view coming down Great North Road.

A. Yes.

Q. My perception of that is that the stack will be an extremely visible element in the landscape as one comes down Great North Road?

A. That's true.

Q. And when I look at it, and I put this question to Mr Parker who professed it not to be his area, but it seems to me that visually that stack is likely to become the symbol of Waterview as perceived by the public of Auckland? If you come through Waterview the thing you'll think of is the stack. Is that something that you would perceive as a possibility?

A. I think there'll be an association with Waterview and I've acknowledged that in both my AE report and my EIC. And I think that that would certainly continue to be the case with this approach to design as well. The point I really was making and what I hoped might be achieved is that that association might not necessarily be negative but could well be positive.

Q. And I think you mentioned the – or at least I think perhaps Mr Gibbs mentioned the Sky Tower as being an example where people's perception of a building has changed over time. Do you think the fact that the structure we're dealing with here is effectively an exhaust pipe for a tunnel might have some impact on the long term perception of it, particularly for residents?

A. I think it might have more of an impact on the short term perception. I suspect, and I'm not a psychologist, I mean I majored in sociology for my first degree, but I'm not a psychologist, but I suspect that a lot of the concern will focus upon whether or not there's a reality to the physical air quality effects derived from that vent. And if after a period of time there is no perception of those effects then I suspect that gradually local community concern about that aspect of the structure will diminish, but I have to say, again I'm not qualified as a psychologist so I make that point advisedly.

- Q. It's not as if this is a structure that has some inherent positive element to offer to the community, apart from the fact that it removes the fumes further above their heads than would otherwise be the case?
- A. Well you see that's where I think we start to depart company because this may not have realised it, but the point is that in adopting an approach that's set out to make a sculptural statement there was definitely an intent to achieve a positive artistic aesthetic. Now as I said this may not have achieved it, but certainly that was the case. And I have to say for instance that I was thinking at that time of some of the very vertical structures found for instance in Battery Park in New York on the edge, off a coast, which are very commoner in form. Now this is – Mr Gibbs and his team at Construct have taken a different approach, and it may not be successful at this stage, but as I said I still feel that the approach is correct.

1605

- Q. It's possible isn't it, that no matter how good the sculpture is, the community within which it is being placed might say to itself, "It's still an exhaust pipe and we'd really rather not have it." And that might colour the long term perception of it?
- A. I still think there is a – I still think that there has to be a counter balancing which occurs between the perception of the actual physical effects associated with the emission of fumes and the appreciation of the vent as a physical and visual entity in its own right. And if there is in the longer term no perception of nuisance or hazard or health concern associated with the vent, then I think gradually the more positive aspects of a vent stack, providing it has got aesthetic merit, would gradually take over and become more predominant.
- Q. There are some other adverse effects than just fumes though aren't there, there's dominance, people may perceive this 25 or 15 metre structure as being dominant within their residential area?
- A. I don't think that's borne out in relation to most of the viewpoints, even further along Oakley Avenue, once you start to go significantly beyond the bounds of the primary school it's very hard to find anywhere where that would actually be the case.

- Q. You don't accept the primary school might be a critical part of the community for many of the people within this community?
- A. Well I do think it's a critical part but again, I think that the visual statement presented by the stack itself doesn't necessarily have to have these overwhelmingly adverse connotations that appear to be insinuated about it all the time. I think that – I've already explained that, so I won't repeat it but I think too that you have to remember that the primary school has a lot more breathing space, it has its sports fields, it has mature trees, it also has the area of the preschool facility which is now to be moved. All of which act as a buffer between those areas of primary activity and the stack and vent buildings, and I think those would actually help.
- Q. And a buffer is a good thing in that context?
- A. In that context it is because it's not just in relation to the vent stack, it also is in relation to the buildings and to the tunnel portal, and to the ramps and all the other paraphernalia associated with the motorway development.
- Q. The tunnel buildings themselves aren't going to be very big are they, in this location?
- A. No they're not.
- Q. And if I take you to the previous plan, your previous picture of this in your evidence, which is attachment B2, that shows the view from the primary school grounds?
- A. That's exactly right.
- Q. And I imagine that's fairly close to the edge of the field is it?
- A. No, it was taken pretty much in the middle of the field, and you can see that by looking at the goal post to the left, you can see that I pretty much plonked myself in centre field in the most open part of the school grounds.
- Q. Do you have a view on whether that structure starts to dominate the school, in that –
- A. I think it's prominent but I don't think it dominates it. I think, given the wealth of open space in the foreground, I don't think that's possible. And I think furthermore, if you go to other locations nearby, such as that

shown in my attachment B4, you begin to see the degree to which the visual scale and prominence of the structure starts to recede very rapidly. That's not very far along Oakley Avenue.

Q. We're talking about buffers, Great North Road would be quite a good buffer wouldn't it?

A. It would help. It would help in relation to the residential catchment but of course in some respects it would make, it would bring the vent even closer to the commuters and other users of Great North Road, simply because it has to be jammed up almost hard against the footpath and then against the roadway.

Q. Would you agree that if we're making a balancing exercise between the commuters along Great North Road and the people who actually live in Waterview next to this vent, or go to school there, who have children go to school there, we ought to give greater weight to the interests of those who are living in the immediate vicinity of this vent than to the people who are driving past it?

A. Overall I agree with you, but you asked me earlier about the perception of the community and I still think that's a valid consideration. I also think that we have to weigh up the effects of the vent, in either alternative 1 or alternative 2, on Oakley Creek Reserve.

Q. Well let's come to that exercise now. If I can take you to Andre Walter's rebuttal annexure E which is the other document I asked you to get in front of you.

A. Yes.

Q. And I'd like to just go through with you as I did with Ms Linzey. The impacts of the shift from the proposed stack location, which is marked with those words "proposed stack", in its current location, and the alternative vent stack 1 location, which is the one across the road and that's the only one my clients are pursuing because that's the one that can be put within the designation. If that shift was to happen it wouldn't have any adverse impacts visually in terms of residents, would it?

A. Yes it would.

Q. Who are the residents who would be –

THE COURT: JUDGE NEWHOOK

Just pause please. I think if the operator would get the next page up for us which is the drawn information overlaid on the aerial photograph. I think that would be better for current purposes wouldn't it?

MR ALLAN:

Sorry that's the one I'm using and I didn't realise that it was (inaudible 16:12:09) up there.

CROSS-EXAMINATION CONTINUES: MR ALLAN

Q. Sorry Mr Brown.

A. That's all right. I mean moving it across the road doesn't make it disappear. It might make it less prominent and reduce its perceived scale, but it is not going to disappear.

Q. Are there any residential properties that you say would be worse off, in terms of visual impacts?

A. No, absolutely not. Completely understand what you're saying there, no that wouldn't be the case.

Q. And in terms of the school and the students, the teachers, the parents, the people in the community who use it, that wouldn't be worse off with a shift across the road would it, in visual terms?

A. No.

Q. In terms of users of the BP site, that's focusing down towards the interchange, and again no adverse effect on those people?

A. No I can't see them being terribly worried about the structure.

Q. So we come back to the point that you raised area which is the one about the impact on, I guess the users of the public open space in the Oakley Creek area. In that regard would you accept that if you're viewing, or if you're in the open space shown on the top right-hand corner if you like of that picture up there, and you're looking up to where this vent is, you'll probably see it at about the same distance regardless of whether you're on the right-hand side of Great North Road or the left-hand side of Great North Road heading towards the motorway?

A. That's true.

- Q. And it's going to be in a location that's very close to a major arterial road adjacent to it?
- A. That's correct
- Q. And as you said earlier, in a location with a lot of other transport infrastructure around it, service station, portals, other structures. In your view are the adverse effects that you perceive of shifting that stack from one side of the road to the other sufficient to make you say, "I can no longer support this application"?
- A. I'd have to think about that. I was very disparaging about the BP station before so I'm tempted to say, "Yes". I would have a great deal of difficulty with it. I think it supports an approach of saying that our reserves and open spaces can become dumping grounds for things that we don't like in our urban environment but this is, from my point of view, an intensely urban structure that should be in an urban location and not dumped on the edge of a reserve. So I have a great deal of, I do have a great deal of difficulty with shifting this particular proposal to the edge of Oakley Reserve. I can't say adamantly or categorically that I would have to stop supporting the proposal as a whole, but I'm very, very uncomfortable with it.
- Q. You were able to support the proposal at the other end of the tunnel, where there is a stack in an area that's currently a reserve?
- A. Well actually at the moment it's sitting in the middle of a railway designation.
- Q. And look, the proposal impacts on public open space doesn't it, at the southern end?
- A. Yes it does, but I think that bearing in mind the nature of much of that open space and its railway corridor designation, I don't see it as being analogous with the situation of Oakley Creek Reserve, which I have to say I regard, certainly in terms of passive space and in terms of a streamside environment, as being much more important. Alan Wood Reserve has different qualities.
- Q. The key elements of Oakley Reserve are those down in the valley with the stream, the vegetation there and the open space, open areas on the

right-hand, very right-hand edge of that picture up on the board. The site for alternative vent stack 1, isn't a key part of that is it?

A. I don't regard it as quite the same way as you. I don't want to dissect it in that manner. I believe that Oakley Creek Reserve is important as a whole, and that includes its steeply banked vegetated areas, including those which extend up to the margins of Great North Road, as they do in the alternative sites 1 and 2. I think that that entire area that combines the stream corridor, it's steeply inclined landforms and places, its open space elsewhere, its treed areas, its mature trees in many places. I think it's the sum of the whole that we really have to look at.

Q. Now in forming your views on the visual impact of this proposal, am I right in understanding your evidence to be that you haven't taken into account social effects, like people's perception of the stack as perhaps being a symbol or the loss through the discontent in the community with having the stack next to the school in school role numbers. That is not something that you've taken into account?

A. I certainly have not looked at the latter, but I have made reference to the former and I think that's clear and I have, in response to some of your questions, also addressed those matters of, I guess the wider community perception of Waterview, but also the Waterview community's own, a perception of its own environment.

Q. My understanding of an answer you gave to my friend, Ms Devine, is that in forming your views, the preferences of the residents, even they were pretty much aligned wouldn't affect your professional view on what the visual impacts or the visual effects would be. Am I right in that?

A. Yes they have to be. I have to take as much as it is possible to do, an impartial and dispassionate stance in assessing these effects.

Q. You see Mr Brown, when I hear your evidence, the way I'm perceiving it, is that the interest of the open space in that little corner of the Oakley Reserve trumps, the preference is if the residents in the area (inaudible 16:19:08)?

A. No, I don't believe that's the case at all. I've also taken into account, and I have in fact already covered many of these matters. I've taken into account that I think that this sculptural statement, whatever we like

to call it, this positive challenge to the environment, should be addressed in an integrated fashion so that the buildings and ventilation stack are addressed as one. Now you might argue that that is achieved more positively, more successfully at the moment at the southern portal than it is at the northern portal. I'm not going to debate that, but that's one limb to my argument. The other is that I don't agree with the relocation of a stack which might threaten the integrity of the reserve and I've already stated that. I don't think the reduction in scale, the reduction in the presence, the visual presence of the stack or indeed its impacts on community perception will be as great as you're indicating simply because you shift them across the road. People will still be very, very aware of that stack. So I think that I've taken into account a number of factors in reaching that conclusion. I probably, if I thought through it carefully, probably haven't addressed them all, but at least I've tried to enunciate the main ones.

Q. You said in another answer to my friend's questioning that you don't think the stack can be mitigated on the edge of the open space – sorry, you guessed on the edge of Oakley Reserve?

A. Well it's difficult because you've got - sorry.

Q. I don't want to ask you about that. What I want to ask you is do you think it can be mitigated, other than turning it to a sculptural element, in the midst of a residential area and a school, next to a school?

A. Well I've already indicated that you can't hide this thing, you can't screen it, you can't pretend it's not there and you can't make it, you can't make it look like a house. And as a result that option really disappears, so really then you have to say, "Well what are we working with?" We're working with something that has a particular form, how do you work with that form to make it appear something that is positive as opposed to negative? That is really the approach that I've espoused.

Q. So in simple terms it's not actually capable of being mitigated in either location?

A. Not really. Not in the sense that you're talking about. I think the adoption of a, of positive sculptural approach, trying to create a positive

aesthetic out of the ventilation stack is the correct approach to addressing it.

Q. And do you think that can only occur on the western side of Great North Road?

A. I think it would more appropriately occur in the location where it is associated with the ventilation buildings.

THE COURT: JUDGE NEWHOOK

Now Mr Ryan's not here and we'll question you on Friday Mr Brown if you're able to come back here on Friday for that purpose, Friday morning.

MR BROWN:

Yes Your Honour.

THE COURT: JUDGE NEWHOOK

Friends of Oakley Creek, Ms Docherty.

CROSS-EXAMINATION: MS DOCHERTY

Q. Would you agree that the proposed landscaping and planting play a significant role in mitigating the medium and long term effects of this project?

A. Yes I would. In fact I place great emphasis on it in reaching the conclusions that I have.

Q. You commented earlier to Ms Devine that the five to 10 year period following construction is crucial as this is the stage that trees begin to mature and the full benefits of that mitigation can be appreciated, is that correct?

A. Well I'm not sure about the full benefits, but you're –

Q. That begin –

A. – starting to get a feel as to what is going to emerge, in terms of the structure, the way in which trees frame spaces and so on, yes.

Q. So in light of your comments, and going back to proposed condition LV4, which is on page 44, would you consider that the five year

maintenance period is long enough to ensure the success of this mitigation planting?

A. I signed the caucusing statement which agreed with a 10 year period, and I stand by that.

Q. So you would agree that the 10 year period would be more appropriate to mitigate the effects of this project?

A. Yes I would.

1625

QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP

Q. Could you have Mr Walter's rebuttal statement annex E open please, and while you're doing that could our friendly assistant bring up the drawing of construction yard 7 please. My question Mr Brown is whether Mr Walter's alternative vent stack 1 located to the south, in order to put it within the designation as proposed it straddles same, how that would be located relative to the footprint of construction yard 7?

A. Sir can I move up to the –

THE COURT: JUDGE NEWHOOK

We're lacking a microphone up there unfortunately. Are you able to describe it in words, that is a shortcoming of using the electronic board.

QUESTIONS FROM THE COURT CONTINUES: COMMISSIONER DUNLOP

Q. Is it within the footprint of the construction yard or not?

A. I don't know until I have a look at the diagram.

THE COURT: JUDGE NEWHOOK

Well would you like to go and have a look and then go back to a microphone. We're going to take an unusual step Mr Brown, now if you'd like to go back to the witness box. Ms Linzey can show you that same drawing on an iPad, and we happen to have ours up on iPads too, and she is – I'm giving her permission to show you the co-relation of these two objects. You are then going to have to say whether you agree or not, because it's a bit unusual

having somebody else talk to you during your cross-examination, but Ms Linzey is proving again that she knows this thing inside out. If you don't know whether you can agree with her or not just say so.

QUESTIONS FROM THE COURT CONTINUES: COMMISSIONER DUNLOP

A. It looks – the proposed alternative vent stack locations 1 and 2 appear to be outside that construction yard.

Q. That includes alternative 1 relocated in the way I described?

A. I believe so, yes.

Q. Thank you Mr Brown that's the end of that line of questioning.

MS LINZEY:

Sheet number 13 of the construction scheme plans which is F08.

THE COURT: JUDGE NEWHOOK

Yes thank you Ms Linzey. Let's just see if we can find that. F08 and document which?

MS LINZEY:

It's sheet 13 which is the reference 113.PDF.

THE COURT: JUDGE NEWHOOK

Our PDFs appear to start at 210 and go upwards in numbering. Can you just check the list of plans of structures in F08.

1630

MS LINZEY:

Sorry, that's getting on a bit, it's F04.

THE COURT: JUDGE NEWHOOK

F04, not F08. F05. Are we going to ask the engineers I think, get the answer from them. What plan number are you looking at?

MS LINZEY:

It was 113.

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

Q. Thank you Mr Brown, I can probably look at the drawing that His Honour has got here, I can see that it's clearly not within the footprint in regard?

A. Whew.

Q. Well the line of thinking was that you've expressed I think some concern about the potential effect of that location on the existing vegetation and what was going through my mind, was it in jeopardy from the footprint of the construction yard in any event. We've established that so no need to take it any further Your Honour. The other thing Mr Brown that I had in mind, was this flax forest running along the southern side of the properties in Hendon Avenue. I've read the evidence and I understand the, you know the thinking that's behind that. But it seems that open space is at a premium in this location. As I understand it the residents have access to that rail corridor at the moment, but they've been comfortable over the years with the security and aspects of having people from outside the community potentially using that space. Is there really a problem with that situation continuing, if consent were granted. How important is this flax forest, as I'm wanting to call it?

A. Well –

Q. In terms of mitigating and visual effects?

A. One has to bear in mind that the deviation of the rail designation occurs only really where the main portal building, then control building and portal itself, then motorway occur. If the portal buildings were to be relocated and have a different profile there wouldn't be the same need for such an extensive line of buffer planting, which is the best way of describing. And indeed the closer to Hendon Park, getting closer to Richardson Road, there were already proposals for a gap in that planting because of the desire for more open space in that area. So I think I would tend to see it as part of a pallet of tools that could be used for mitigation, but certainly with the revised location of the main building,

the portal and so on, there's no need for it to be anywhere near as extensive and yet still effective.

Q. What's its linear, how long is it Mr Brown?

A. Sir, I actually don't know the answer to that. I do know though that it starts roughly near, would start somewhere near Harlston Road and then extend to just beyond Barrymore Road, which is that tiny little cul-de-sac off Hendon Avenue before breaking. Now that's with the base option. With the revised options that are now being looked at, that could be truncated very considerably, it could be reduced to starting somewhere between Stewart and Range View Roads and again, Barrymore.

THE COURT: JUDGE NEWHOOK

Q. You're talking option 3?

A. Yes Your Honour.

QUESTIONS FROM THE COURT CONTINUES: COMMISSIONER DUNLOP

Q. And am I correct in thinking that that would, a truncation would potentially retain some space, some open space that's presently used for that purpose?

A. Absolutely, and in fact of course it would reinforce the idea of a larger area of open space between the Avondale Motor Camp and 96 to 98 Methuen Road and Hendon Avenue. So this, sorry, if I can just explain. This area which sits, which I'm indicating, which sits between those three locations, would be more open as a whole and the flax forest or whatever we like to call it, could move in this direction quite significantly. So you would be losing some, or potentially 130 metres of that flax planting.

Q. You might not be able to answer this question Mr Brown, but do you know where the concerns about security came to the attention of the project team through consultation with the community or did they arise through perceptions on the part of the project members themselves?

- A. I can't give you a definitive answer to that. I don't think the community really was involved in that process, I think NZTA commissioned Oricon to undertake an assessment of the security needs for the southern portal buildings.
- Q. I expect Ms Linzey knows chapter and verse on that so I guess she's on notice. Thank you Mr Brown.

QUESTIONS FROM THE BOARD: MR DORMER

- Q. Mr Brown I'd like to make sure I've got my notes right. In questioning from Ms Devine as regards option 3 at the southern end, she said to you, "Option 3 is the preferred one?" at which point you interposed, "I totally agree." Were you totally agreeing with the fact that it's the preferred option or were you totally agreeing with the idea that in fact option 3 be adopted?
- A. Well, I was agreeing at that point that it was the preferred option.
- Q. And it's one which overall you would regard as an improvement?
- A. Oh yes, and in fact I think Ms Linzey's matrix in her annexure clearly shows that.
- Q. And it's an improvement to which you would attach minor, significant or large importance?
- A. Well I gave it two pluses out of a possible three, with the base option rated as, well zero, because it was neither – obviously that's the starting point. So I think it would be fair to say that I saw it as being fairly significant.

QUESTIONS FROM THE BOARD: MS JACKSON

- Q. This mass flax planting, we saw one of these boring things when we went to a roundabout a few weeks ago. Surely we can do something more with it and there was a suggestion that it become a community garden, like the allotment system. What's your opinion on that?

1640

- A. I don't have a concern about that. I think that would probably be quite a positive step. I think, one of the other options that was raised in the evidence of Mr Scott was that of a po – using this as a possible nursery.

I have to say I could see the potential for a lot of plants disappearing very rapidly from that nursery, and that may also be a problem with an allotment. So it depends a little bit on passive security and people being there and it actually being used to work, but I don't have a problem with that idea at all, per se.

Q. Well that's great to hear. Where trees are being taken out, regardless of what their size is, there seems to be some reason that it has to be replaced with natives and there's some very nice exotics out there. Why do they have to be always replaced with natives?

A. I think Mr Little is probably the person who you should address that question to. He's had quite a few debates, sorry discussions, with various parties over that particular issue and I think he's been on the losing end of quite a few of them, which perhaps explains why we have some of the planting we have.

Q. Because the suggestion has been made to plant some of these little natives out the front of yard 1 and the minute that yard 1 disappears the ponies will eat them all anyway, so really it might be better to plant some decent exotics and provide some shelter for people –

A. Yes.

Q. – later on?

A. I think the proposed planting around yard 1 was really designed to address the Te Atatu Road, not really the boundary facing the rest of the pony club and ponies that might lean over the fence. So it was designed to help mitigate some of the effects in relation to residents of Te Atatu Road and Titoki Street, to a degree. But elsewhere, yes I think Mr Little is definitely the person who you need to ask, direct those questions at.

QUESTIONS FROM THE BOARD: MS HARDIE

Q. Just on the same vein, just with regards to – you mentioned that the planting and that you place quite a lot of emphasis on the planting and that also this duration for the plants to mature. Is there a process in terms of – particularly for the areas like Alan Wood that are going to be

there for some time – for an (inaudible 16:42:50) of the contracts for, to use slightly more mature trees in the final planting?

- A. Again I don't know the answer to that. I think Mr Little is the right person to raise those matters with. I have assumed that in line with most motorway projects the emphasis would be on greater numbers of small planting rather than a few, a lesser number of large specimens or species. And the reason I say that is that in general you get more bang for your bucks out of that larger scale massed planting. And the plants themselves adapt more quickly to the physical conditions in which they're located. So if there're in difficult conditions, where for instance they may get stressed by lack of rainfall during the summer, smaller plants will adapt more quickly to that situation than large plants will, but I think beyond that I can't really provide any more advice. Mr Little is definitely the person you need to raise that matter with.

QUESTIONS FROM THE COURT: JUDGE NEWHOOK - NIL

RE-EXAMINATION: MS JANISSSEN – NIL

WITNESS EXCUSED

THE COURT: JUDGE NEWHOOK

During the course of the day the Board has engaged in discussions about a couple of issues. Member Dormer and I raised a matter this morning that we thought that the NZTA ought to help us with and I suppose the idea emerged over lunch that Ms Linzey, amongst others, doesn't have enough homework on her plate and there were two other matters that we think that she and other members of the team including counsel could perhaps usefully assist us. Commissioner Dunlop has kindly put together our thinking on one of them and Member Dormer on another. So we'll start with Member Dunlop.

THE COURT: COMMISSIONER DUNLOP

The issue concerns the conditions which allow the work to be done in accordance with the documentation lodged. And an example of that would be DC1. The proposed consenting scheme, as we understand it, is that work would be authorised in accordance with the documentation without the need for further approvals, including by council, or particularly by council.

THE COURT: JUDGE NEWHOOK

Just go a little more slowly, Mr Law is taking notes for the NZTA team. Yes, just back up a little. I think the wording of this has been usefully constructed by you Member Dunlop and it would be useful if they had it. Actually on second thoughts, just deliver it at a speaking pace, we'll leave the notes with the registrar after we arise and we can have it copied.

THE COURT: COMMISSIONER DUNLOP

I won't repeat the introduction, but I will begin again at the second paragraph. The proposed consenting scheme, as I understand, and I believe the other members do, is that work would be authorised in accordance with the documentation without the need for further approvals, including by the council, particularly by the council. Generally, it is only where there would be a departure from the documentation that council approval is required. In my perception, and indeed other members, the consenting scheme creates tension between the flexibility that the applicant seeks and the certainty that a

consent authority, with the community in mind, would typically seek. Presumably it's for this reason one finds words like, "in general accordance with", "subject to final design" and "where practicable", proposed by the Agency. To help the Board understand fully the implications of what it's being asked to consent, would it be possible for the Agency to undertake an analysis of whether sufficiently certain performance levels are proposed in the construction environmental plan and other management plans, so that the council could perform a certifier function, properly understood and for enforcement purposes. So we are asking if that's feasible, albeit a significant task. And if not, what are the implications for the Board discharging its function, including, in a timely manner.

THE COURT: JUDGE NEWHOOK

I'll have that typed up very shortly and it will be available to you by email, probably this evening.

MS JANISSEN:

If I can just shortly respond, the team has already looked at that.

THE COURT: JUDGE NEWHOOK

Yes we value your off the cuff instantaneous response.

MS JANISSEN:

And that has already been looked it and particularly by Mr Hugh Leersnyder, so we can do a more succinct response to that point. I think the point that is to be made though with respect to this project versus any of the other motorway projects that I've worked on, is that in the traditional approach there have been a whole host of conditions that say, "A management plan shall be lodged, " in the future effectively that the council then approves. This one is quite different to the extent that upwards of about 15 management plans have already been lodged, they've been lodged since last August, specifically so that the council in particular, can already look through it and assure itself that those specifications and what not are in there, so that later on their function really is more of a certification one. So it's quite different to most of the other

projects that we've work on, to the extent that that information has been lodged in advance to provide greater certainty to this Board and to the public as to what is already in those management plans. And it's for that reason that most of the conditions say that the management plan shall be finalised to be in accordance with the designation conditions, because that is something that the council then can effectively check on or certify when it's doing its review, but that if the team then makes any changes to the management plan that has to go for an approval. So that's fundamentally the difference and that's why this project is different to other ones in that respect, but we're quite happy to lay that out because your question's exactly one that we've looked at.

THE COURT: JUDGE NEWHOOK

Can I offer a quick thought in response, and thank you Ms Janissen, we value that quick response. The points you make have validity, we recognise them. Equally, the project is one of a size and complexity never before seen. The task that faces us in considering whether or not to grant consent, and then if we do on what terms, is a very significant one and I guess we're saying that we would like to have a slightly higher level of assurance about the way in which this feature would work. And I guess the issues that we've posed to dovetail somewhat with the homework that we said before lunch.

MS JANISSEN:

Yes, yes it does.

THE COURT: COMMISSIONER DUNLOP

Other than to say that we do understand the consenting scheme and the thinking that underlies it, but the points His Honour has made are front of mind for the Board members.

MS JANISSEN:

Certainly.

THE COURT: JUDGE NEWHOOK

Bringing the last words in Member Dunlop's question about us completing our part of the thing in a timely fashion. Now Member Dormer has another one concerning noise where it may be useful for Ms Wilkening and others to provide us with a bit of further assistance.

THE COURT: COMMISSIONER DUNLOP

And the note is in two parts. The operational noise conditions include an anticipatory or predicted component, such that at risk properties are identified in advance and mitigation works are either proposed or installed before the effects are felt. That might be a helpful starting point, it has occurred to us, particularly in relation to those properties that can be expected to experience noise at non-complying levels over maybe five or six years of construction activity. It seems to us that (1) we can say now that there are certain activities that will breach noise standards (2) that those breaches will particularly affect certain properties and (3) that the extent of those breaches can be identified and those properties can be identified in advance. So at least for some of those subject to construction effects there has to be a potential for some early provision of mitigation. We particularly seek – and this is the second part of the note – Ms Wilkening's further help in relation to construction noise. Could she compile (1) a list of activities which will not comply with the noise limits? You may recall that she gave me a list that said it wasn't exhaustive. Could she compile too, also secondly, could she perhaps divide that list into two? Construction effects that might be greater than two weeks duration, and (b) construction effects, the shorter duration. And third, could she prepare a map or plan showing the properties likely to be subject to noise above the levels specified.

THE COURT: JUDGE NEWHOOK

So not unexpectedly, construction noise effects on a project like this are something that have the potential to cause the Board considerable disquiet and it seems to us need that degree if further work (inaudible 16:56:23).

THE COURT: JUDGE NEWHOOK – HOUSEKEEPING

COURT ADJOURNS: 4.57 PM