

**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 5 – Friday 18 February 2011**

COURT RESUMES ON FRIDAY 18 FEBRUARY 2011 AT 9.36 AM**THE COURT: JUDGE NEWHOOK**

Ms Janissen, we've got Dr Fisher's latest work and we thank him for preparing it and we thank the three air quality people for caucusing again, quite possibly very helpful. We have the impression that it might not be appropriate to hear
5 from Dr Fisher today, because we think that the approach from here should be that albeit that he's purported to give a bit of a report about the caucusing, he isn't an independent facilitator, and I think it would be fair, unless the council says he doesn't want to do this, have their air quality witness provide us with a brief statement in answer, if she wishes to answer any of the material in there.
10 And certainly, it seems to me there'd be some uncertainties about whether to have monitoring just inside the portals or outside the portals. It seems to be their main area of disagreement, but there may be others. And I have it in mind that Ms Metcalfe would provide us with a brief section 42A update as well, after Ms Petersen has said anything that she wants to say, and then
15 we'd hear from Dr Fisher the week after next. I'll see what the others think, what do you think?

MS JANISSEN:

Certainly sir, I think that was an indication my friend would like to do that
20 anyway, to hear, so he has an opportunity to talk to Ms Petersen.

THE COURT: JUDGE NEWHOOK

Mr Lanning, I saw you nodding there?

MR LANNING:

25 That's correct sir, I think it would be beneficial for Ms Petersen to have a proper amount of time to review it and respond, because I think a number of issues have been resolved through the supplementary evidence but she really needs to tell me that.

THE COURT: JUDGE NEWHOOK

One has that feeling but there is one at least that hasn't. Can she file and serve something by the middle of next week?

5 MR LANNING:

I'm sure that's okay, I can indicate if it's not, but I wouldn't perceive that to be a problem.

THE COURT: JUDGE NEWHOOK

10 And then I'm minded this is all quite sort of quick smart again but then I'd be minded to see if Ms Metcalfe can do an update on the 42A report by Friday, sometime on Friday for us.

MS JANISSEN:

I could check if Mr Fisher's available on the 28th.

15

MS METCALFE:

I'm Ms Metcalfe, I can respond to that.

THE COURT: JUDGE NEWHOOK

20 You can cope with that Ms Metcalfe, thank you very much indeed, much appreciated. All right that's air quality out of the way for the moment. Right now, Mr Brown is with us again. Ms Morgan, my rebuttal materials that the EPA was copying for me, are they all back?

MS MORGAN:

25 Yes, they're all back.

0940

THE COURT: JUDGE NEWHOOK

30 Yes I believe that I had some questions for Mr Brown, but I actually think they've been dealt with so I'm sorry I hope you haven't been dragged back in needlessly. Did you have any re-examination of Mr Brown, Ms Janissen – oh Mr Ryan. That was the other reason we dragged you back Mr Brown. Yes

that's right your questions of Ms Linzey were put through Ms Janissen and you sought the right to cross-examine Mr Brown today.

MR RYAN:

5 That's correct sir.

THE COURT: JUDGE NEWHOOK

And if you've seen the record I allowed myself the adlib side that I wasn't quite sure why you needed to because he seemed to have been pretty up front about things that concerned your client, but anyway you've got the right to
10 cross-examine him.

MR RYAN:

Thank you sir. Members of the Board, counsel's name is Ryan, I appear for the Auckland Kindergarten Association, a charitable trust. I appreciate and
15 acknowledge the Board and applicant's willingness to recall Mr Brown this morning. Before I commence, because it's a first opportunity for me to address the Board, I do acknowledge the offer of permanent relocation of the Waterview Kindergarten which has been made by NZTA and that issue, the permanent relocation, is a primary relief that's sought by the Kindergarten
20 Association. Unfortunately, that offer was received on the eve of the hearing and the parties are currently working through the terms to that, so in the meantime until the parties have resolved the terms I'm obliged to put the case for the Association, albeit against the background of the changed position by the applicant.

25 **THE COURT: JUDGE NEWHOOK**

So is your line of questioning likely to be more in relation to the theoretical possibility that the kindergarten might have to go back to its present location and cope with long term operational effects?

30 **MR RYAN:**

Well firstly, we're aware this witness supports permanent relocation as a means of avoiding (inaudible 9:43:26) and depending on the answer to that

question I'm obliged to then to put to the witness the issues raised by Mr Pryor for the Kindergarten Association.

THE COURT: JUDGE NEWHOOK

Yes all right. Now let me try and get a feel from you, and then from
5 Ms Janissen, as to how long it is thought that it might take to nail down an agreement between the Association and NZTA. Have you got a feel for that?

MR RYAN:

Well I think sir the difficulty has been that my friend's witnesses have been
10 tied up in the hearing obligations and with next week being a (inaudible 9:44:06) week it's hopeful I think that the parties will meet, including the Ministry of Education will be a party to any resolution.

THE COURT: JUDGE NEWHOOK

Right Ms Janissen, do you have a feel for this?
15

MS JANISSEN:

Yes sir. Yes, it's my understanding that all issues are in fact agreed as between the Agency and the kindergarten. The only outstanding issue is to a costs and fees issue which is being raised by the Kindergarten Association.

20 **THE COURT: JUDGE NEWHOOK**

Sounds fairly close.

MS JANISSEN:

Yes.

25 **THE COURT: JUDGE NEWHOOK**

And ought to be doable next week?

MS JANISSEN:

Yes.

THE COURT: JUDGE NEWHOOK

All right, well Mr Ryan yes I'll allow you to cross-examine this witness, but if you wouldn't mind keeping it pretty crisp because it sounds as though those issues will go off the table. Unless there's a fish hook in the Oakley Avenue
 5 proposal for permanent relocation.

MR RYAN:

Yes, yes I will and –
 0945

10 **THE COURT: JUDGE NEWHOOK**

So we start with that.

CROSS-EXAMINATION: MR RYAN

Q. Mr Brown, at paragraph 65 of your rebuttal evidence you describe the permanent relocation of the kindergarten site which was something that
 15 you were informed of shortly before preparing your rebuttal evidence. And you say at paragraph 65 in the last sentence that any such relocation would dramatically reduce awareness of the stack, of the northern ventilation stack, from the kindergarten. So my question to you is whether you, like Ms Linzey, support the permanent relocation of the
 20 kindergarten to the vicinity of number 17 Oakley Avenue as a means of mitigating or avoiding effects on Waterview Kindergarten?

A. Yes, well on the basis of those findings I'm bound to, and I sus – I've actually just been looking through the caucusing notes and I thought that this was also a matter that we had reached agreement on. So, but
 25 regardless I do agree that that relocation would have ben – would have a beneficial outcome.

QUESTIONS FROM THE BOARD - NIL**RE-EXAMINATION: MS JANISSEN – NIL****WITNESS EXCUSED**

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MR LAW CALLS**CEDRIC OWEN BURN (AFFIRMED)**

Q. Mr Burn, is your full name Cedric Owen Burn?

A. It is.

5 Q. And have you prepared statements and evidence-in-chief dated 13 November and 14 November?

A. I have.

Q. Have you prepared rebuttal evidence dated the 3rd of February?

A. I have.

10 Q. Are your qualifications as set out in your first statement of evidence-in-chief?

A. They are.

Q. Do you have anything in your evidence-in-chief or your rebuttal that you wish to correct?

15 A. No.

Q. Therefore, do you confirm that the contents of your evidence, your two statements of evidence-in-chief and your rebuttal are true and correct?

A. They are.

CROSS-EXAMINATION: MR LANNING

20 Q. Now Mr Burn I'd like to just take you to pages 5 and 6 of your rebuttal evidence. That's paragraphs 16 through to 20. And this section of your evidence deals with the Te Atatu Pony Club and a matter raised by Mr Beer in his evidence. Now to a large extent I think it's resolved, but I just want to ask you whether, in your view, it would be appropriate to rotate or to, sorry, alter the designation boundaries and rotate the pony club's, sorry the construction yard, rather than rely on resource consent to use that land for a construction yard?

25

A. Yes I believe it would be.

Q. And at what point should the construction yard boundaries be altered, at what point in the process? Should it be part of this process or is this something that is anticipated for later on?

30

A. I think it could be part of this process.

THE COURT: JUDGE NEWHOOK

I've got some questions in that area myself, but I think I'll come to them in due time. Your question and the answer helped a little bit.

5 MR LANNING:

It seems to be resolved by Ms Janissen's legal submissions a little bit as well really. She confirms, she suggests that there is jurisdiction for the Board to do it, we need to pursue it too maybe.

THE COURT: JUDGE NEWHOOK

10 We might come back to that too. Forest & Bird, Mr McNatty.

CROSS-EXAMINATION: MR MCNATTY

Q. My first point is probably one of simple clarification, but I'd like to refer to your evidence-in-chief, your annexure A, and in your list of relevant plan documents you include a document, "Transitional Auckland Regional Plan 1991". Is it in fact the transitional plan, Transitional Regional Plan, Coastal, that you're referring to?

15

A. Yes.

Q. Are you aware, in that Transitional Regional Plan, Coastal, there's a general authorisation for transitional, general authorisation for comprehensive stormwater rights, is notified the 26th of September 1991, pursuant to section 22 of the Water and Soil Conservation Act, authorising the discharge and diversion of stormwater and natural water in respect of any river, stream, drain, lake or sea within the Auckland region, and that was for water rights of a territorial local authority?

20

A. I have the regional plan with me, could you direct me to the general authorisation, to which you refer?

25

Q. On page 23 of that.

A. You must have a different document, mine refers to water bores.

Q. "The Auckland Regional Council acting as a Regional Water Board."?

30 THE COURT: JUDGE NEWHOOK

Do you have a copy in front of you Mr McNatty?

MR MCNATTY:

I do Your Honour.

MR BURN:

5 Is this the one to which you refer?

MR MCNATTY:

This is the document I have Your Honour.

THE COURT: JUDGE NEWHOOK

10 Is that the same one as Mr Burn's holding up?

MR MCNATTY:

It appears at first glance it is sir.

THE COURT: JUDGE NEWHOOK

15 Madam Registrar, would you please get Mr McNatty's copy briefly from him, take it to Mr Burn, Mr Burn you look at it and see if literally and figuratively you're on the same page.

CROSS-EXAMINATION CONTINUES: MR MCNATTY

A. Did you say 26, page 26?

20 Q. 23.

A. Yes I've found it now in my copy, for some reason we seem to have a different pagination.

Q. My question really arises from that. Can you confirm whether any such general authorisation exists for NZTA or its predecessor as a national
25 roading network operator to the project area?

0955

A. This is a general authorisation, as I understand it, which is given to territorial local authorities.

Q. And my question was –

30 A. NZTA is not a territorial local authority.

Q. No that was not my point. My point was, was there any general authorisation of a similar nature given to NZTA or its predecessor, Transit?

A. Not that I'm aware of.

5 Q. Therefore, can you confirm that apart from the three consents listed as ARC consent numbers 30235, 35626 and BH8735, and I find them in technical report G15 page 21 and 22, that NZTA does not hold consents for the discharge of stormwater including contaminants into the coastal marine area?

10 A. Those consents to which you refer are consents for the discharge of stormwater.

Q. I'm talking about apart from those –

A. Apart from those?

Q. Yes.

15 A. As far as I'm aware, no.

Q. Okay then on that basis would you agree that the statement of Mr Parker in examination response of Ms Janissen in opening legal argument regarding the status of existing consents as fuzzy could now be clarified?

20 A. No I would agree with Mr Parker's statement because the causeway was constructed, as you know, in 1952. It's certainly not clear to me what consents, if any, would have been required at that time. And it's certainly not clear to me as a planner whether any existing lease rights would have endured since that time through to the time that general (inaudible 9:57:25) were issued under this transitional instrument. And I would suggest it would take a fair amount of forensic investigation as to determine precisely what the status of discharge from the existing causeway was. So on that basis I do agree with Mr Parker that the consenting history for the causeway discharges is fuzzy.

25
30 Q. And would you say that since the 2001, which was the general expiry of general authorisations in the transition plan, since then the situation should become far more clear?

A. Well one would hope so, but I don't think so because of the manner in which the air, land and water plan or the proposed air, land and water

plan has evolved since its notification and I think it's presented challenges, not only to the NZTA, but to all entities operating networks which discharge stormwater to the CMA, and that includes of course councils and the Auckland Council.

- 5 Q. And since 2001, or approximately 2001, did NZTA or its predecessor apply for comprehensive water discharge consents for that motorway area?

THE COURT: JUDGE NEWHOOK

No just pause please. Don't answer that for the moment Mr Burn.
10 Mr McNatty the evidence that seems to be before us is that NZTA, and that this witness is saying, that NZTA has applied for all the consents that it needs for the discharge of stormwater and contaminants for the project. And the ARC, in its section 149G report, has informed us that it agrees that NZTA has applied for all the consents that it needs for the project. Why are we looking
15 back over our shoulders through your questioning to historical matters that a number of people appear to agree are fuzzy, probably deriving from the history of regulation in this area having come from non-existent to partial, to little more and little more. What's the relevance of that?

20 **MR MCNATTY:**

The relevance Your Honour is the status of the exception in the gazetting of the marine reserve and there's an exception that existing consents, I should say existing discharges, are permitted as long as they comply with all legalities and the provisions of the Resource Management Act. So there's a
25 history of a relevance from the time of the gazetting of the reserve, so 1995 sets a timeline in our position sir.

THE COURT: JUDGE NEWHOOK

And what jurisdiction have we over the reserve?

30 **MR MCNATTY:**

You have a jurisdiction in consideration through Policy 5 of the 2010 New Zealand Coastal Policy Statement, to consider the intents of other

Acts. Probably the crunch for us is that if there's an observation that the discharges from the motorway system did not follow the exception of the gazetting notice, then there is in fact a statutory bottom line, of zero, of nil discharge, according to the Marine Reserves Act. Now –

5 THE COURT: JUDGE NEWHOOK

Just pause there. You're wading fairly extensively into legal material now, in answer to my question. I'm not sure whether there are evidentiary matters in here that you ought to be questioning the witness about but I don't have a firm view on that presently. Refresh my memory, has Forest & Bird filed any
10 evidence about this?

MR MCNATTY:

Has filed evidence on the – in the statements, rather than the evidence sir.

THE COURT: JUDGE NEWHOOK

15 What do you mean by "statements" rather than "evidence"?

MR MCNATTY:

It was in the original submissions there was the suggestion that the marine reserve hadn't been fully recognised in the project, in the application
20 documents and that status or that marine reserve I feel is part of that trail.

THE COURT: JUDGE NEWHOOK

Yes well if there are matters of planning fact, that are needed, that we need to examine in connection with that, then by all means put questions to this witness about those matters of the planning fact, but this isn't the opportunity
25 to get into the legal area.

MR MCNATTY:

Then I'll put that to one side Your Honour.

THE COURT: JUDGE NEWHOOK

30 Well that's over to you.

CROSS-EXAMINATION CONTINUES: MR MCNATTY

Q. In the cross-examination of Dr Bell and Dr Fisher in contaminant in stormwater, Dr Bell, I'm sorry for coastal processes and Dr Fisher in stormwater design, there are two similar statements arose that indicated their brief was to consider the existing environment and to report on the effects of the proposed project in relation to that existing environment. Would you agree that such indication is strongly suggestive of a permitted baseline?

A. No, there's, I think there's a distinction between the permitted baseline and the existing environment that needs to be drawn and as I understand the evidence they gave, they were looking at the existing environment in terms of the causeway and the manner in which it functioned with respect to the discharge of stormwater.

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Q. Again I'd like to refer to the paragraph 41, page 20 of the technical report G15 there, and there's a statement in there that suggests that consideration of the ACC consents and the New Zealand NZTA current consents must be qualified in (inaudible 10:05:32). It indicates that there is a baseline that must be approached in that statement, could you

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THE COURT: JUDGE NEWHOOK

Well it's not enough just say that there's "something" in G15, you've got to give us, and particularly got to give the witness, the reference.

CROSS-EXAMINATION CONTINUES: MR MCNATTY

Q. Apologies Your Honour. Under "Assessment Matters" under clause 4.1 on page 20, G15, "The assessment of stormwater and stream water effects" –

THE COURT: JUDGE NEWHOOK

Page 20, is it?

MR MCNATTY:

Under the heading “Relevant Current Consents”.

CROSS-EXAMINATION CONTINUES: MR MCNATTY

5 Q. “ACC holds a comprehensive discharge consent for the Oakley catchment and consideration of this is relevant to stormwater criteria for the project. Also, current consents held by NZTA for the existing state highway alignment are relevant as baseline for stormwater treatment for the areas related to.” In that statement of baseline, does that equate with the permitted baseline of your plan, in your opinion?

10 **THE COURT: JUDGE NEWHOOK**

Just pause, two things. I don’t find that statement on page 20 and I’m wanting to have the relevant piece of G15 in front of me while you’re questioning the witness. We’ll deal with that first.

15 **MR BURN:**

I’m sorry, I don’t find it either.

THE COURT: JUDGE NEWHOOK

20 That doesn’t appear to be the reference, we need to have the reference in front of us because it’s important for the witness and ourselves to have the context of that which you’re questioning him on.

MR MCNATTY:

25 I’m sorry Your Honour, I have just printed a few pages of this document, I’ve got document reference “G15, page 20 July 2010, assessment of stormwater and stream works effects.”

THE COURT: JUDGE NEWHOOK

Have you got a printout or a photocopy of any of the pages of G15 or is this just your own notes?

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MR MCNATTY:

No, this is actually a photocopy of it Your Honour.

THE COURT: JUDGE NEWHOOK

Madam Registrar would you take those pages from Mr McNatty to the witness
5 and see if those will assist him to find the relevant passage, probably
electronically, so that we can do the same.

CROSS-EXAMINATION CONTINUES: MR MCNATTY

A. You're referring to paragraph 4.1?

Q. That's correct.

10 A. Right, yes I haven't...

THE COURT: JUDGE NEWHOOK

Q. Mr Burn, can you give us a page reference?

A. I have page 20, paragraph 4.1 under the heading "Relevant Current
Consents", sub-heading, "Relevant Current Consents".

15 Q. I've found that, thank you.

CROSS-EXAMINATION CONTINUES: MR MCNATTY

Q. My question if I may repeat it then Mr Burn, is that the baseline for
stormwater treatment that's discussed in that section, is that the same
baseline as would be a permitted baseline under planning?

20 A. No I don't believe it would. I think, well I read the references is to
discharge in terms of current consent and that seems to me to provide
an indication of what the existing environment is, in terms of discharge.
It's – I don't think it's intended, and I can't speak for the authors, but I
don't think it's intended to refer to it as a permitted baseline.

25 Q. I would like to refer to Dr Tim Fisher's evidence-in-chief, paragraph 35.
Sorry I don't have the page Your Honour.

THE COURT: JUDGE NEWHOOK

Well just wait while we find it, evidence-in-chief of Dr Fisher, and a paragraph
number is there?

MR MCNATTY:

Paragraph 35.

5 **MR BROWN:**

Page 10.

THE COURT: JUDGE NEWHOOK

It's on page 9 in my version. Paragraph 35, it starts "air quality and monitoring of the operational effects"?

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MR MCNATTY:

No sir I have Dr Tim Fisher.

THE COURT: JUDGE NEWHOOK

Sorry, no I think I'm Gavin Fisher.

15 **CROSS-EXAMINATION CONTINUES: MR MCNATTY**

Q. In this there's an estimate of annual loads delivered to the Waterview estuary from the motorway – they're an estimated annual loads to be delivered to the Waterview estuary in the project motorway area. Would you agree that these statements indicate an accumulation of adverse effects, from a planning perspective?

20

A. Yes.

Q. I might turn sir to Dr Fisher's evidence-in-chief, paragraph 33, I'm sorry again I don't have a page number.

A. I believe it's the same page.

25

Q. Okay, paragraph 33. There's a statement in there that says, "While stormwater treatment is not strictly required for existing impervious surfaces". I would put it to you sir that within planning instruments, that statement is not quite correct?

A. As I said before it's difficult to determine whether in fact there are existing consents for all stormwater discharged from all of the

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impervious surfaces on the causeway. So I think we're returning to the original question.

Q. In your second statement of evidence sir in clause 28.

A. Yes.

5 1015

Q. You state, in discussing the existing effects of the motorway on the morphology of the estuary you state "these levels of contaminants were considered to be in part a result of the rudimentary treatment of stormwater currently flowing into the coastal marine area from the existing causeway". Can you explain –

10

THE COURT: JUDGE NEWHOOK

Q. Just pause, pause, pause, pause. Have you found that reference Mr Burn?

A. Yes I have.

15 Q. Can you tell us where to look for it then?

A. Right, it's on page 10 of my second statement of evidence and it's paragraph 28.

CROSS-EXAMINATION CONTINUES: MR MCNATTY

20 Q. Can you please explain where this rudimentary stormwater treatment takes place?

A. Yes it derives from one of the discharge consents that you referred to a little bit earlier, and that consent was granted in 2005 when additional pavement was established on either side of the then existing pavement to create a bus shoulder, and at that time an application was made to the then regional council for stormwater discharge from that additional pavement. Now it was recognised in the assessment of that that the treatment device to be used would only suffice to give I think 70% removal of suspended solids for that new pavement, not for the entire pavement. So in that sense it was a rudimentary level of treatment.

25

30 Q. Okay thank you Mr Burn. In clause 30 of that same document you state that "a bio filter will treat more than 80% of suspended solids and a similar percentage of metals and solution". And my question's probably

hypothetical now there, but if NZTA was already complying with an ARC guideline TP10 the general acceptance standard for stormwater treatment would already be at approximately 75% suspended solids?

A. Sorry I don't quite understand your question.

5 Q. Okay, if NZTA was already complying with the stormwater standard in the Auckland region that would – and the guideline is generally accepted as ARC's TP10 document – wouldn't the supposed treated standard be already at 75%?

10 A. TP10 is not a standard for stormwater discharges from networks so it wouldn't be quite correct to refer to that as a standard. I do note however that for non-network discharges, in terms of the proposed air, land and water plan, 75% is the permitted standard, but that's not the case for network discharges.

Q. Or would it be more appropriate to use an ANZSIC standard?

15 A. I beg your pardon?

Q. Would it not then be more appropriate to use an ANZSIC standard of water quality and water –

A. I'm sorry I'm not familiar with an ANZSIC standard.

Q. ANZSIC.

20 A. I beg your pardon?

Q. It's called an ANZSIC standard and I would have to defer to people more expert.

A. So would I.

1020

25 Q. In your clause 40 of that same evidence sir, you address the measures incorporated in the draft conditions of consent appended to Ms Linzey's evidence, as such they will not have effects that are more than minor. Do you consider that the mitigation measures need to be reassessed to take into account the non-treatment of stormwater from 2001 to 2006,
30 being the date of operation and the minimal improvement of contaminant removal after that date?

A. No I don't.

Q. In clause 63 of your evidence, that same evidence, you state that policy 11 of the New Zealand Coastal Policy Statement 2010 is directed

at protection of biodiversity through avoiding, remedying or mitigating adverse effects on the indigenous vegetation, eco systems and habitats. The measures within the project that addressed this policy are described in chapters 13 to 23 of the AE and the evidence of Dr De Luca, Messrs Don and Slaven. My question really is, in your evidence, is there a part that weighs up the nationally important marine values of a marine reserve against a regionally important transport issues?

5

A. Well my reading of the New Zealand Coastal Policy Statement is that it requires a balancing and I think the reference in the Coastal Policy Statement you're perhaps trying to find is policy 5, which I think refers to other statutes. And it says, "Consider effects on land and waters in the coastal environment, held or managed under the Conservation Act and any Act listed in the first schedule." Is that the one you're referring to?

10

Q. That's correct. So has from what – then, slightly reword there. Have you prepared an assessment under that policy?

15

A. Well that policy directs one to consider the purposes for which the land or waters are held or managed. So the way I read it, and I'm not a lawyer, is that it directs one to read the purposes contained within the Marine Reserves Act and they're in section 3 of that Act. So yes, the – I believe the assessment and the mitigation measures were prepared with the purposes set out in section 3 of the Marine Reserves Act in mind.

20

Q. In clause 68 of that evidence, you say, "The Regional Policy Statement objective and policies relating to the coastal environment are also addressed in the AEE." And I'm quoting you sir, "In my view inappropriate balances have been achieved by the projects in addressing these policies, such as the granting of the resource consents will not be inconsistent with the objectives and policies of the ARPS."

25

And the ARPS in chapter 7, Coastal Environment, under section 7.4.7, areas of special value, "Areas of significant indigenous vegetation, significant habitats of indigenous fauna, significant landforms and geological features and significant places for areas of historic or cultural significance in the coastal environment, shall be preserved and

30

protected by avoiding, remedying or mitigating the adverse effects of subdivision use and development in a manner consistent with policies.”

So it's there. The question sir is doesn't that regional policy statement state specifically that the areas of special value shall be preserved and protected?

5

A. Yes it does, but at the same time the rules of the plan, with respect to reclamation, I think follow on from that by requiring that reclamation in coastal protection area 1 is a prohibited activity with the exception of reclamation required for State Highway 16. So there's a specific exception in the regional coastal policy statement which I believe recognises the place of the 16 causeway in this part of the coastal marine area. And the net effect of that is that this reclamation is a non-complying activity, so the provisions of the Act apply, well the tests of the Act apply there. There's not a prohibition.

10

15 Q. I don't believe I was suggesting it did create a prohibition sir.

A. Sorry I thought you were.

Q. No.

THE COURT: JUDGE NEWHOOK

You did seem to place an emphasis on “the preservation and protection”

20 Mr McNatty and I was left, before the witness gave his answer, thinking that you had some kind of a glass case in mind.

CROSS-EXAMINATION CONTINUES: MR MCNATTY

Q. Something that came out of Mr Murray's evidence and it's really a general question, not one in reference there, other than with the indication of traffic volumes beyond 2026 described as saturation point there. Might that mean then that the causeway has to be further expanded and so creating a potential against Traherne Island and Pollen Island?

25

A. I'm not a traffic modeller, I couldn't – I wouldn't start to try and predict the levels of traffic in 2026.

30

THE COURT: JUDGE NEWHOOK

Friends of Oakley Creek, Ms Docherty.

CROSS-EXAMINATION: MS DOCHERTY – NIL

THE COURT: JUDGE NEWHOOK

5 And Albert Eden Local Board?

CROSS-EXAMINATION: MS DEVINE – NIL

QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP

10 Q. Mr Burn, in your rebuttal evidence you discuss the application to amend the footprint of construction yard 1 and as I understand it you attach a plan behind, annex A, it shows the footprint of that application?

A. Yes.

Q. I'm probably the only person in the room who doesn't this at this point Mr Burn.

THE COURT: JUDGE NEWHOOK

15 No there's two of us, at least.

QUESTIONS FROM THE COURT CONTINUES: COMMISSIONER DUNLOP

20 Q. What I would appreciate, you're unlikely to have it to hand immediately, but what I would appreciate would be what the amended footprint of the construction yard would look like in the event that consent were granted for the area that's proposed to be added, in combination with the area that's proposed to be retained?

1030

A. Could I approach the screen perhaps and point to that.

25 **THE COURT: JUDGE NEWHOOK**

Have we got a microphone somewhere near the screen.

MR BURN:

Well I can shout Your Honour.

THE COURT: JUDGE NEWHOOK

How about trying that then Mr Burn. Use your loudest voice.

5 QUESTIONS FROM THE BOARD CONTINUES: COMMISSIONER DUNLOP

A. This illustrates construction yard 1A, which is the subject of a resource consent application currently before Auckland Council. Perhaps we could give –

10 THE COURT: JUDGE NEWHOOK

Q. Pause, pause. Let's move Member Dormer's microphone up as far as the wire will allow it.

A. It might be useful to start with the construction yard, as per the notice of requirement.

15 Q. Yes that's construction plan 101 I think.

A. Yes, would you like me to lead you through the story.

Q. I'm exactly at the same place as Member Dunlop about this and you're going to have to help us and my research, as far as I'm able to take it for myself, said that one might start with construction plan 101. You might have a better idea?

20

A. I don't have a long enough arm or a pointer and unfortunately the orientation of these two plans is different which doesn't help. I'm going to have to shout I think. This is Te Atatu Road and construction yard 1 is per the notice, extends from the frontage of the road right to pretty much the edge of the reserve, which takes in that area there. Through discussion with the pony club, as part of the consultation post lodgement of the project, the members of the club indicated that they had a strong desire to achieve access along this part of the reserve.

25

Q. The eastern part?

30

A. Yes, and they were hopeful of enjoying further use of that part of the reserve. They suggested that 100 metres would be a suitable corridor.

I'm not sure what the background to that request was, unless they were going to ride in line abreast through there. So in response to that the NZTA looked at the opportunity of re-orienting the construction yard, but of course by that time the documentation, the notice had been lodged and there was no mechanism to change that available to NZTA, aside from if you make an application for resource consent for an alternative piece of land. That is to compensate for, if you like, the loss of that land if the pony club wanted that. So if you could move on to 1A. So construction yard 1 sort of follows that –

5

10 Q. Well just for the record, just for the transcription record. This is a question that I had in my mind, it's just been answered. The witness indicates that the area shown on construction plan 101 is, when you compare it with this sheet 1A attached to his rebuttal evidence, immediately to the north of the area shown to be subject to the new resource consent application.

15

A. So 1A is pretty much the equivalent in area to the bit of construction yard 1 that the pony club would like to retain for the use of. Is that taken the description far enough;

20

Q. So one more question from me. Is there a plan that shows the bit of yard on plan 101 that's to be taken away or deleted from the footprint?

1035

MS LINZEY:

25

Sorry can I just jump in. We do have and have prepared that plan, but we're just in the process of verifying, getting it through the quality verification checks at the moment so it is. I looked at it this morning but it hasn't had its QA checks this morning.

THE COURT: JUDGE NEWHOOK

30

Yes, oh well thanks Ms Linzey, helpful as ever. Thank you. And the sooner we can have that the better because then it will clear up this thing that's been testing all of our brains, to be honest.

QUESTIONS FROM THE COURT CONTINUES: COMMISSIONER DUNLOP

5 Q. Mr Burn, in a paragraph of your rebuttal, 24.5 and 24.6 you're discussing some additional pathway connections from the corridor and various local roads. The ones I've got highlighted here are Barrymore, Bollard and Hendon. And you say you understand that the Agency has confirmed that access to several cycling can be provided for at these locations and that appropriate details are incorporated into the plans that have now been provided to the Board. Now there are at least two 10 members of the Board, and I suspect we might all be in this situation, where there's a gap in the series of plans that were provided to us in this set and they don't go sort of west –

A. Right.

Q. – towards New North Road so –

15 **THE COURT: JUDGE NEWHOOK**

It's sector 8 that's been left out.

QUESTIONS FROM THE COURT CONTINUES: COMMISSIONER DUNLOP

A. Yes.

20 Q. And I expect that the connections you're referring to here in your rebuttal would be shown on that part of the drawing set?

A. Yes I was perhaps a little bit presumptuous at the time in that the plans were being prepared as I wrote the rebuttal, and perhaps Ms Linzey can help me because she may be able to access that plan now. I know it 25 was in draft form at the time I was writing this.

Q. Perhaps to help Ms Linzey the set that I have goes from 114 to 117 and I think these links would land somewhere on a sheet in between those.

A. Yes I've seen a draft, but – which I was doing at the time I was preparing this rebuttal.

30

THE COURT: COMMISSIONER DUNLOP

Well perhaps Your Honour we don't need to spend more time there we just request that they be handed up at some stage so we can corroborate these?

THE COURT: JUDGE NEWHOOK

5 Yes, those are sheets 115 and 116 missing from all of our sets.

MS LINZEY:

The sector 8 sheets, is that correct?

THE COURT: JUDGE NEWHOOK

10 Well it's my guess that it's more or less sector 8, but 114 has the northern portal on it, 117 has the area of the southern portal on it, 115 and 116 are somewhere in the middle of all that between those portals, probably been left off because NZTA does not propose to provide cycle and pedestrianways at grade 3 of that area. But there is this evidence and some other statements
15 where some questions arise.

MS LINZEY:

Right, so the answer is yes as I understand it as well that there aren't any connections proposed in those two sheets, but we can certainly provide those
20 two sheets.

THE COURT: JUDGE NEWHOOK

Well I think we'll have to see because there's a little difference of opinion there between you and Mr Burn. He seems to think that he's seen something on a draft. Let's get those plans in, sooner rather than later if you don't mind.
25

MR BURN:

Yes the plans I was looking at may not be the plans to which you refer. They may be a separate set.

QUESTIONS FROM THE COURT CONTINUES: COMMISSIONER DUNLOP

Q. Well they're helpfully (inaudible 10:39:37) Mr Burn and it is the drawing set –

5 A. Yes.

Q. – that we've been discussing and if it's of assistance to Ms Linzey at all I just note that the subject paragraph in Mr Burn's rebuttal is 24.6 on page 7.

THE COURT: JUDGE NEWHOOK

10 Which refers back into some earlier parts of 24.
1040

THE COURT: COMMISSIONER DUNLOP

There he expresses an understanding of the Agency is able to do. To move on, we may Your Honour, is that appropriate?

15 **THE COURT: JUDGE NEWHOOK**

Yes, with one observation from me to Ms Janissen. Ms Janissen, not only do I think we should have the two missing sheets, even if they don't have any coloured lines on them, remembering of course that this was the set that was provided to us to show bus shelters, pedestrian ways, cycleways and so on, in a consistent fashion, which we hadn't been able to discern from the plans, not from the original application set. So two things emerge, a couple of missing sheets and secondly, we've been making quite extensive use of them, I'm assuming that they have been provided to the parties as well as to the Board.

25 **MS JANISSEN:**

Correct.

THE COURT: JUDGE NEWHOOK

And at some point they should enter the record in a formal way by being produced as an exhibit for the usual purposes and Ms Linzey might be the person to do that when we call her next.

MS JANISSSEN:

Yes, certainly.

THE COURT: JUDGE NEWHOOK

5 And that will be inclusive of the amended legend sheets I imagine?

MS JANISSSEN:

Yes, yes.

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

Q. Mr Burn, in your rebuttal paragraph 25.6, page 9, you recall the advice you've had of the open space expert caucusing has resulted in agreement that the NZTA would provide a shared path to link Great North Road round to Eric Armishaw Park. And then in the final
15 sentence you say, "If possible, depending on grade, shared path connections will also be made to Montrose, Alberta and Berridge." Now on sheet 109 of the map series that we were previous looking at there is a note that says, "Without qualification, shared path and pedestrian access proposals as a result of caucusing," and those are shown with
20 yellow lines with arrowheads on them, that still haven't found their way into the key, but we understand what's proposed. So my question is, why the equivocation in the evidence, the links would be within the footprint of the designation as I understand it. Does the Agency propose to provide them or not?

25 A. Well the equivocation in the evidence is that it is there because caucusing was being undertaken at that time and hadn't concluded when I was drafting this so I was relying on progress in that discussion. And I think you'll understand of course that you know lots of things were happening in parallel through this period of time.

30 Q. I do understand. I think the more important part of the question is, is it part of the project or not today?

A. I understand that it is. Ms Linzey might be able to confirm that to me.

THE COURT: JUDGE NEWHOOK

Well we can look at NZTA's memorandum from Ms Janissen to see whether that aspect of expert caucusing was accepted by NZTA. Ms Linzey's nodding. The answer is yes.

5

MS LINZEY:

That's correct, it is confirmed and the issue that was still to be resolved was discussions with the landowners adjoining those connections. So that was the qualification that was made in the expert caucusing. So I can recall it without having it front of me.

10

THE COURT: COMMISSIONER DUNLOP

Is there some suggestion in that Ms Linzey that the landowners immediately adjoining the connections would have some right of embargo on this public facility? I can understand why you'd consult, but I'd like to understand the full import of that comment.

15

MS LINZEY:

The discussion in the expert caucusing was in talking to them about how those connections would be made and whether there were ways we could address concerns they may have about the public access through that area, rather than us stepping away from doing the work as I understand it. It was more about the design of it.

20

1045

THE COURT: COMMISSIONER DUNLOP

And can you confirm that the grade needn't be an impediment to achieving the objective?

25

MS LINZEY:

Again, my understanding there was the grade may be an impediment for cycle, but not for pedestrian. So it may need to be steps with side swales to run the bike down, but it wasn't, it's not a grade issue to get a pedestrian connection.

30

THE COURT: COMMISSIONER DUNLOP

Thank you, I've been through the same thought process that Shirley wouldn't preclude pedestrian steps and something special might be needed for bikes.

QUESTIONS FROM THE BOARD: MS HARDIE

5 Q. Mr Burn, with regards to your rebuttal evidence paragraph 52, you've said, "I can advise that a range of additional mitigation and environmental enhancement measures are being considered to be included in this application". Are these – the way I read that is that perhaps these are over and above what NZTA feel may be, meets the objectives of this project. Is that what you're meaning there?

10 A. Yes, there's an application currently being prepared in terms of the Marine Reserves Act process and there are mitigation measures which are additional to the ones documented in the application for consents under the RMA process. So you won't see those in the documentation that you had before you and they're currently the subject of some discussion with Department of Conservation officers. Partly because some of them will involve the participation of the Department of Conservation in the suggested measures.

15 Q. Does that follow on from your paragraph 9 where you've said that Pollen Island is classified as a scenic reserve and is administered by DOC and that it is only that area surrounded by it that is part of the Motu Manawa Marine Reserve? Is that the reference?

20 A. I was, in that paragraph I was simply making the point that Pollen Island is not part of the coastal marine area because it's a piece of land, nor is it part of the marine reserve because it's a piece of land. The marine reserve only applies to water up to the mean high water spring tide mark. So it sits, if you like, surrounded by the marine reserve, but itself is a scientific reserve, under the Reserves Act 1971.

25

QUESTIONS FROM THE BOARD: MS JACKSON

30 Q. Mr Burn, just for clarification, at the Te Atatu Pony Club there was talk of them being given some – or the use of some land to the north of their

existing area, is that still happening? To compensate I suppose for the area being lost through construction yard 1?

A. The pony club is – the owner of the land is the Auckland Council and the pony club is their tenant. Obviously there is a large area of land within
5 that site administered by and owned by the council, and I understand that the council themselves are looking at the tenure of the pony club. So it's really not a matter, in my view, that the NZTA can manage. They're neither the landlord or the tenant.

Q. Fair enough. And there was also talk in the NZTA documents that a
10 dressage arena or something was going to be provided?

1050

A. I'm not aware of that.

QUESTIONS FROM THE BOARD: MR DORMER – NIL

QUESTIONS FROM THE COURT: JUDGE NEWHOOK

15 Q. Just a couple of things Mr Burn from me. Rebuttal evidence paragraph 24.4 on page 7, "achieving access to Alwyn Avenue." You say in the second half of that subparagraph, "At the time of preparation of this
20 rebuttal evidence this suggestion was simply to prepare the investigation to determine where the penetration of the noise wall could be achieved without reducing its effectiveness and noise attenuation and whether the existing typography and design gradients were appropriate." This is in answer to something raised by the Cycle Action. How's progress with that investigation do you know?

A. I'd have to say, I think it's still with the engineers who are looking at the
25 detailed design. As you might remember at Alwyn Avenue there's a bund, which is to be topped by a wall and Cycle Action were keen to get some access from Alwyn Avenue over there and the issue is partly to do with gradient, although the engineering is that's not a game-breaker. The issue is how that cycleway might, or how that path might create a
30 penetration through the wall without reducing its effectiveness as a noise attenuation structure.

Q. Well one wonders whether again steps and swales might help in the concept of the swale for the cycle wheels, so it can be pushed up?

A. Yes.

Q. Over the wall.

5 A. The last discussion I had with the engineers they were looking at somehow sort of getting a path around the wall, although that would create some distance for cyclists to go.

Q. Yes well it sounds to me as though there's a number of options, cutting a hole, steps and swales, going around. Who is going to report back to us and when?

10

A. I'm happy to do that if –

Q. You'll take ownership of that will you, you and Ms Linzey?

A. Yes.

Q. And we'll have that will we by the end of next week?

15

A. Yes I think that's achievable, I'll be in communication with engineers.

Q. Give the engineers enough time, got to keep these engineers busy you know, gainfully employed. Now I think my other point was touched on by Member Hardie. Yes, in your paragraph 48 of your rebuttal, your second sentence seemed to be a bit of a non sequiter, in legal terms. My note here is, "Right answer, wrong reason." And it's simply because these pieces of island are not part of the seabed or the foreshore. So the rebuttal (inaudible 10:53:24) but you've provided Member Hardie with that answer. So I think – I don't have any further concern about that.

20

25 **RE-EXAMINATION: MR LAW – NIL**

WITNESS EXCUSED

MS JANISSSEN:

Sir, in relation to witness order, what I'd propose is that we call David Little before Lyn Hancock. The reason for that is there are a number of references I think from Stephen Brown to landscaping plans and the like, I think in response to questions from the Board, where Mr Brown indicated David Little was going to address and I think it's actually going to be Lyn Hancock. So in order to avoid David coming on later and saying Lyn will have addressed it, perhaps I think the better order would be for David Little to go first and then Lyn Hancock to follow.

10 THE COURT: JUDGE NEWHOOK

Yes, well I don't think I have a difficulty with that. Well I don't think we'll call him right now, it's just a couple of minutes till the morning adjournment, so we'll adjourn for 15 minutes.

COURT ADJOURNS: 10.55 AM

15

COURT RESUMES: 11.16 AM**MS JANISSSEN CALLS****DAVID JOHN LITTLE (AFFIRMED)**

- 5 Q. Is your full name David John Little?
A. Yes it is.
Q. And have you prepared evidence-in-chief dated the 12th of November 2010?
A. I have.
- 10 Q. And have you prepared rebuttal evidence dated the 3rd of February 2011?
A. Yes that's correct.
Q. Are your qualifications as set out in paragraph 2 of your evidence-in-chief?
15 A. They are.
Q. Is there anything in your evidence that you would like to correct at this stage?
A. No there is not.
Q. Do you confirm then that the contents of your evidence-in-chief and
20 rebuttal are true and correct?
A. I do.

CROSS-EXAMINATION: MR LANNING

- 25 Q. I just want to start off with a couple of, that I hope easy general questions. The first one, do you accept that the council will become responsible for the open space and sports fields that the NZTA are proposing to provide?
A. I do accept that, yes.
Q. And do you agree with the council's submission, that as owner of sports fields in particular, it is desirable to co-locate fields rather than having
30 individual isolated fields?
A. I do agree with that position as a policy of Auckland Council.

Q. I'd like to take you to paragraph 51 of your evidence-in-chief. Have you got that? Now just generally in that paragraph, you've indicated that as a result of feedback from the residents, the affected residents I should say, that there was a change in approach from a network approach to an approach where there was – an approach of providing open space within the areas where open space was to be lost, is that –

5

A. That's correct, yes. That message came through very strongly that mitigation impacts delivered offline in an area outside of a walkable distance from the affected community wasn't the way that the community saw mitigation as being appropriate.

10

Q. And in that feedback, was a distinction drawn by the people giving the feedback between informal passive open space type facilities and formal sports fields?

1120

15 A. Not that I'm aware of.

Q. Paragraph 51 you've, or below paragraph 51 you quoted two paragraphs from a council resolution of 5 May last year. And would it be fair to say that those two resolutions refer to open space generally? By that I mean there's no specific reference to formal sports fields or passive open space is there, it's just open –

20

A. No it doesn't –

Q. – space –

A. – it doesn't draw a distinction.

Q. And then I notice below those two quoted resolutions you've got a footnote there, footnote 15, and you've noted in that footnote that there were also other resolutions made weren't there?

25

A. Yes.

Q. Now I've got a copy in front of me so if you don't recall exactly what those resolutions are I can provide a copy. Would that be helpful?

30

A. That would be helpful, I've paraphrased them in the footnote.

Q. You might like to look at it while I'm asking this question. So can you find the resolution that you refer to in your footnote 15, and I can help you there it's page 9 of that document.

A. Yes I've got it in front of me.

Q. And it's correct, isn't it, that that resolution is under a heading called "Sports Fields", isn't it?

A. One of them is under the heading "Open Space Provision" and they're the ones that are 4A, 4B is under "Sports Fields".

5 Q. And the one under "Sports Fields" says specifically doesn't it, it says, "Council supports locating replacement sports field at or adjacent to Phyllis Street and also near Stoddard town centre growth area," that's correct isn't it?

A. Yes.

10 Q. You've expressed concern, I think in your evidence and in answer to my earlier question, that the network planning approach to open space was not favoured by the local community. That's what you said isn't it?

A. That's correct

15 Q. And it's fair to say, isn't it, that desire as you understand it of the local community, a like for like approach, it has influenced your assessment of whether – or your assessment of what the appropriate open space response is to this project? It's a wordy question. I'll start again. My reading of your evidence is that you can see advantages in a network approach, that's correct isn't it?

20 A. Yes.

Q. But you now support this like for like approach, don't you?

A. I do. The, I guess the issue that came up was that the initial planning looked at providing connections from the affected area to unaffected areas of open space, that was the network approach. The like for like approach focused on providing as similar quality and quantity areas of open space as local to the actual area affected, so it came down to an area of open space argument versus a connection to other areas of open space.

25

Q. And a primary reason for you now supporting that second approach, the like for like approach, is your understanding of the desires of the local community, is that correct?

30

A. That is, that is correct.

1125

Q. So if you were to know that both the Local Board and Mr Allan's clients supported the council's proposal to upgrade Phyllis Street, rather than put a sports field at Waterview, would you change your view?

5 A. This is actually an issue that was brought up in caucusing, and it was discussed at quite some length that the non, both the non expert and the expert session. And it was agreed in that session that a formal sports field at Waterview wasn't necessarily desired by the community, that what they were after was an informal active recreation area, and that the area shown on the existing plans was appropriate and of a good size for that and an agreement was made that NZTA would offer the financial compensation for building that sports field as a monetary compensation towards upgrading Phyllis for active reserve. And I support that position, I think it's a good outcome.

10 Q. We'll just move on to – we might come back to that issue later on. I just want to now focus on the temporary replacement of a sports field at Waterview as proposed, during the construction period. Now you'd accept wouldn't you that Mr Gallagher, who gave evidence for the council has got considerable experience and knowledge of how to develop and maintain sports fields?

20 A. Yes I would.

Q. And at paragraph 7.1 of Mr Gallagher's evidence, I don't know if you have that in front of you?

A. I do, I can get it.

25 Q. I'm not sure which tab that is sir. I'll give you time to have a quick look at that.

THE COURT: JUDGE NEWHOOK

Michael Gallagher?

MR LANNING:

30 Yes.

THE COURT: JUDGE NEWHOOK

Yes, tab 10 in the collection of submitters' evidence.

MR LANNING:

That's paragraph 7.1 sir.

THE COURT: JUDGE NEWHOOK

5 Have you got a page number?

MR LANNING:

Page 9 sir.

CROSS-EXAMINATION CONTINUES: MR LANNING

10 Q. Now in that paragraph and the sub-paragraphs below it, Mr Gallagher raises some concerns about the proposed temporary sports field at Waterview Reserve doesn't he?

A. Yes he does.

15 Q. And in particular, he raises a concern, this is 7.1(a) about whether it's actually possible to fit a field in within the space left over from the construction yard, that's correct isn't it?

A. Mhm.

20 Q. Now as far as I can see, and correct me if you like, you have not responded to that in your rebuttal. Is that because you believe there is enough space there?

25 A. No, the reason for not responding to that is that there were negotiations and agreements going on related to the matter I just described in regard to financial compensation. The – what NZTA have put forward to council is that that field wouldn't be created as a temporary field at all, the money instead would go towards Phyllis Reserve, so that issue would become moot if that proposal was accepted.

Q. But it's your general understanding that it is possible to fit a field in in that space?

30 A. Yes, prior to that discussion occurring between NZTA and council, we did look, in light of these concerns, at adjusting the construction yard boundary and that was agreed to in principle by the engineering team that we would be able to build the so-called temporary field in its final

location as shown on the plans, as opposed to the area that would fit into that construction yard, shown on the construction yard set. So there is a plan that can be produced that would show a revised construction yard, it hasn't been produced because the preference at the moment is to give financial compensation towards Phyllis instead.

5

Q. Just supposing that we're going to for whatever reason end up with a situation where there is going to be a temporary field at Waterview. Because it seems to me that the ability to install a field there is along with a number of matters, and this is a quote from your evidence-in-chief at 165, paragraph 165 that is – you say there, "Installing the field at Waterview is critical to ensuring continuity of open space facilities during construction," don't you?

10

A. Yes.

Q. And then earlier in that evidence-in-chief at paragraph 86 you mention other necessary early works at Waterview Reserve? That's paragraph 86.

15

A. Yes.

Q. And that includes a mitigated fund, basketball, volleyball courts, et cetera. So it seems to me that your final assessment as to whether there is sufficient open space mitigation during construction period depends on those facilities being put in place before construction begins?

20

A. That was correct at the time of writing the evidence-in-chief. I would just like to add that during caucusing Mr Gallagher confirmed that in order to get the best open space outcome at Phyllis that he thought it would be acceptable if things didn't move along efficiently enough for there to be, say, a year delay between decommissioning of the Waterview field and recreation of a field at Phyllis Reserve. So I'd take his advice on that.

25

Q. I think it's – what I take from your evidence is you're saying that during construction period there will be potential, potentially significant effects on the open space provision (inaudible 11:31:43). That's correct isn't it?

30

A. If unmitigated there certainly could –

Q. Yes, I was going to come to the second part. So if there are potential significant effects?

A. Yes.

Q. And we need to have the mitigation suggested in your evidence in place to ensure that those effects are adequately mitigated?

A. Yes.

5 Q. So it's quite important then Mr Little that the conditions reflect that isn't it? And I would like to take you to condition OS9 which is on page 50 of the amended set of conditions. Now that condition sets out the various open space facilities that needed to be provided at Waterview prior to construction isn't it?

10 A. Yes.

Q. Now I want you to have a look at – and it probably should be A – the part of that condition which refers to a temporary playing field, that's the first part of the condition. It says, "At least 20 working days prior to the occupation of construction areas," certain thing will be provided?

15 A. Yes.

Q. And then below that the first item is a temporary sports field – sorry, temporary playing field, and then there's reference to the financial contribution?

A. Yes.

20 Q. Now your evidence, again I'll take you back to paragraph 165.4, you refer to replacement of a senior sports field? Have you got that?

A. Yes I have.

Q. So would it be fair that condition OS9 also use that same wording "a senior"?

25 A. I believe so, yes.

Q. So we're now going to move to the Phyllis Reserve and I think you've answered a number of my questions already. And if I could summarise and you can tell me if I'm unfairly summarising it. You regard the council's proposal to upgrade Phyllis Street as a superior option to providing a single field at Waterview Reserve, don't you?

30

A. Yes I do, but just to make it clear I don't see council's full proposal at Phyllis as necessarily being entirely the mitigation responsibility of NZTA under this project.

Q. But we're talking about a formal sports facilities?

A. Yes I could –

Q. - replacing those other, aren't we?

A. I can certainly understand the – yes.

5 Q. And the council's proposal would clearly allow for replacement fields to be provided away from the noise and dust, et cetera, of the proposed construction yard? That's correct isn't it?

1135

A. Yes I would agree with that.

10 Q. And that construction yard will be in place for I think it's at least five years, that's your understanding?

A. Ah, yes.

15 Q. Now, and I think you may have answered this question previously, so my apologies if you've already done that. You also accept that the upgrade, the proposed upgrade of Phyllis Street Reserve will also help to, or provide the temporary fields that you would otherwise have to provide at Alan Wood. So you don't have to provide temporary fields at Alan Wood, if we do Phyllis Street?

A. Yes, that's part of that same negotiation, that's correct.

20 Q. And of course also a part of the council's proposed package is an upgrade of Valonia Street Reserve as well, so it's not just Phyllis, it's also Valonia Street as well, that's correct isn't it?

A. Council are seeking a different sports fields outcome to what's been lodged with the application, yes.

25 Q. So we're now going to move to Valonia Street. Now putting aside all the issues of landownership and any further consents and things like that that might be required to upgrade Valonia Street. Do you accept from an open space perspective, that the council's proposed layout of fields at Valonia Street is better than that proposed by NZTA?

30 A. I accept that council's policy is to run with side by side fields, but I would also note that traditional field layout would have fields orientated north-south, rather than east-west. So in my view there are pros and cons of each, but council's position is that they would trade off the orientation for the side by side which allows a cricket pitch in between.

Q. My reading of your evidence is that, and again sorry if I'm not being fair, but it's what the council's asking for is some sort of betterment over the existing situation, is that your view?

A. Yes that's my view.

5 THE COURT: COMMISSIONER DUNLOP

I'm sorry Your Honour, I didn't catch Mr Lanning's key word?

MR LANNING:

Betterment sir, yes.

10 THE COURT: COMMISSIONER DUNLOP

That's what I thought I heard.

MR LANNING:

It's a term used in Mr Little's evidence.

15 CROSS-EXAMINATION CONTINUES: MR LANNING

Q. So if it is a better situation than what currently exists, is it fair to say that the council's proposal creates an opportunity to enhance the benefits of this project?

20 A. It does, but with all of the open space planning for this job, there are a very wide range of proposals that could provide a better outcome for the area, and we need to be really clear in terms of what are the actual mitigation requirements of the project from an open space point of view and what is improvements to the existing open space situation that's currently seen. And so while I do agree that this council proposal would
25 provide improvements over the existing situation, I don't necessarily see that that is a requirement that NZTA has to necessarily undertake as mitigation.

30 Q. I understand that, I'm just asking you from a – if we had a blank sheet of paper or we had these two options in front of us, which would be the better one. In terms of field layout and (inaudible 11:38:58) will it be the NZTA proposal or the council's proposal?

A. I guess with a perfectly blank piece of paper I do see some merit in the council proposal over the NZTA one, but I don't think it's a, I wouldn't say it's a really strong benefit. I would say it's at best a marginal benefit and largely derived from application of council policy, which is having side by side fields with a single cricket pitch and also improved visibility of the reserve by improved street frontage on Valonia Street.

5

1140

Q. Well we might as well stay on this topic then. I'd like you to have a look at annexure A to Mr Gallagher's evidence, where he's got a diagram there of what the council would like to see at Valonia Street. Have you got that in front of you?

10

A. Yes.

Q. So you've quite rightly pointed out that the council's proposal allows for a cricket pitch in the middle there, that's correct isn't it?

15

A. Yes.

Q. So that's not something that could be provided with the NZTA proposed layout of the park is it?

A. No it's not, but it's also not something that currently exists in the park.

Q. And the – if we're looking at the part of the park below the stormwater pond and to the left of the bottom field?

20

A. Yes.

Q. That's an area that would be available for some passive open space use wouldn't it?

A. That area would be available for passive open space use. There is a, in my opinion, a fairly similar sized area in the NZTA proposal, and I'd also just add to that that in Mr Beer's evidence he states that passive recreation is more affected by noise impacts than active recreation and that higher noise areas aren't appropriate for passive recreation. This is a higher noise area.

25

30 Q. And there's also a playground –

THE COURT: JUDGE NEWHOOK

Q. Sorry, are or are not appropriate?

A. Are not as appropriate.

Q. Not as, okay.

CROSS-EXAMINATION CONTINUES: MR LANNING

Q. And there's also a playground provided in this plan as well isn't there?

A. There is.

5 Q. And there's also space around the bottom field at least for the walking and cycling path isn't there?

A. Yes, there's space for that.

Q. And there isn't a similar provision in the NZTA proposals?

10 A. I don't think that's quite correct, there's I would say in the NZTA proposal, there's a more, a greater extent of walking paths.

Q. Through this park?

15 A. Through this park. There's no playground shown on the NZTA proposal, and that's due to the fact that there was no playground initially at Alan Wood Reserve, that was being relocated. But I would say that there's no reason that a playground of that size couldn't be located within the NZTA proposal.

Q. Let's have a look at the NZTA proposal, and this is urban design and landscape plan sheet 221. I think they might (inaudible 11:43:20) Ms Hancock's evidence. Urban design and landscape plan, sheet 221.

20 **THE COURT: JUDGE NEWHOOK**

That's within part F is it?

MS LINZEY:

Annexure B of Lynne Hancock's evidence.

25 **THE COURT: JUDGE NEWHOOK**

And page number please Ms Linzey?

MS LINZEY:

Sorry, I've opened it now.

THE COURT: JUDGE NEWHOOK

Give us the lpad pagination, that will align with what we've got up here hopefully.

5 **MS LINZEY:**

Mine I'm afraid has it as a separate attachment. It's got all the evidence in a separate attachment I'm afraid.

THE COURT: JUDGE NEWHOOK

I'll go to the end and work back.

10 1145

THE COURT: JUDGE NEWHOOK

Now was this annexure B to Lynne Hancock's evidence, her evidence-in-chief?

15 **MS LINZEY:**

Lynne Hancock's rebuttal evidence.

CROSS-EXAMINATION CONTINUES: MR LANNING

Q. So you say there (inaudible 11:48:14) as I recall it in answer to my last question that you thought the provision for a cycle and walking path was similar between NZTA proposal and council's proposal?

20

A. Yes.

Q. So do I take it, looking at this plan sheet 221, that the paths you're talking about is the one that runs between the two fields along the southern boundary of the top field and heads off towards the stormwater pond? Is that the path you're talking about?

25

A. In response to your query I was really talking about all of the paths, looking at all of the paths between the two plans and I see the extent and connectivity value of both sets as being fairly similar.

Q. So would it be fair to say that the council's proposal allows a more expansive layout of the park?

30

A. It has a larger footprint so yes I would agree, it allows a more expansive layout.

5 Q. Now we're going to turn to this issue of the effects on the passive open space function of Alan Wood. Now my understanding on your evidence is that you say that during the construction period there are unmitigated effects on the passive open space function of Alan Wood, is that correct?

A. Yes.

10 Q. And then in relation to the post-construction situation you say that the effects are unmitigated or not fully mitigated I should say?

A. That was the position at the time of writing my evidence-in-chief. The subsequent – some of the subsequent discussions about relocation of temporary sports fields to Phyllis and the ability to open that area up for passive, as well as some of the options for the southern ventilation building and in particular option 3, we've somewhat modified that position.

15 Q. But if we are – I may be confused, but if we're – let's just talk about the current NZTA proposal that's set out in your evidence, is what I said about construction or post-construction correct?

20 A. Yes.

Q. Now my understanding is that the, in terms of the construction period the effects on the passive open space function are primarily because we're going to have two large construction yards across that area, is that correct?

25 A. Um...

Q. What's creating the effect on this passive open space function of Alan Wood during construction?

A. It is the splitting of the eventual open space into two portions, essentially east and west of the stream rehabilitation works.

30 Q. This is during construction?

A. During construction, that's the primary effect.

Q. So it's not the fact that you're just going to be using that space or that space will be used for construction activities?

A. It's the fact that that space will be used for construction activities and the fact that it splits the overall park.

Q. And my understanding is that the construction yards will take up to around 75% of the Alan Wood area, is that correct?

5

MR LITTLE:

Your Honour would I be able to – I've got a map here that I think may assist with the discussion. Will I be able to distribute, I've got 20 copies.

THE COURT: JUDGE NEWHOOK

10 Q. It's something we've not got already obviously Mr Little.

A. That's correct it's –

Q. Essentially what does it show?

A. It shows the operational area needed for construction and some areas that would be available prior to construction for recreational use.

15 Q. At which location?

A. At Alan Wood Reserve.

Q. At Alan Wood.

CROSS-EXAMINATION CONTINUES: MR LANNING

20 Q. I don't know whether the actual numbers meant to be (inaudible 11:52:51). Is 75% around about the area of Alan Wood that'll be used for construction activities?

A. That sounds pretty fair.

25 Q. Now you say the effects during that time is unmitigated. Would you say that the – I mean, how would you describe the level of effect, is it significant?

30 A. I would say initially it is, and that's due to the, largely in part to the stream rehabilitation works. The stream rehabilitation works that are being undertaken, which will have a very beneficial ecological outcome in the long term, do cause the park to be severed and do take up a quite substantial portion of the what will become passive open space. So I see it as unavoidable and in the open space conditions it is proposed that that work takes place up front in the construction programming to

minimise the amount of time that that work takes place, and upon completion of that work that area would be opened up and then I would see the effects as dropping away to a much lesser degree.

Q. And what's the approximate timing for the completion of those works?

5 A. I don't have that information because that's basically up to the alliance team programmes we –

Q. Are we talking three years, five years?

A. I don't believe it would be anywhere near that amount of time, but I don't have the exact details.

10 Q. So I come back to my question, do you regard the effects on Alan Wood as, even if it's in the early years of this process, do you accept that the effects on Alan Wood's passive open space is likely to be significant?

A. For the duration of that particular portion of the works, yes.

1155

15 Q. Now moving past construction to the operation –

THE COURT: JUDGE NEWHOOK

I'd just like you to pause there please. Mr Lanning, annexure A2 of Mr Gallagher's evidence, which you were questioning this witness on before you moved to Ms Hancock's annexure. Doesn't that appear to show work
20 being suggested outside the designation boundary?

MR LANNING:

Yes it does sir.

THE COURT: JUDGE NEWHOOK

25 Are you going to address the jurisdictional aspects of that in due course are you?

MR LANNING:

Yes we will.

CROSS-EXAMINATION CONTINUES: MR LANNING

- 5 Q. Now Mr Little, I just want to briefly explore what the world's going to be like in Alan Wood after construction, and my understanding is that the proposed works in Alan Wood Reserve are set out in the urban design and landscape plans 219 through to 222, is that correct. It might actually go onto 123?
- A. Yes, there's a little bit on 223 as well.
- 10 Q. So I'd like to start on sheet 223. And again, I just want to focus on this passive open space issue. Just on that sheet, just very briefly, can you point out where there will be space for instance to kick a ball or throw a frisbee, those sort of passive open space (inaudible 11:58:13)?
- A. This sheet only has a tiny corner of the open space and there's no ability on this sheet for that activity.
- 15 Q. So we'll move up to the next one, sheet 222, same question, is there anywhere on that sheet showing areas where you can – informal passive recreation type activities?
- A. Well the large NZTA property at 6 Hendon Ave is currently zoned open space. There's no specific proposal for that area as part of this project, meaning to my mind, that that area would probably stay status quo for the time being and any changed land use on that site would be subject to normal resource consent requirements. So I believe that the status quo would apply and the area of shaded green, light green would be available for informal passive recreation, as it is currently.
- 20 Q. But that would depend on future decision, is it council land?
- 25 A. It is NZTA land, it's zoned open space, so it would depend on future decisions exactly in the same way as it does today.
- Q. So that space would be available potentially for some further open space mitigation?
- A. It's zoned open space at the moment, so subject to land ownership transfer, could become council park.
- 30 Q. And then moving on, sheet 221, same question, are there open spaces there for informal passive recreation?
- A. Certainly, there's the sports fields can be used for that purpose when they're not in use for formal sports, which in my experience is quite large

chunks of the week. Formal sports tend to be focused around the weekend, but having said that we do have to be clear that this would be an active recreation area so former sports would take priority.

5 Q. And that, not only a weekend sport, but that would be presumably teams training –

A. Yes, correct.

Q. – (inaudible 12:00:16).

A. Yep, so there'd be a facility for team training at night.

10 Q. And then similarly we'll carry on this journey up onto sheets 220. Same question, is there any – whereabouts on that plan is some spaces for passive open space?

15 A. This area is largely in terms of passive open space and I just want to be clear on the different types of passive recreation and walking and cycling is actually the most popular passive recreation activity in Auckland, so this area here is largely allowing for walking and cycling activities over, say, informal, kicking a ball around.

Q. And then last one I think, up around the portal area, sheets 219, likewise I presume the area to the south of the portal will be an area that is available for these activities?

20 A. That's correct. That's a large flat generally gassed area which could be used for that. In addition the issue we were discussing earlier of the temporary sports fields to the west of the portal building, if that arrangement went through those fields on that sheet would come out and that would become informal grassed space.

25 Q. So really, through those sheets we've just been through the only sizeable area of open space for people (inaudible 12:01:55) for those sorts of activities is really these areas around the portal and its buildings isn't it?

30 A. That is certainly the largest area and there's also a reason for why the passive space was generally located in this area, because it's the least, area least affected by noise due to the fact that the motorway at that point will be going in the tunnel. So the intent of the design was to cluster the active recreation in the areas more impacted by noise and the passive areas in locations less affected by noise. But having said

that, as we've worked through the plans there are, I believe, areas that can be used for kicking a ball around scattered fairly well throughout the project. But I would also really like to just add again that informal ball kicking isn't the primary passive recreation activity, and in fact in the user studies wasn't picked up heavily in terms of what people were seen to be using this area for and the comment was made by the community that they tend to use Murray Halberg Park, which is very local, over Alan Wood Park for those activities. Alan Wood Park was much more a walking, cycling park in the use studies.

5

10 Q. Now you've mentioned to the left of the portal building on section 219 the two temporary sports fields that are proposed?

A. Yes.

Q. And again we'll just stick with what the NZTA's currently proposing and what's set out in your evidence. My understanding is that after construction –

15

THE COURT: JUDGE NEWHOOK

So you're on sheet 2?

MR LANNING:

20 Sorry sir, 219. That's the one showing the portal building. There's two temporary sports fields to the left of the building.

CROSS-EXAMINATION CONTINUES: MR LANNING

25

Q. My understanding Mr Little is post-construction that the furthest or the farthest left field, the one where the – looks like M1 on it, that that will remain won't it?

A. Yes.

Q. And will that be a junior playing field?

A. It's a – yes it's a junior playing field.

30

Q. And would it be fair to say that that field's going to be a little isolated from any other sports fields?

A. Yes it would be.

THE COURT: JUDGE NEWHOOK

Albert Eden, Ms Devine.

1205

CROSS-EXAMINATION: MS DEVINE

- 5 Q. I'll start with some straightforward things and talk about crime prevention and urban design around that. Crime prevention through environmental design or CPD is an important feature of minimising effects of the project, particularly on the open space isn't it?
- A. Yes.
- 10 Q. And layout and design helps to reduce anti-social behaviour, increasing that sense of safety and it generally provides a good quality experience can't it?
- A. Yes.
- Q. And important for pedestrian and cycleway routes particularly isn't it?
- 15 A. I would say good CPD provision is important equally to all areas of open space.
- Q. So you'd say it's good practice to take CPD into account when planning open space generally?
- A. Yes.
- 20 Q. If you could have a look at the condition book at page 48. Do you have that Mr Little?
- A. I do.
- Q. At OS5B(i) there, you refer to the CPD review for the Alan Wood Reserve open space restoration plan, it's actually a proviso to the provision of the Methuen Road access isn't it?
- 25 A. Yes, this relates to the proposed access from Methuen Road to Alan Wood Reserve.
- Q. And in response to caucusing on that point, you've ensured that that is subject to a CPTED review.
- 30 A. Yes.
- Q. Now in your evidence-in-chief and I'll take you there if we need to, you previously had a broad condition, which required all restoration plans to include details of any proposed pedestrian and cycle areas within and to

and from reserve areas and including a full CPTED review and response, haven't you?

A. Um, can you –

Q. I can take you to that if you like?

5 A. What was the paragraph there?

Q. In your evidence-in-chief, at page 66, sorry it might be –

Q. Page 66, paragraph 66;, sorry it might be –

A. Page 66, paragraph 66?

10 Q. Sorry, paragraph 66. Let me take you, I need to take you to annexure B of your evidence-in-chief, which has the proposed open space conditions?

A. Yes.

Q. And that is labelled "SO", not "OS", "SO point 3C"?

A. Yes.

15 Q. I appreciate that between your evidence-in-chief and your rebuttal that you restructured these conditions and shifted things around so there were general open space restoration conditions and then it was broken down into the various specific open space restoration plans and the pre-construction requirements. That's correct Mr Little?

20 A. Yes.

Q. From context perspective?

A. Yes, that is.

25 Q. And so these don't marry up exactly with the existing conditions but that condition SO3C applies broadly to all open space restoration plans doesn't it?

A. It does, the condition that you were just referring to in the evidence-in-chief is picked up on B(ii).

Q. Correct, that's only in relation to the Alan Wood Reserve open space restoration plan though isn't it?

30 A. Ah, yes that's correct.

Q. So you no longer have a condition which relates to all restoration plans?

A. Does not appear so.

Q. Now you've said it's good practice to provide such a review. I put it to you that the Board requirements should be included in OS3 of our

current book at page 46, albeit it could be limited to pedestrian and cycle areas proposed by NZTA. If you want to turn to that, that's page 46 of the open space conditions in the conditions book OS3.

5 A. Yeah the – yes, the intention was that that clause applied equally to all reserves, so that's unfortunately been an area in moving the clauses around that it's ended up only applying to Alan Wood Reserve, so I would agree with what you're saying.

10 Q. I move to connections for the moment and I'll come back to those conditions and omissions later. I want to put some things to you first and then ask you a couple of questions because I'm concerned that the silo effects of breaking up the caucusing and the experts and the non-experts might have led to some talking past each other around connections and I just want to (inaudible 12:11:14) forward to you so you're familiar with where I'm coming from. The submitters seek
15 pedestrian and cycleway links, that's either the link between, the missing link between State Highway 16 and 20 or the extra bridges I'm talking about. They're sought for a variety of reasons from increasing access between open space, increasing access to open space, offsetting poor quality during – poor quality open space during
20 construction, the longer period it takes for the restoration planting, quantity, the reduced quantity issues, the reduced liveability issues around residents, this compounded isolation Ms Linzey referred to on Wednesday and the severance between Waterview and Pt Chev and Mt Albert with the additional extra lanes, the six new lanes to the
25 north-east in the tunnel, portal lanes and the five lanes to the north with different cars and the ventilation buildings and stacks. The connections aren't being sought just because open space itself is being (inaudible 12:12:18) by submitters' perspective, it's being sought for a variety of reasons. In that context I have a number of different questions to ask
30 and I'll start with the very straightforward one. You accept, don't you, that the pedestrian and cycleways can provide access to or between open space areas can't they?

A. Yes I accept that.

Q. And in that way extra bridges, to focus on bridges for the moment, setting aside who pays for them from an Auckland Council or Auckland Transport or NZTA perspective, they could increase open space available to the Waterview and Owairaka residents couldn't they?

5 A. Yes they can.

Q. Assuming that the Board of Inquiry accepts that there are numerous affects that require provision of additional mitigation by NZTA by way of increasing access to open space through pedestrian and cycleways, you prefer the provision of the Alfred Bridge over the Phyllis Bridge don't you?

10

A. I believe the Alfred Bridge offers local mitigation to the community that's affected, whereas the Phyllis Bridge essentially offers mitigation to a fairly unaffected section of the Waterview community. It's very remote from the actual impact and requires – to get to it it requires you to walk all the way down Great North Road between the interchange and Heron Park.

15

Q. You've just listed a number of negative attributes of the Phyllis Bridge. In relation to the Alfred Bridge, paragraph 39 of your rebuttal evidence, you mention that the Alfred Bridge would be the more successful of the two benefiting the local community, serving the dual purpose of accessing Unitec, providing access south to Phyllis Reserve along Oakley Creek?

20

A. Yes, so I see that as the preferable of the two.

Q. If required by the Board of Inquiry do you prefer the Alfred Bridge over all of the other options being discussed?

25

A. You're talking about the full suite of bridges, so from Alan Wood Reserve right up through Waterview, or are we only talking about the Waterview –

Q. The full suite of bridges being sought by submitters in relation to this project, which includes from the north, the Eric Armishaw Bridge down to the Hendon Bridge, all of the different options being sought?

30

A. No, the Alfred Bridge wouldn't be my preferred bridge out of all of the bridges.

1215

Q. Sought by submitters, I'm not referring to the Hendon Bridge which is already –

A. That's correct it wouldn't be the preferred.

Q. Would you like to share which bridge is your preference?

5 A. In terms of all the bridges that are currently sought that aren't being provided, my preference would be for the Soljack Bridge as the primary open space connection bridge. That to me appears to serve a connection function that doesn't exist at the moment, where as the Alfred Bridge, although it does make the connection to Unitec easier,
10 that is a connection that currently can be made by the community.

THE COURT: JUDGE NEWHOOK

Now Ms Devine, there is a plan somewhere that shows these various suggested bridges, I think it's probably somewhere in your evidence.

15 **MS DEVINE:**

There is sir, not sure –

MR ALLAN:

I think sir annexure D to this witness's rebuttal might have that.

20 **THE COURT: JUDGE NEWHOOK**

Yes, yes, that's not the one I had in my mind's eye, but it will do.

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. Have you undertaken analysis of the quantity of open space that would be made available if the various connections proposed are required by
25 the Board of Inquiry, the suite of bridges?

A. By that you mean the areas of open space opened up by each of the bridges?

Q. Yes.

A. We haven't undertaken a quantum calculation on that. We certainly –
30 there are a number of plans available and one of them would be the annexure C, yes annexure C to my original evidence-in-chief, which

shows the local surrounding areas of open space and makes it quite clear the size, without going into numbers, of the open spaces that could be connected to. In terms of putting a quantum figure on it we haven't done that because where do you stop drawing the line in terms of if someone's using the bridge for recreation, they may just use it to go to the adjacent reserve, they may go for a walk right around the coast for instance. So certainly, happy to discuss areas or the types of parks that might be opened up by each of the bridges, but we haven't put any quantum figures to those.

5

10 Q. Let's talk about the conditions again. You've withdrawn some timely pedestrian connections previously on offer as part of the mitigation projects haven't you?

A. Can you refer me to the condition please?

15 Q. I'm speaking about Eric Armishaw pedestrian connections. In your evidence-in-chief, at page 67, I've written again. Let me send you to the conditions, I think is mostly helpful. Your annexure B of your evidence-in-chief, which has proposed open space conditions, on page 67, condition SO point 5E. Can you find that Mr Little?

A. Yes.

20 **THE COURT: JUDGE NEWHOOK**

Give us that page number again?

MS DEVINE:

25 Page 67 of the evidence-in-chief, it's annexure B, which has the proposed open space conditions suggested by Mr Little.

CROSS-EXAMINATION CONTINUES: MS DEVINE

30 Q. Now that suggestion has a recommendation of 20 working days before occupation of the construction of the areas within Waterview Reserve Alan Wood Reserve, where practicable, and with the agreement of council, NZTA to provide at E, a pedestrian connection to Eric Armishaw Reserve?

A. Yes.

Q. And at annexure C of your evidence, you have a diagram which shows the provision of a pedestrian connection from Waterview to Eric Armishaw Reserve, don't you Mr Little?

A. Yes I do.

5 THE COURT: JUDGE NEWHOOK

We don't see that.

MS DEVINE:

Annexure C.

10 THE COURT: JUDGE NEWHOOK

Yes, looking at C, little Roman one.

MS DEVEINE:

Try Roman numeral (ii), and there is a key which has the number four and improvements, it's a walking link.

1220

THE COURT: JUDGE NEWHOOK

Yes.

CROSS-EXAMINATION CONTINUES: MS DEVINE

20 Q. Now in your rebuttal Mr Little you say because of caucusing and consultation that the latest version of the conditions have been produced. If we have a look at those latest version of conditions I think we will see that there's no requirement as part of mitigation for the project to provide a pedestrian link before construction starts to
25 Eric Armishaw Reserve is there Mr Little?

A. That is incorrect. That connection is OS9C.

THE COURT: COMMISSIONER DUNLOP

Your Honour, could Mr Little give us the page number again.

MS DEVINE:

Page 50 of the conditions.

MR LITTLE:

5 Page 50.

CROSS-EXAMINATION CONTINUES: MS DEVINE

- 10 Q. It is provided, thank you for that Mr Little. Turn to the quality of open space now. While we've got those conditions out in front of us of OS9 we're looking at the Waterview construction conditions. There's no guarantee of a temporary playing field is there Mr Little?
- A. No there's not. There's, as said in the conditions there, there's either a temporary playing field or there's a financial contribution.
- 15 Q. And as you've said to Mr Lanning it's pretty clear that the intention of the parties of the causing is that field is less likely to be provided and it's more likely that a financial contribution would be supplied, is that right?
- A. That's correct.
- Q. Because Auckland Council doesn't accept that one sports field can be adequately fitted in there, is that part of the reason?
- 20 A. I don't believe that's – that was part of Auckland City's concerns. We feel that we can address those concerns, but we accept that a more beneficial outcome from a strategic point of view for council is to make the agreement to financially contribute to Phyllis, and at the non-expert causing session that issue was raised and the community seemed to be quite comfortable with not having formal active recreation in lieu of
- 25 informal recreation, kick a ball around type of space.
- Q. But in the absence of active recreation and related adult supervision there's potential for anti-social activities in that area isn't there?
- A. I would disagree quite strongly. I feel the current layout of the re-aligned reserve has significant (inaudible 12:23:06) benefits over the existing
- 30 reserve which has got quite narrow entries and limited passive surveillance. The new reserve area proposed has significant street frontage, substantial and improved passive surveillance, limited hiding

spots. I think the potential for anti-social behaviour would be quite reduced.

5 Q. In terms of providing a response to the community matters that you discussed previously, wouldn't a bike park access from a cycleway be useful to achieve that quality experience in the open space of Waterview Reserve?

10 A. In bringing up issues such as bike parks we start to really get into council policy matters. Council have got bike park strategies. They've got – they've done consultation and I don't think that it's the place of the NZTA to start to put in very specific recreational facilities without knowing the policy planning that goes behind them. So I would put forward that a bike park doesn't exist in this location, there's no strong argument for providing it. As mitigation, if the community seek that they probably would be better off negotiating with council post-works.

15 Q. In your evidence-in-chief you identify that the Waterview Reserve and its surrounds is an area where the quality of the open space experience may be impacted don't you?

A. To a degree.

THE COURT: JUDGE NEWHOOK

20 Paragraph?

MS DEVINE:

82 and onwards sir.

CROSS-EXAMINATION CONTINUES: MS DEVINE

25 Q. That's visual experience and the noise experience, you mention five decibels potentially increasing?

1225

A. In a, in a fairly small area just to the north of the, of the park where it starts to drop away into the, into the creek area.

30 Q. That's because it'll be adjacent to four lanes of traffic going in and out of the tunnel portal isn't it Mr Little?

A. Well it won't – that area won't be adjacent to four lanes, it'll be adjacent to the, the westbound ramp.

Q. Two and then a gap and then another two?

A. Quite a big gap, but yes.

5 Q. And after construction the landowner, the council will be left with a somewhat triangular-shaped reserve with part of that bunded and not being flat is that right?

A. The bund isn't included in the reserve. So the bund is road reserve designed to mitigate visual and noise impacts on a reserve.

10 Q. Council will receive – be excluded from the bunded part a triangular part of the reserve won't it Mr Little?

A. It's more triangular than it currently is. I wouldn't describe it necessarily as a triangle.

15 Q. You've also acknowledged in your evidence and in the caucusing statement that the experience of Alan Wood Reserve will also be noisier don't you?

A. Yes.

Q. And you accept that the relocation of the control building and parking would make an additional amount of open space available don't you?

20 A. Define "the relocation"?

Q. By the shifting of the southern building, you – your evidence-in-chief in relation to the initial design of the southern building, ventilation building, is – was that the southern building would throttle the space and I – it's paragraph 119 of the evidence-in-chief, page 29 of your evidence you say, "The bulk and the scale of this building would throttle the open space and completely dominate its character at a key linkage point." I appreciate that the design was modified between your evidence-in-chief and your rebuttal and now there are these three options on the table as arising from caucusing. In light of the possibilities of relocating the southern building slightly, as you will be aware of the open spa – the option 3 that's been discussed Mr Little?

25

30

A. Yeah that's not just a relocation, that's a, a burying as well so it's a much smaller building.

Q. Correct. So you accept that that option 3 would make available additional open space?

A. Yes.

5 Q. And you support the movement, the option 3 for the southern building don't you?

A. Yes my comments are in the –

Q. For open space reasons?

A. Yes.

10 Q. On Hendon Park and that area that Mr Lanning was taking you to previously, I just want to seek some clarification on a point for you and then follow up something Mr Lanning said. There's reference to – which plan should I get at first. F6 Construction Yard Management Plans, if you could find those.

15 **WITNESS REFERRED TO F6 CONSTRUCTION YARD MANAGEMENT PLANS**

Q. So these are the construction yard plans. Are you familiar with those? I've got a specific number, it's 20.1.11-3-D-C-913-111.

A. I don't have that Construction Yard Plan in front of me.

THE COURT: JUDGE NEWHOOK

20 PDF 111 appears to relate to Construction Yard 11 Hendon Park.

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. That plan tells me that that area identified is a construction yard.

A. Yes.

Q. Is that your reading of it?

25 A. Yes.

Q. Now in your evidence – I'll just find the correct reference. Sorry, Ms Hancock's evidence annexure. Let's go with your evidence for the moment. Your evidence, annexure A, has Hendon Park at page 28 of your rebuttal evidence. Your diagram which has those green, different
30 shade of green and brown on it.

THE COURT: JUDGE NEWHOOK

No sorry, what are you looking at?

MS DEVINE:

5 I'm looking at annexure –

THE COURT: JUDGE NEWHOOK

Are you in the evidence-in-chief, are you in the rebuttal evidence, where are you?

CROSS-EXAMINATION CONTINUES: MS DEVINE

10 Q. Certainly sir. Rebuttal evidence of Mr Little, annexure A, there is a plan which is describe – which is a BECA plan which is described as “Proposed Open Space Impacts and Replacement.” Do you have that before you Mr Little?

A. Yes I do.

15 1230

THE COURT: JUDGE NEWHOOK

The first sheet in his annexure A to his rebuttal.

CROSS-EXAMINATION CONTINUES: MS DEVINE

20 Q. Now your key there has, in a red box showing “open space area construction impact”, and you’ve got a marking around Hendon Park. Is the area to the left of that open space area that Mr Lanning was talking about being 6 Hendon Park or 6 Barrymore Road, depending on the numbers that you’d use, that’s not identified as a construction yard?

25 A. That’s not identified as an operation impact. The key there refers to council owned reserve, which is going to be impacted by the, either the operation or the construction of this project. Now that property that you’re talking about is an NZTA property so it’s been excluded from any shading showing a construction impact.

30 Q. Will there be construction on the area to the left of Hendon Park there, construction yard 11?

A. Construction yard 11 will be as per the annexure that you've just held up, which is at the end of Barrymore Road.

Q. Which is the red area you've delineated on your map in annexure A of your rebuttal evidence, or is it to the left?

5 A. Are you talking about the small triangular wedge just south of the – next to Hendon Park, is that the red area you're talking about?

Q. I'm speaking, I'm referring to the part of the park that's near Barrymore Road, that's not highlighted, it has a blue line showing the designation?

10 A. Yes.

Q. To the left of it?

A. Yes.

Q. Just a point of clarification, that's not construction yard 11?

A. That is construction yard 11, and the reason that it's not highlighted as a
15 operation impact, is that it's not council owned reserve land.

Q. So NZTA doesn't perceive there'd be an impact because it's only an impact on NZTA?

A. Correct.

THE COURT: JUDGE NEWHOOK

20 Presumably it's consented to it.

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. And that area that we've just been speaking about is quite large isn't it, it's 1.9 hectares?

A. Correct, it is.

25 Q. And a small portion of it, the dark green part there is being offered back as open space for – it's about .25, your calculations add to it .25 a hectare?

A. That sounds, yes .25, yes.

30 Q. Now Mr Lanning has already asked about that's obviously available land that could be used to offset, to provide open space. There is a map that we referred to previously that Mr Lanning used, attached to annexure B of Ms Hancock's rebuttal evidence previously, and it may not be

necessary for everyone to get it out, but on that, that area's marked as being identified for divestment by NZTA?

A. Yes.

Q. So when you suggest –

5 THE COURT: JUDGE NEWHOOK

Which sheet number is that?

MS DEVINE:

It's sheet 222 again sir, that one that was quite elusive when we were looking
10 for it.

CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. On that map, 222 there, there is the same area we've just been discussing and it has an N3 in a circle on it and the legend to the right says the balance of that land's not used for open spaces to be divested.
15 So when you answered the question of Mr Lanning that that area was available for passive open space, that's not correct is it Mr Little, it's intended to be divested?

A. I don't see that as a significant change, it's not talking about a zoning change, so it would remain zoned open space. It's currently not owned
20 by council so any divestment to any other party which could include council wouldn't be in my opinion a change in that situation.

Q. It's possible that it could be used, be rezoned and subdivided and become residential isn't it Mr Little?

A. That's always been the possibility on that site.

25 Q. Just briefly talk about the Cradock Reserve, Esplanade Reserve, I don't think you need to refer to it for the moment. Well let's take it there, in your rebuttal evidence, the second page of annexure A, down the bottom right-hand side there's the little squiggle that shows the Cradock Reserve, Esplanade Reserve.

30 THE COURT: JUDGE NEWHOOK

Now which sheet?

1235

MS DEVINE:

That's Mr Little's rebuttal evidence, it's annexure A, and it's the second plan there, so it's also entitled "proposed open space impacts and replacement".

5 THE COURT: JUDGE NEWHOOK

Yes, second sheet.

MS DEVINE:

The second sheet, with numbered – they've both got 23, the second sheet.

10 CROSS-EXAMINATION CONTINUES: MS DEVINE

Q. Now that's included within your calculation of proposed new open space isn't it Mr Little?

A. It's included in the calculation on the sheet, but I've been quite specific in terms of the area, the quantum area for Waterview to exclude it, because it's not local, and at the time of handing it back to council it wouldn't really be connected and it wouldn't have any particular open space function. That's not to say it's not useful because getting Esplanade Reserve is certainly a priority of council and I would support that.

20 Q. It is part of the land that was previously acquired for the emergency stack isn't it?

A. That's correct.

Q. A rather large block around that area in fact, that property 36 Cradock Street, I understand is .65 of a hectare, does that sound about right to you?

25 A. We've never calculated that area entirely as open space because it was never proposed for that, so .65 sounds quite big, but yes, possibly could be correct.

Q. And that's NZTA's land isn't it?

30 A. I believe NZTA still holds that land.

Q. And that balance of the land that I'm referring to isn't being used for the rest of this project, for this project is it?

A. No, the emergency smoke exhaust isn't part of the project anymore.

Q. It's a scenario where NZTA could divest that land and possibly subdivide it, in which case Esplanade Reserve would be required wouldn't it Mr Little?

5 A. Under subdivision, that's starting to get into a planning question, I'd probably be a bit more comfortable for Ms Linzey to address that.

Q. And the benefit of this area is less for recreational purposes and more for ecological benefit, is that fair to say?

10 A. At this stage I would say yes, but I know that the long term aspiration of council would be to, as you start to acquire these esplanade reserves, there is a possibility of linking up a walkway as well, so at this point in time, yes it would be ecological.

15 Q. On Wednesday Ms Linzey was unable to say if the community wanted or needed the same quality open space during construction. Surely during construction it's important to ensure that while the community's enduring all those adverse effects that Ms Linzey calls a "nuisance", that they should be able to have the same quality open space available to them Mr Little?

A. Certainly quality open, access to quality open space is important.

20 Q. The same amount of quality open space?

25 A. That gets into quite a few issues, because obviously some of these areas, in terms of quantity are going to be required for construction yards, so if you start to say you've got to mitigate the quantity throughout construction, then you require some quite large areas of alternative open space to become available and certainly that then gets into issues of knocking over houses for open space, which has more social impacts. So my approach would be to look at the overall outcome in terms of the final way out and the improvements that will be gained post-construction and balance that against the somewhat reduced quality and quantity of space during construction.

30 Q. Isn't simply inconvenient for NZTA to take further steps to ensure the quality of open spaces maintained during the five to seven years that the residents are exposed to the construction effects?

A. I think you have to go back to looking at what is the function of the open space, and in terms of breaking down the function of looking at the connections that can be provided through the area, the passive recreation function, the active recreation function. We've gone through quite specifically and made sure that allowances are made for each of those during construction. Now I've been quite clear that there are areas where I think there are unmitigated impacts, for instance at Alan Wood Reserve, but I do feel that in the Waterview area, which is the area we're looking at at the moment, that the, there will be some impacts on quantity but that the connectivity and the function and the quality of those spaces won't be so severely impacted that there needs to be further mitigational work undertaken.

Q. Let's go back to the conditions in terms of quantity. Condition OS9 which is on page 50 and subparagraph (a) in terms of Saxon Reserve. Residents using Waterview Reserve aren't guaranteed to – that additional land will be provided by NZTA to replace the land taken at Waterview Reserve with extra land at Saxon Reserve, because NZTA doesn't have half of that land, is that right Mr Little?

A. That's not completely correct. And this, I think it's important to note that this also I think illustrates an issue that the NZTA has in providing offset mitigation outside of the direct area of impact and it's one of the reasons why we have to be very careful in terms of proposing areas that are directly outside of the corridor. Saxon's a case in point. The area can't be designated by the NZTA as open space. You have to enter a process of voluntary negotiation with the sellers. Now my understanding is that the area that's being looked at is to double in size under the long term NZTA proposal. At the moment two of the four properties that are required to provide that doubling in size has been acquired, the other two are in a process of negotiation and I understand, although I may not be privy to all of the workings of that negotiation process, is going, is progressing. There's been a plan prepared on the basis of not having those two properties, which are quite a small area and don't affect the overall quantum calculation significantly, and that plan has been lodged for – or is about to be lodged, for resource

consent. It provides, in my opinion, all of the functions of the community park that would be required to create a real sort of heart and passive community centre for the Waterview community, even without those two properties. Although long term it would be beneficial to incorporate those two properties into the park as it opens up better site lines and a bit more kickable around area.

5

Q. Your evidence-in-chief at paragraphs 87 and 88, in 87 you say that the – you conclude that your open space situation and the offset is all adequate, “fair and reasonable” are the words you use. And in paragraph 88 you draw to the Board’s attention that your findings rely on the implementation of mitigation proposals and the specific drawings as well as the broader open space quantum replacements shown on the different plans?

10

A. Correct.

15

Q. With Saxon not provided do you wish to change your conclusion in paragraph 87 of your evidence-in-chief?

A. That doesn’t change the conclusion. The conclusion states that Saxon would be provided because that’s part of the broader open space quantum replacements shown on annexure A.

20

Q. Saxon Reserve in OS9A is only going to be provided where practicable, it’s open for NZTA to say, “It’s not practicable,” so that may not be provided and therefore the quantum you refer to as being important to rely on in order to form your views is not the same as what you had previously concluded?

25

A. I see – I stand by that statement. I see the development of Saxon Reserve as a community park as critical to the mitigation at Waterview. The where practicable is a, is basically an indication that the process of acquiring those last two properties isn’t 100% complete at this time, but I’m not aware that there’s any indication to pull out from that particular part of the work.

30

1245

CROSS-EXAMINATION: MR ALLAN

Q. I wonder if I could take you please to this plan, it's in your rebuttal evidence at annexure A I understand.

THE COURT: JUDGE NEWHOOK

5 First or second sheet?

MR ALLAN:

It's the second sheet I think sir. Well it is in my folder.

THE COURT: JUDGE NEWHOOK

10 It's got Waterview Reserve on it?

MR ALLAN:

Waterview Reserve, yes it does, and it has "Proposed Open Space Impacts and Replacement" drawing number GIS ending with 23.

15 CROSS-EXAMINATION CONTINUES: MR ALLAN

Q. I'd like to talk to you first Mr Little about what's proposed for open space in the Waterview area and to begin with Waterview Reserve itself. Now the current reserve is separated from Great North Road by a line of houses?

20 A. Yes it is.

Q. And in fact it's almost surrounded by houses?

A. That's correct it's got an entry of Cowley Street which is its biggest.

Q. And in the current climate in terms of the way we approach reserves that's not a good design but it's in fact the design that's pretty common
25 in most of the reserves through the area that the motorway's going to go isn't it?

A. Correct.

Q. One of the results of that isolation if you like from the road network is that that is a reserve that's rather quieter than it otherwise might be. Do
30 you agree with that?

- A. I'm not sure I would. I've seen the existing noise level plans for that reserve and it's actually quite high. There's a possibility that those houses might have a very minor buffering effect but the overall noise level in that reserve is certainly not one where I would expect that the removal of those houses would significantly affect it. It's starting to get into a noise expert area, but...
- 5
- Q. It's certainly going to change the character of the space within the reserve isn't it?
- A. It will depend on the layout I guess. If you remove those houses and replace them with a number of specimen trees potentially that could be an improvement in the character of the reserve.
- 10
- Q. But the boundary of the reserve to the east I suppose looking at that map is going to become a buffer area that moves onto, directly onto the, or adjacent to the motorway on ramp?
- 15
- A. Sorry you've lost me a little bit, I thought we were talking about a hypothetical situation where the –
- Q. No well look at the plan in front of you.
- A. Yes.
- Q. And if we now look at it in terms of what is going to be there. The eastern boundary of the reserve is going to be set effectively by the interchange?
- 20
- A. Correct, yes.
- Q. And you'd accept, wouldn't you, that all the work that's going to be done in terms of landscaping and the preservation of archaeological sites and the like within that interchange area may well be mitigation for a whole lot of things but there's not going to be mitigation for loss of public open space?
- 25
- A. Are we talking about the – you're referring to the archaeological site, the Star Mills site?
- 30
- Q. Yes, yep.
- A. Yes we haven't included that as open space, that would remain road reserve.
- Q. Now as a result of the works that are proposed, if I was to walk from Waterview into Pt Chevalier and along Great North Road, I'm going to

be traversing a much longer length of road without houses alongside it, aren't I?

A. Correct.

5 Q. And do you accept that that is an adverse effect in terms of the amenity and safety, perceived or otherwise, of the pedestrian?

A. I think this is starting to get into an area where you really want to be questioning the urban designer expert. That to me doesn't seem like an open space question.

1250

10 Q. If we look at the Alfred Bridge, I think is the way that you describe it, in terms of the proposal of some parties, including my clients, that there might be an at grade bridge across the Oakley Creek to Unitec in the vicinity of the Alfred Street intersection with Great North Road. Do you accept that that is a bridge that would enable improvements in connectivity through to open space that has quietness and other qualities that might be beneficial for the residence of Waterview?

15 A. I think it would certainly make it easier but I don't think that it would provide a link that doesn't currently exist.

20 Q. That's because the link that currently, there is currently a link across a bridge up to Unitec?

A. That's correct.

Q. And that requires one to walk down into a valley, across the creek and then up the other side?

A. Quite a nice walk.

25 Q. Yes, are you able to comment on the CPTED implications of that walk. Is that within your area of expertise?

30 A. I'm not a CPTED expert but in open space planning CPTED is clearly a key consideration, so I'm well aware of the principles of CPTED. The Oakley Creek corridor itself is not what you would describe as a highly safe area to walk in, in terms of CPTED, it doesn't meet any of the, I guess it doesn't meet any of the traditional situations that you'd look at in terms environmental design for safety. But having said that, it is well used and I'm not aware of incidents in that Oakley Creek areas that have been of an unsavoury nature, and certainly when you're down

there, it doesn't feel like an unsafe place to be in. I am aware of an incident that occurred on Great North Road, which is in theory a much more highly surveyed area.

5 Q. In a sense, the qualities of that walk that make it an attractive one, are also the ones that make it potentially dangerous aren't they?

A. It's one of the drawbacks of New Zealand bush, it's very dense and its understory.

10 Q. So in terms of having a linkage across to the space on the other side, a bridge that was at-grade, in other words just went between the two levels of land above the ravine and wide enough and has a view all the way through, could be much safer in CPTED terms?

A. In strict CPTED terms, yes.

15 Q. And it would be a better link in terms of somebody who wants to get somewhere reasonably quickly, rather than wandering down into the valley and up the other side?

20 A. I guess if they wanted to get there reasonably quickly, but from an open space point of view, in terms of connections, a lot of it's to do with the actual journey, people are out there recreating for cycling, walking, fitness purposes, so in terms of open space you don't always need to get somewhere in the absolutely quickest trip and the walk through Oakley Creek is quite an attractive one.

Q. You'd accept there are some members of society for whom walking down that track, across the Oakley Creek and up the other side might be physically challenging?

25 A. Certainly.

THE COURT: JUDGE NEWHOOK

Well it is at the moment, the bridge's been damaged by floods.

MR ALLAN:

30 Well it's impossible sir, yes.

THE COURT: JUDGE NEWHOOK

Can't get across at the moment at all.

MR ALLAN:

I'm relying on the fact that the council will fix its bridge at sometime soon. We certainly can't shoot that one home to NZTA, I accept that.

5 CROSS-EXAMINATION CONTINUES: MR ALLAN

Q. Now the other, or another advantage of that bridge, is one that I think you've touched on in your evidence, in relation to access to the Phyllis Park, fields, if they're developed there. This is a bridge that enables the people in Waterview, in the northern parts of Waterview to physically get to those fields in quite a direct way doesn't it?

A. It would help, it would, as you've just mentioned, it would avoid the need necessarily to drop down into the creek gully, they could instead walk through the Unitec grounds to get to Phyllis Reserve. Having said that, that's not an easily navigable route at the moment, through the Unitec grounds. I know they've got proposals for upgrades and development plans and I think that at the time that those upgrades occurred, this bridge would then potentially serve a more effective link than is currently the case.

Q. Now have you had a chance to see the supplementary rebuttal evidence that was provided from Ms Linzey and it dealt with the options 1, 2 and 3 for moving the buildings at the southern end of the tunnel?

A. Yes I have.

1255

Q. Can I ask you to just refer to that document please and in particular to the matrix at the back of the document which has a sort of a comments from various people, witnesses.

A. I've got that document.

Q. There is at the end, I think, the last entry on that matrix, there's one which says, "Effects on open space," then has your name as the assessor. You see that, that line?

A. I do.

THE COURT: JUDGE NEWHOOK

Sorry, which annexure was this?

MR ALLAN:

5 Sorry sir, this is the table, it's the annexure to Ms Linzey's –

THE COURT: JUDGE NEWHOOK

Supplementary, yes.

MR ALLAN:

10 - supplementary, yes. So it's with the blue heading at the top and the matrix of comments.

THE COURT: JUDGE NEWHOOK

And which annexure?

MR ALLAN:

15 Sir I think it's E.

CROSS-EXAMINATION CONTINUES: MR ALLAN

Q. Now Mr Little did you write those comments that are (inaudible 12:56:18) –

20 A. Yes I did.

Q. – come from you? So the entries across that whole line have been written by you or –

A. That's correct

Q. And that includes the commentary on the right-hand side?

25 A. Ah, one minute please. Yes.

Q. And can you just confirm that that is a correct and full statement of your views on the matter?

A. Yes.

30 Q. I have to jump to another topic and it won't take terribly long but I'm going to transgress into our lunch hour.

COURT ADJOURNS: 12.57 PM

COURT RESUMES: 2.16 pm

CROSS-EXAMINATION CONTINUES: MR ALLAN

5 Q. Mr Little, can I take you please to the discussion about the proposed movement of the northern stack or the stack at the northern end of the tunnel. And in paragraph 25 of your rebuttal evidence you say, "From a purely open space perspective, this is a poor location than that proposed in the NZTA's application." But at paragraph 90 of the caucusing statement on open space, and I quote from this, it says, "David Little considers that options two and three do not have open space impacts other than visual, while option one has minor negative open space impacts because of the space taken, do you remember that statement?"

A. That's correct. Yes I remember that.

15 Q. Now just to make the conversation a little easier, if I can take you please to the plan of options one, two and three which is Andre Walter's rebuttal, annexure E, this back plan.

THE COURT: JUDGE NEWHOOK

20 Or another one which happens to be closer to my elbow is Amelia Linzey's second rebuttal, supplementary rebuttal.

MR ALLAN:

I think that deals only with the bottom – sorry with the southern building.

THE COURT: JUDGE NEWHOOK

Oh yes, yes it is. It's the only southern building, we're talking north.

25 **CROSS-EXAMINATION CONTINUES: MR ALLAN**

Q. I'm not sure that it includes the northern one.

A. That plan I don't have in front of me.

Q. Right I just wonder if you can bring it up on the screen.

THE COURT: JUDGE NEWHOOK

So Andre Walter's rebuttal?

MR ALLAN:

- 5 Yes, annexure E. Are we getting there? I wonder if we might go to the other one which is the one with the aerial photograph with the – oh yes that's the one.

CROSS-EXAMINATION CONTINUES: MR ALLAN

Q. Mr Little, can you see that plan from where you're sitting?

- 10 A. I can see it and I'm also familiar with the location so.

Q. And just so we know what we're talking about, the current location or the proposed location for the stack is within the area on the western side of Great North Road heading towards the motorway?

A. Yes.

- 15 Q. And it's amongst those buildings that are shown on the diagram. The options you were discussing were alternative vent stack one which is across Great North Road, almost directly from the current location of the stack. Option two which is further north on the same side of option one but closer to the BP station and then option three which was further
20 down on the other side of Herdman Street?

A. Yes.

- Q. Now the one I want to ask you about is option one which you've said has minor negative open space impacts because of the space taken. Is it fair to say that you're expressing in your evidence a preference for the
25 current location, but that you could cope with a relocation to option 1?

1420

- A. Yeah I'd have to say that in some ways the evidence of myself and
Mr Brown overlaps here and Mr Brown's commenting, he comments quite specifically on the visual impacts, which obviously have an open
30 space implication as well. So I'll defer to his comments in relation to visual impacts on open space in that regard. In terms of – putting the visual effects to one side – in terms of the actual area of open space that is going to be – that would be taken up by this option, I see it as

fairly minor. It's in an area which is currently in weedy vegetation, it's surrounded by steeply sloping sidewalls of the gully, it's a fairly small incursion in terms of its size and so I would see it as a negative impact on open space, but not a, what I would call a highly significant negative impact.

5

Q. And you've described it as minor?

A. Minor.

Q. Can I know take you to another topic altogether which is the Soljack Bridge, and while we've got the caucusing statement in mind in paragraph 42, the discussion on Soljack Bridge – and 41 I'm sorry is the one I'm looking at – and that statement – this is paragraph 41 sir of the caucusing statement on open space. And that paragraph says, "David Little," – and a number of other people – "agree that "it" – meaning the Soljack Bridge – "would have positive mitigation effects for the unaddressed quality impacts at Alan Wood Reserve, particularly if associated with upgrading of Harbutt Reserve and the linkage from Soljack Bridge to Harbutt Reserve." You recall that?

10

15

A. Yes I do.

Q. And it fairly states your position?

20

A. It fairly states my position. I'd have to add that that position has been modified somewhat by what's been called option 3 of Andre Walter's evidence in relation to the potential relocation partial burying of the southern ventilation building, but as at that time, yes it certainly reflects my position.

25

Q. What do you mean you're position's been altered by option 3?

A. What I mean by that is that I would see the impacts of quality and passive open space if option 3 were taken as being mitigated within the reserve as opposed to needing further mitigation elsewhere.

Q. So if option 3 isn't taken those are effects that would need to be mitigated elsewhere?

30

A. Correct.

Q. And this bridge is one of the ways that that might be done?

A. Certainly.

THE COURT: JUDGE NEWHOOK

Right, Friends of Oakley Creek.

CROSS-EXAMINATION: MS DOCHERTY – NIL**THE COURT: JUDGE NEWHOOK**

5 Star Mills, Mr McCurdy.

CROSS-EXAMINATION: MR MCCURDY

10 Q. Here to talk about the effect on vegetation on the character and amenity of open space and just referring to the conditions V on page 55 would be helpful. You would agree, would you not, that vegetation does contribute markedly to the character and amenity of open space?

A. Yes.

Q. In general terms?

A. Yes.

15 Q. And condition V1 defines significant and valued vegetation as defined in the (inaudible 14:24:32) and at present that's defined in schedule E7 of the AEE which is a fairly large list of trees of the area. Would you agree that those noted in that schedule at present very few are noted as valued or significant, compared with the total number of trees there?

20 A. I think this is probably a question better aimed at the ecological team rather than myself, from an open space perspective. I'm not particularly familiar with that schedule.

1425

25 Q. I'm happy to do that. There's one more question, I'm not sure whether that would come with you or with the ecological people. In assessing the amenity of a tree, would you agree that there is more to it than simply the botanical significance, there could also be historical, community, values as habitat for fauna, value as a bedding place for birds?

30 A. Again I don't think that's specifically an open space question. I mean I have a personal view on it but I don't think it's within the realm of my area of expertise that I'm focussing on.

QUESTIONS FROM THE BOARD: COMMISSIONER DUNLOP

- 5 Q. Mr Little, I don't know if you were here yesterday but I asked Mr Brown the landscape architect about the origins of the proposal for the extensive area of flax planting along the rail corridor, which (inaudible 14:26:32) is narrower illustrated on the annex B to Ms Hancock's evidence and can see that it runs for some considerable distance along the back of those properties at Hendon Avenue. Can you tell me anything about where that concept of planting that area out in flax and/or other natives came from? It seems to have a strong sort of maintenance flavour to it?
- 10
- A. Certainly happy to discuss that. There's a bit of a history to that area. Firstly, in looking at that space, which is about 20 metres wide, runs between the motorway corridor and the backs of the Hendon Ave properties. Firstly we sort of stood back and assessed whether or not that was a safe place to be inviting people into and whether there was any recreational benefit, safe recreational benefit that we thought could be undertaken in that area. And we don't believe that it's an area that can be used for any legitimate recreation function, particularly safely. We had feelings that it could become a crime corridor for people looking to get into the backs of properties and it's a lot more poorly surveyed than that area is at present, with it being wide open. So basically size, function and safety considerations led us to the conclusion that the public should be excluded from that space. That's also been supported by council officers, that particular line of thinking. In terms of what to do with that space once it's been removed from public access, we didn't want it to look like just wasteland that was periodically mowed, so we approached Kiwi Rail to find out what sort of vegetation they might support in there as a medium term solution. At the time they were not in favour of any large vegetation, any trees and the reason for that was public perception that when those trees grow up and then the rail decide to come through and remove them, then there could be public concerns about that. So it was limited to low growing species such as flax, and through the caucusing there's been opinion stated that that should have
- 15
- 20
- 25
- 30

a lot more diversity in it and the plans have been amended accordingly to low native vegetation.

Q. Is some or all of that land available to the community for passive recreation claim?

5 A. It is available to the community as passive recreation at the moment, it's the rail designation which is leased by council for open space.

Q. What consultation has there been with the community or the residents to test the view of shall we say the professionals, about their perceptions of the potential for that area to create anti-social behaviour. Has the issue been put to them bluntly, you know, "Would you prefer to take your chances with the bad guys or continue to have it open as open space?" Has it been put as bluntly as that to anyone?

10

1430

A. I don't believe that that exact issue has ever been stated bluntly but the area of what was flax planting and is now mixed planting has been on the plans through the public consultation period so it has been available for public consultation and views on that.

15

Q. Have there been views been come back from the community about the merits of the proposal?

20 A. Not that I'm aware of.

Q. Is it – I'm hesitant to ask the next question, but I guess it's got to be put. Council and the Agency are obviously in negotiations, discussions, about an appropriate approach to open space and I, you know, we've – the path that this subject has followed is being well set out now and I think I understand it. Is there the prospect of the Agency and the council reaching an agreement during the course of this hearing or do you expect us to get to the end of the hearing and for there still to be issues between the parties, and including the community?

25

A. I believe in terms of the council negotiations that most of the issues will be dealt with through the negotiations over the financial compensation for Phyllis Reserve and, if approved, the option three, I think those deal with two of the most significant issues. But I am aware that even option three wouldn't satisfy council's concerns with regard to open space at

30

Alan Wood Reserve so I suspect there'd still be some issues around that. I –

Q. So in your – I beg your pardon?

5 A. Sorry, I also note that in the caucusing session there wasn't resolution over some of the issues such as the bridges at the northern end, the State Highway 16 one and the Alfred Bridge, so I'd say from a community point of view those wouldn't have been closed out.

10 Q. Be harder to bring them into the fold on all their matters. And I'm asking questions not making statements but I'll just observe that your last answer seems to sit pretty comfortably with what you've said in paragraph 18 of your rebuttal and I'm not going to go to it but the level of agreement within the experts caucus statement where there's about three important matters that are agreed in these areas. Moving to some of the matters that are important in the minds of the submitters and the Alfred Bridge, I now understand the nature of the Alfred Bridge thanks to the line of questions so it's at grade. Is there any costings done of this bridge Mr Little?

A. There are certainly costings available. I don't have them to hand but –

Q. Sorry you don't?

20 A. No I don't.

Q. Do you have any order of cost to hand? Someone's inviting us to impose this as a condition, it would be nice to know what it might cost?

THE COURT: JUDGE NEWHOOK

Ms Linzey?

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MS LINZEY:

My understanding with the NZTA's valuation of those bridges, it's between two and two and a half million dollars for the Phyllis, Alfred and Soljack bridges.

30 **THE COURT: JUDGE NEWHOOK**

Each. Two and a half? So they're all the roughly of the same order, two to two and a half million?

MS LINZEY:

Yes, two to two and a half, yes.

5 QUESTIONS FROM THE COURT CONTINUES: COMMISSIONER DUNLOP

Q. Now the Alfred Bridge, am I correct in understanding that that would land, if that's the right word, on its eastern side on Unitec property, or does it land in the Esplanade Reserve?

10 A. No I believe it would land in Unitec property.

Q. So does the board – is Unitec's position on that proposition known to the Board?

A. My understanding is that Unitec are comfortable in general terms with the bridge.

15 Q. Right and that would include the prospect of having the public moving through the campus?

A. Yes.

Q. That's a corollary isn't it?

A. Yes.

20 1435

Q. The bridge would vest in the council, is that the scheme that's being contemplated, or would it stay part of the state highway network?

A. I suspect it would be vested in council because it would probably ultimately form part of a connection network not directly associated with the state highway, which is where the Agency's interests would lie.

25 Q. And the position, with regards to Phyllis Bridge, is that roughly the same, that it's an at grade bridge?

A. Yes.

30 Q. And I can now see from your appendix D it goes approximately from, or it would go approximately from the junction of Great North and Blockhouse Bay, is that right?

A. That's correct

Q. Somewhere in that vicinity?

A. Yes.

Q. And it would land over in Phyllis Reserve itself?

A. Yes.

5 Q. And we now have got a rough order of costs for it and the vesting presumably would be similar to Alfred. I understand from – I might be able to answer this but I'll ask anyway – I understand from Ms Hancock's evidence that the concept of these bridges went out to public consultation?

A. Yes they did.

10 Q. And we're now hearing that it's the Agency's case that they're not required to mitigate the effects of the project, which begs the question in my mind why did the Agency go out to consultation on them, and what's changed?

15 A. From an open space point of view there was a, I guess there was a shift in a few different areas from an open space point of view, which is the only one I can discuss. That was the community feedback that they wanted mitigation money to be spent locally in the areas that were directly impacted. So for instance a bridge linking Great North Road to Phyllis Reserve, while very good from an overall open space network point of view doesn't provide direct mitigation impacts to the northern
20 Waterview community who would have to walk down the very busy Great North Road to get to it.

25 Q. That answer takes me to another question which I've sort of sensed through your evidence that with regards open space is sort of a quantum that's available for mitigation. Have you had instructions from your client that there's only so much money or so much to be done in the way of mitigation and that if it's extended in one place it's not available to be used in another?

30 A. No there's never been a, you know, a sort of a ballpark figure that we're aiming for. What we're aiming to mitigate are the quantum, so the area, and also the quality and the function of those reserves, and if connections, improved connections form part of that mitigation package, in terms of upgrade and quality, then that would be done as well. So quantum is a very important part of replacing open space and it was certainly something that council, especially in the early days, said was

very important, because it's not easy to get land for open space and the population's increasing all the time. So quantum is a very important aspect that we looked at, but in terms of mitigating the effects we looked at the full range.

5 Q. I think there's a misunderstanding between us Mr Little. I was using quantum as a euphemism for money, perhaps I should be more direct.

A. No there's never – we've never been given a budget for mitigation that we've had to then chop up and decide where to spend it.

10 Q. I think you've already addressed the question of what happens to the NZTA land that was previously leased to the rugby league club to be used as a construction yard, the designation will ultimately come off that and it will go for some alternative use. It's not available for open space mitigation, is that correct?

15 A. There's no proposal as part of this project for it to go to an alternative use. There is a comment that it could be divested following the works. However, that would still have to go through the – if there was going to be a zoning change, that would still have to go through the formal consenting process.

20 Q. Paragraph 61, you're dealing with the, what you've quit handily referred to as "potential pocket parks"?

A. Sorry, this is the rebuttal paragraph 61?

Q. Yes the rebuttal. Are these the sites on the southern side of Hendon Avenue, which are presently free of buildings, that provide access to the open space from Hendon Avenue?

25 A. Yes they are.

Q. And they of course ultimately get severed below the rail designation and the proposed motorway don't they?

A. They do.

Q. So the question is, what happens to those?

30 A. Yes.

Q. And they're included in the footprint of the designation aren't they, just looking at sheet 117 of the transport facilities drawing?

A. Yes they are included.

Q. Who owns them at the moment Mr Little, do you know?

A. Auckland Council does.

Q. So when the designation is uplifted it will be very much for the Auckland Council to decide what happens to them, is that correct, if they own them?

5 A. I believe that council's requiring NZTA to purchase that particular piece of land and so council's position is that they don't want them back as pocket parks, and therefore it will be up to NZTA to decide what to do with them.

Q. Are they are plural aren't they, you said, "it" and "them"?

10 A. Yeah there's –

Q. They are "them" aren't they, they're plural?

A. Yes there's two of them.

Q. I don't know – well you've enhanced my understanding of that and I don't know that I can take that subject any further by way of question,
15 other than to say for myself, I can understand where you're coming from in your evidence. In an increasingly intensified urban area, pocket parks, to my mind have a place.

QUESTIONS FROM THE BOARD: MR DORMER

Q. My question relates to the expressed support really for the option 3
20 relocation of the southern portal. I'm assuming, that in coming to the position of support, you took no account of the apparent extra cost of \$35 million in implementing option 3?

A. No, my position was to base it on its open space pros or cons. So I didn't take a financial view on it.

25 Q. I wouldn't have expected you to have, but I just wanted to be clear that my assumption was correct?

A. It is correct.

QUESTIONS FROM THE BOARD: MS JACKSON

Q. Mr Little you – at one stage in your evidence you refer to "loss of
30 off-leash dog exercise areas", but then you go on to say, "Adequate other off-leash areas are available in the local area." How is that mitigation?

1445

5 A. I think the issue of dog off-leash exercise areas in some ways comes down to council policy and there would be areas returned such as the area to the west of the southern ventilation building which is quite a large grassed area where dog off-leash exercise activities could continue. It's probably up to council to decide whether that remains a suitable activity in that location, but regardless this is a very large area that could be used entirely for dog off-leash activities, partly in fact, due to the fact that there's a very large lease rail designation which would then be taken up partly under this project. So it, in some ways, it comes down to the loss of the, of that leased land which I've acknowledged is a perceived impact for the community, but which is one that is unavoidable given the current zoning and designation through that area.

10 Q. But those areas aren't available during construction are they?

15 A. The area to the west of the southern ventilation building would be available –

Q. Would be?

A. – during construction.

20 Q. So I guess the council will look into that too. We need to talk about noise walls and Crime Prevention Through Environmental Design. CPTED you called it, that was quite neat. When you're proposing these enormous concrete walls for any length, how do you get around crime prevention because surely if you can't see do you don't know who's there. If it's for any length and you're presented with a situation you'd rather not be in, you're really pretty stuck and in danger, so how do these huge concrete walls provide for people feeling safe?

25 A. There are a few questions wrapped up in that I think. There's two area of concrete wall, one to the north of the motorway through Alan Wood Reserve and one to the south. To the north there's no public access permitted adjacent to the concrete noise walls, other than there is a small section that sticks out around the Hendon Bridge but around the Hendon Bridge you've got elevated views from people on the bridge. You've also got quite wide open spaces north of the motorway so I think safety in that area I'm quite comfortable that there's plenty of

30

passive surveillance there. To the south, it certainly is a slightly more tricky situation and it's in some parts one that is a bit unavoidable. There are, there is a requirement for noise mitigation of the project. The concrete walls in places are in area – they're bordering areas where the motorway is dropping down, so irrespective of the, say the wall material you still wouldn't get the views from the motorway because it would be, you'd be looking at basalt wall abutting the trench that the cars are going into. So the actual area of concrete wall would largely be the area in and around the 25 Valonia Street site so the active recreation reserve. And again there we've got an elevated residential catchment surrounding it, so you've got houses looking over that space. You've also got people using the playing fields, you've got views from Valonia Street. So I'd, I certainly accept that it's not a perfect situation from a CPTED point of view but I think there are mitigating factors that do make it acceptable. And another, I guess another thing that comes to mind is even having, even in an event that you've got eyes on that space from the motorway there is always going to be a physical separation in terms of a fence so even if you could see something there's not, there's never going to be a situation where you could actually physically do anything about it, and that's common to all of the cycleways that abut motorways.

1450

Q. Where you're required to have a, not required to have, where you want to construct a construction yard and you want to remove mature exotic trees, when it comes to restoration after the yard goes, would it be appropriate to replace those exotic trees with exotics. And when you look at – you've allowed something like seven years for those trees to grow, what sort of size trees would you consider was appropriate to put them back?

30 A. This is a question that was asked of Mr Brown and he passed it over to me and it's actually the reason why our order was shuffled because Ms Hancock actually deals with that matter, rather than myself.

Q. So I'm being deferred again.

A. Apologies for that.

Q. It's all right it will keep. Just one other – yard 7, that's a lovely little reserve that Oakley Creek Reserve at the moment, and I imagine that there's going to be a fair amount of work there to make it into a construction yard. Are you confident that it can be restored to a lovely little park like it is now, with the measures that are proposed?

5

A. Yes I am, you're referring to Waterview Glades?

Q. Yes.

A. Yeah, it is certainly a nice space and it's unfortunately an unavoidable impact of this method of construction but there will be a portal that's being constructed there, so there'll be quite a lot of digging and a cut and cover trench put over the top. Now I've had a look at the cross-sections through that area and apart from one fairly localised location, the tunnel itself or the cut and cover section will be sufficiently buried that the existing contours will be able to be put back exactly in the same manner. One localised situation is only for a very short stretch, I think it might be somewhere around 10 metres, off the top of my head, I wouldn't want to be necessarily quoted on that. But from looking at it there would still be the capacity to reshape over the top in a very natural form, although it wouldn't be the exact same form that it previously was. It would still look like a natural river gully side wall. So there wouldn't be anything sticking up out of the ground, it would go back to a, as you'll see in annexure B of Ms Hancock's rebuttal evidence, it would go back to a predominantly grassed space, natural sides and the proposal is that there'd be a 15 metre re-vegetated riparian margin, that would be put in as early works and a linking footpath to the north of that construction yard that would also go in early, allowing people to access the creek. So I believe post-construction it would be a nicer place to be.

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QUESTIONS FROM THE BOARD: MS HARDIE – NIL

30 QUESTIONS FROM THE COURT: JUDGE NEWHOOK

Q. Looking at the caucusing statement, open space, bottom of page 9 top of page 10, the issue there is 172 Methuen Road accessway to

Alan Wood Reserve, there's a fair measure of agreement and a resolution there but with a qualification that I want to explore with you. The resolution here was that you had some CPTED concerns but the experts generally agreed that the open space restoration plan, in that plan there should be a condition, subject to CPTED review, this connection should be made. Now that kind of leaves it a bit up in the air so far as I'm concerned. By reference to an appropriate plan, aerial photograph whatever you like, I'd like you to tell me what you CPTED issue is, so that I can understand it and then I want to explore with you how it might be resolved. Because if there is this high measure of agreement amongst the experts that something is desirable and if we get attracted to it, as something that we might oppose, the cut might get dashed from our lips. If somebody comes along and says, "Oh no, too much crime, not going to happen." Which would be sad if it could have been resolved. So I'm looking at sheet 117 of the, what I call the "site inspection set", where I think this pathway is shown, but you might have a better exhibit that you'd like us to look at?

1455

A. The one that I was going to look at was sheet 220 of the landscape plans, but it probably shows the same thing.

Q. Yes I think this one might be based on that.

A. Yeah. I don't think it's quite as clear on this plan as on the landscape plan so I don't know if it might be easier –

Q. What would you like me to look at in preference?

25 A. It's landscape plan 21 – 220, apologies.

Q. And I find that where, in F? The application documents?

A. Annexure B of Ms Hancock's rebuttal statement would probably be the easiest.

Q. Yes, okay.

30 A. So the area in question is just to the left of the key. You can see the property outline that runs in a fairly tight configuration between two residential houses.

Q. That's the dashed black line?

- A. Yes. So that particular connection is bounded by quite high fences and it runs at a low to moderate grade downhill and it's got a couple of concealed corners at the end of that. And so just based on the length of that connection, the height of the fences and the narrowness of the connection it felt like a space, to me anyway in my opinion, that didn't feel inviting for people to use and that had a couple of potential fairly significant concealment points at either end. If you were to get three-quarters of the way along that link and someone or some group was to jump out from behind one of those points you wouldn't really have anywhere to go. So I had CPTED concerns over that. The other experts didn't share my opinion so much and – but it was my concerns that led to that inclusion for a full CPTED review to be done of that link.
- Q. Yes well wouldn't there be – can't you think of some CPTED resolution of that as we sit here Mr Little? I know you've said that it isn't necessarily your field of expertise, but I perceive that you know a fair bit about it otherwise you probably wouldn't have raised it on this occasion?
- A. Well the –
- Q. Amongst others. Down there where the walls turn at a right angle at the bottom of each of the adjoining properties, aren't there mechanisms there for the use of walls, vegetation, whatever that would reduce or remove hiding places, potential hiding places for naughty people?
- A. I'm not actually 100% certain of the ability for either the Agency or council to limit height of fences for residential property.
- Q. I wasn't thinking so much of playing around with the heights of fences. I was thinking of adding features like other fences and/or vegetation beyond those corners, the bottom corners of those properties? Just as off the top of my head. I'm not a CPTED expert I can assure you.
- A. I can't think of any method just off the top of my head, having just been asked it. I can't think of any way of reducing the CPTED issues there other than reducing the height of the fences.
- Q. All right well who on your team shall I ask?
- A. I think it really – it probably needs a CPTED review as per the agreement of the caucusing statement.

Q. And who on NZTA's current team might be suitable to be involved in that?

THE COURT: JUDGE NEWHOOK

Ms Linzey, you've got a name swinging to your lips I can see.

5 1500

MS LINZEY:

I would suggest Lynne Hancock who had, is doing the urban design would probably be next in line.

THE COURT: JUDGE NEWHOOK

10 Okay, we'll ask her some questions.

MS JANISSSEN:

Sir, just on that point if I could perhaps, Your Honour might be aware there's condition OS5B page 48 which goes some way towards it, but I guess what
15 you're trying to do is close it out. It requires –

THE COURT: JUDGE NEWHOOK

Well I'd like to take it as far as we can.

MS JANISSSEN:

20 Yes, yep.

THE COURT: JUDGE NEWHOOK

There isn't, or there's less potential for nasty surprises and not of the CPTED sort. Member Dunlop's had his head in this one, not surprisingly and looking at page 48 OS5Bi he's actually questioning the need for an assessment there.
25

MS JANISSSEN:

Correct, we just did the same thing.

THE COURT: JUDGE NEWHOOK

You've just had the same conversation as we've been engaging in?

MS JANISSSEN:

Yes, snap. Yes.

THE COURT: COMMISSIONER DUNLOP

5 It's an assessment of an assessment.

MS JANISSSEN:

10 Yes remove the words, "Assessment of," and remove the words, "Subject to,"
and put, "Following a full CPTED review and response." That would make it
more suited.

THE COURT: JUDGE NEWHOOK

Yes.

MS JANISSSEN:

15 Almost certain.

THE COURT: JUDGE NEWHOOK

20 That goes some way doesn't it? Yes and you should provide there who's
going to do that CPTED review and one imagines the council should be
involved in there somewhere.

MS JANISSSEN:

Certainly.

QUESTIONS FROM THE COURT CONTINUE: JUDGE NEWHOOK

25 Q. Now over the page, issue seven, Hendon Bridge. Can I – just after the
evidence from Professor Haarhoff who sees an, "Opportunity to extend
the Hendon Bridge to Methuen Road to provide for more access for the
community to open space. Resolved," but I don't quite understand what
was resolved. "Resolved Mr McKay notes and we all agree that if this
could be achieved by the 172 Methuen Road connection above it would

provide for this outcome.” “If this could be achieved,” is that a reference back to what we’ve just been talking about?

A. Yes it is.

RE-EXAMINATION: MS JANNISSEN

5 Q. If I could take the witness back to my friend Gerald Lanning’s questions about Valonia Street and in particular if I could have annexure A to Mr Gallagher’s evidence come back up.

THE COURT: JUDGE NEWHOOK

Whose evidence?

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MS JANNISSEN:

Mr Gallagher.

THE COURT: JUDGE NEWHOOK

Is this going to help us with the jurisdictional concerns?

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MS JANNISSEN:

Yes it is, sir.

RE-EXAMINATION CONTINUES: MS JANNISEN

20 Q. Mr Little this is the area that you’ve referred to I think in your evidence is where you consider the council is asking for betterment over the existing situation?

A. Yes that’s correct in terms of active open space.

Q. And with respect to the council’s proposal, they’re proposal a cricket pitch where there is, there’s none currently, is that correct?

25 A. That’s correct.

Q. And the council’s proposal requires further land in order to have the playing fields side by side, is that correct?

A. Yes it does.

30 Q. During the questioning from Mr Lanning he asked you to refer to this area as if it was a blank sheet of paper, do you recall that?

A. Yes.

Q. This is in fact not an area where there's a blank sheet of paper isn't there, there are quite a number of houses that are involved.

A. That's correct.

5 1505

Q. With respect to the council's proposal how many houses would need to be removed to provide for a cricket pitch and side by side playing fields?

A. I believe it's eight further houses.

Q. And are any of those houses within the current designation?

10 A. No.

Q. Are you aware if any of the home owners or occupiers have been consulted with - about that particular proposal?

A. Not that I'm aware of.

15 Q. And are you aware if any of the owners across the side of, the other side of that road who might be impacted by the removal of the houses have been consulted on that proposal?

A. No I'm not aware of the consultation process the council followed.

WITNESS EXCUSED

MS JANISSSEN CALLS**LYNNE ROSA HANCOCK (AFFIRMED)**

Q. Is your full name Lynne Rosa Hancock?

A. It is.

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

A. I have.

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

10 A. I have.

Q. Are your qualification and experience as set out in paragraphs 3 through 7 of your evidence-in-chief?

A. Yes.

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

A. Yes I have a slight correction to plan number 222, which is annexure B of my rebuttal evidence. This is to show –

THE COURT: JUDGE NEWHOOK

Q. I'm sorry, page? Rebuttal page?

20 A. It's annexure B. One of the suite of drawings in there, plan number 222. I have copies here and I think it's also now being shown on the screen. Shall I speak to it?

Q. Yes.

25 A. Thank you, this is just to show that where that area of open space, which we're discussing earlier, running alongside Hendon Bridge comes down to the railway corridor, that because the –

Q. Is that area M3 is it?

30 A. That's correct. You'll see that band of bright green that shows the flax and those species planted through that corridor, we've amended that drawing to show that that does not need to continue through that area because it is contiguous with that passive open space and therefore could be used by people.

Q. Would you just step up to the screen and point that out, if you can reach up that high. So that's generally area in two?

A. That's correct

5 Q. So do you want to change the wording of "note" in two on that claim do you?

A. I have amended that heading, yes.

Q. Can you read that out to us.

A. Sorry I'm getting alongside of this. M2 now says, "Specimen tree planting (in grass) between access path and proposed noise walls."

10 Q. Okay so take off "rail designation" and replace it with "proposed noise walls".

MS JANISSSEN:

15 Sir the alternative is we could replace that plan as an exhibit if that would make it easier for the Board.

THE COURT: JUDGE NEWHOOK

It's probably more convenient for us to mark it up here on what we've got already.

EXAMINATION CONTINUES: MS JANISSSEN

20 Q. With the exception of that correction are the contents of your evidence true and correct?

A. Yes.

1510 BE

CROSS-EXAMINATION: MR LANNING – NIL

25 **THE COURT: JUDGE NEWHOOK**

Eden Albert Board, Ms Devine.

THE COURT: JUDGE NEWHOOK

Just a little observation from me. I'm a mean banker, I actually operate a little bit like the tax man, so I take and then I take and then I take and I don't give any back. There's no bank.

5

MS DEVINE:

That's fine sir, I don't have many questions so that will be fine.

CROSS-EXAMINATION: MS DEVINE

10 Q. Ms Hancock your evidence talks about transparent barriers and I want to talk to you a little bit about that. As you will appreciate there's been some questions around that in the past. Oakley Creek Inlet, as a tributary of the Motu Manawa Marine Reserve, has a natural amenity, doesn't it Ms Hancock?

A. I would say so, yes.

15 Q. And NZTA accepts the importance of that Oakley Creek Inlet area by providing fencing of the heritage areas for example doesn't it?

A. To some extent, yes.

20 Q. The provision of a view from the causeway to the inlet would increase the amenity on offer to the motorway drivers and cyclists wouldn't it Ms Hancock?

A. There is an existing view from the cycleway towards the inlet, that will remain the same. The view of drivers towards the inlet I believe will still be available to them.

25 Q. I am referring to a noise wall barrier that I can identify the particular map, that it's erected just to the side of the causeway which is next to Waterview and Pt Chev, there's a small amount of the noise barrier expected there, are you familiar with that Ms –

A. I have the noise plans, if you want to direct me to that one we can talk about it.

30 Q. It's noise wall maps sheet 8.

A. Can we have it up on the screen, would that be possible?

Q. Yes. It's the yellow marked part of that, the beginning of the causeway?

A. Yes, this is the termination of the barriers that continue onto the sheet adjacent.

Q. That's correct.

A. The 1.1 metre high portland barriers as I understand?

5 Q. That's correct.

A. Yes.

Q. The existence of solid non-transparent barriers there would block a view of – from the causeway to the inlet wouldn't it Ms Hancock?

A. For drivers?

10 Q. For drivers?

A. It depends I suppose on how high your car is, 1.1 metres is not terribly high, but were there to be a combination of transparent and solid materials, there would still be required at least an 800 millimetre high solid barrier for safety reasons with something like 300 on top only of transparent material to satisfy requirements. So you may get I suppose additional slither of view. I would hesitate to think it would contribute much to the driver experience.

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Q. We can leave that there. In terms of – well first to give you a little bit of context, those in the Waterview area have had these extensions to the north, to the State Highway 16 motorway and to the east from the interchange and the portal, there's some changes there, all creating various effects. And I've talked about Ms Linzey's suggestion that this is compounding the isolation of the Waterview community. In your evidence-in-chief at paragraphs 80 and 81, can you just turn to those.

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A. The last sentence of paragraph 80, you say there, "That the project will result in widening of the urban gap between Waterview and Pt Chevalier communities, the loss of land uses fronting and overlooking Great North Road." And then at 81 you refer to the urban gap is of concern as it visually and physically separates the Waterview neighbourhood further from Pt Chevalier and its local shops and services. It's fair to say that the project exacerbates the separation between Waterview and Pt Chevalier and Waterview and Mt Albert, isn't it?

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A. In that context yes it is.

Q. New Zealand Transport Agency's website takes credit for restoring historical connections in two other projects, one you've worked on I can see from your experience, the Victoria Park Tunnel Project, which in additional to providing transparent noise barriers at St Mary's Bay also is providing a pedestrian connection across the motorway to the harbour edge as a condition of the project. And I see the official opening this weekend of 3.5 kilometres of cycle and walkways as part of the Manukau Harbour crossing to benefit the community's Mangere Bridge in Onehunga are matters that have been taken credit for restoring historical connections. Regardless of other construction and operational effects, the exacerbation of isolation of Waterview towards Mt Albert to the east and Pt Chev to the north is worthy of additional connections isn't it Ms Hancock?

A. I would say where there is severance then connections need to be put in place, certainly. What we're talking about along Great North Road is a different kind of severance which is a severance between a community which where currently the houses run up closer towards that interchange. The opportunity to connect is still there, it's still present in terms of footpaths and a cycleway connection.

20 **CROSS-EXAMINATION: MR ALLAN**

Q. Can we start with that topic. You say the opportunity is still there. What are the sorts of things you're meaning in that description?

A. To connect from Waterview to Pt Chev?

Q. Yes.

25 A. Well obviously we have an existing walkway on the eastern side of the road. We have discussed, through the project and in caucusing, agreed that the extension of a cycleway shared path down the western side would be a positive addition to that area. I think the increased potential for safe passage through the Great North Road interchange as a pedestrian, albeit already in a highly modified environment, I believe with the addition of those crossing points that will be a more successful route. Also the new proposed shared path along to Eric Armishaw Reserve from that interchange with the, depending on grade, shared

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path all pedestrian connections up to local streets, those are the specifics in that area.

5 Q. If I'm walking from Waterview currently to Pt Chev I can walk through Waterview Park down to the Great North Road, pretty close to where the interchange is eventually through the interchange, because it is quite an exercise to change sides, and then up along Great North Road to Pt Chev, can't I?

A. You can.

10 Q. So I've probably got, what, 600 metres or so of cars and not a lot else during that walk?

A. Yes.

Q. Once this proposal's in place that's going to go from 600 metres to maybe closer to a kilometre?

A. That's correct

15 Q. Perhaps a bit more. And on the left-hand side as I'm walking down Great North Road I'm going to have a motorway that comes out of a tunnel and then runs along beside me, and then a series of ramps that move up to meet the other State Highway 16 connections. You'd accept, wouldn't you, that that's going to be a significant reduction in the amenity of pedestrians using that route?

20

A. It will be a significant change in the quality, or the character I should say, of the walk. I understand that with overhead ramps and with the loss of houses the experience will be different. I would agree that, yes there is a reduction in the quality of the experience to some extent. I believe that the landscape approach that's been taken and the potential to have that shared path will counterbalance to some extent those losses.

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1520

30 Q. But basically, having ramps flying up and around you, to a greater extent and this is currently the case, is a negative?

A. It's negative.

Q. And the loss of houses in the sense that you're walking along, at least alongside a community with the ability for people to see you and to communicate with them is a negative?

A. I would agree but I would also say it's back to the extent that I think there's more of a perception of lack of security than necessarily a lack of security itself in that changed situation.

5 Q. But for people who are pedestrians either through choice or reluctantly, that perception of security is often a very important thing for them isn't it?

10 A. It can be, on the other hand I guess I would counter that by saying that the walk on the eastern side of the road is as it has always been and one can choose to take that if necessary. There are still alternative routes.

Q. There is a difference though on the eastern side of the road too, isn't it, if I'm on the eastern side of the road, I can at least see houses and perhaps believe, erroneously or not, that somebody in the house might see me?

15 A. You can.

Q. And once this project's in place, that is lost?

A. It is lost.

20 Q. Those are effects I'm going to suggest to you, that can't really be overcome through improvements to that connection, in the sense that just improving the route from Waterview along Great North Road to Pt Chev isn't going to overcome those adverse effects is it? You've done pretty much all you can?

A. Well I would agree with that.

25 Q. And I'm going to suggest to you too, that one way of addressing those sorts of issues is to give people choice. In other words if you can find another way to get to Pt Chev, that's a way of mitigating that loss of amenity from the existing route?

30 A. I agree choice is always a good thing for pedestrians for cycles, even for motor vehicles. I guess the issue is, where is the extent of – may I rephrase that. At what point does the amenity or quality become such that a choice must be provided.

Q. And that's a matter that perhaps neither of us can answer?

A. Indeed.

Q. For the Board to do. Were you here for the questioning of Mr Little?

A. Yes.

Q. And you heard me discuss with him, what I call the “Alfred Link” across the creek and you understand what that route is?

A. Yes.

5 Q. That’s a route that would provide, provided it’s built at grade and it’s a good straight bridge across, a degree of choice and an opportunity for people in Waterview to find a quieter route if you like, up to Pt Chev isn’t it?

A. Yes.

10 Q. Would you accept at a more general level, that Waterview is a relatively small but isolated pocket of residential housing in Auckland?

A. I would.

Q. And that to leave Waterview, if you’re a pedestrian or cyclist, almost requires you to go along Great North Road at some point?

15 A. Yes.

Q. So given that lack of choice currently, do you think it’s particularly important to look at this issue when determining the adequacy of compensatory mitigation measures that being put in place?

A. I would say it’s really – I don’t see it as my role to determine what’s
20 adequate compensation in the project. The function of the urban design role and the framework is really to set an aspirational agenda for what might be possible for this community in the future. And in doing so, it captures a number of elements, aspects, qualities that would benefit the communities going forward. I would see the Alfred Bridge certainly as a
25 bonus for the community, as a bonus for Unitec. I don’t believe it’s for me to say whether that is actually to be provided.

Q. No I understand that, but your evidence, indeed your comments on the
caucusing, say, the point at which you say, “More compensation is
needed or it’s not,” isn’t it. In other words you say in paragraph 34 of
30 the caucusing statement on open space, “David Little” – sorry that doesn’t affect you at all, I’m sorry – that’s. I’m going to put it to you then, 34, on that statement, “David Little and Amelia Linzey consider that this bridge is over and above required mitigation for open space.”

And you're saying that's not something that you feel you're able to make a call on?

A. That's correct.

Q. And that's why your name isn't there?

5 A. That's correct.

1525

Q. Can I ask you some questions about the Soljack connection and that's issue four in the document. You heard the questioning of Mr Little on that topic?

10 A. I did.

Q. Did you agree with his comments regarding the unmet if you like adverse effects in the Alan Wood area and the benefits that the Soljack Bridge could provide?

A. And the corollary of that in terms of the option three?

15 Q. Yes.

A. Yes, yes I would agree with his comments, on –

Q. So on both those topics you'll –

A. Because they are related, yes I would.

Q. I want to talk to you now about the northern stack and the proposal from
20 my clients that it be shifted to the other side of Great North Road. In your rebuttal statement, I'll find the paragraph – I'm sorry in your evidence-in-chief, paragraph 117, you took about the ventilation structures and you said at that stage, "The requirements of the ventilation building appear to preclude active edges that is openings to
25 the street at Great North Road or the school. The building is closed with blank frontages. The building is significantly longer than the higher than surrounding housing, it differs in scale and type for the build context." You go on to say, "The stack is located near the school grounds boundary and not with the tunnel portals," and, "Due to the functional
30 requirements of the building there are no other uses or functions proposed to be located at the building stack." Now did you see the stack's location near the school grounds boundary as being a negative feature of it?

- 5 A. Not necessarily. That comment relates to, if you look at paragraph 116, in fact 117 probably ought to have been indented. In the urban landscape design framework there's an urban design principle for the design of the buildings, the ventilation buildings and the stack, which suggests that locating them together is an appropriate urban design response, which is to say gathering together like uses.
- Q. Yes.
- 10 A. Early design concepts looked at locating that stack within and as close to the ramps and the portal as possible, however as the design developed and things move around as they do the stack was not able to be located that far to the north. My preference would still be, of the options that have been tabled, that where it is currently it is still by being at least located on the same side of the road and coherently with the ventilation buildings and near the ramps and portal an appropriate location. Or should we say a more appropriate location perhaps than elsewhere.
- 15 Q. And am I right in thinking that that's a statement that reflects urban design principles about legibility of buildings and purpose and function –
- A. Yeah.
- 20 Q. – would you accept that that's a principle that we might have to step away from occasionally if there are adverse effects that flow from the construction of a building on that basis?
- A. Inevitably a principle is always going to be a higher level thing and as the design develops, as detail happens, there might well be some move away from what seems to be a position that your representing. Nevertheless I would say that if the – that the thinking behind the urban design principles should be seen as a kind of framework for whatever design develops, so they shouldn't be determining the architecture example, that's not the level of detail they operate on.
- 25 Q. And from the public's point of view, having a fan building and some structures above it on one side of the road and a stack on the other side of the road, might be seen to be in the same basic location mightn't it?
- 30 A. It might but I can't speak for the public in that sense.

Q. No. And that raises the question to what extent is your professional opinion going to be influenced by what you understand the public preference to be on a particular issue?

5 A. My professional opinion as an urban designer is influenced by a number of things, public sentiment and community concern is obviously a key one. Key also are issues of constructability, of rational design, of the potential for future land uses, of open space, all of those things come together. So an urban design view is necessarily a balance to you and while it's very important that the community has an input into that I would say that that then needs to be seen in the context of the wider considerations.

10 Q. So if we go through those factors in this case then, Mr Walter's evidence established that the stack on the eastern side of the road is constructible?

15 A. Mhm.

Q. You've expressed some views in terms of your urban design preferences in terms of locating buildings together. Would you accept that there'll be circumstances where those factors will – there'll be a tension between some of them?

20 A. Yes.

Q. And you've got to make a judgement call in those circumstances as to which ones you give more weight to?

A. Well I think the Agency has to make a judgement call rather than me.

25 Q. Well at the moment you're expressing a preference as to where the stack should go?

A. I have a preference for where the stack should go and that is that it – in its current location.

Q. And in expressing that preference, you're making a judgement call as to the weighting you give to each of those factors aren't you?

30 A. I am. All I'm saying is that I wouldn't expect that to be the final call.

Q. If the community sentiment through this hearing process, which in a sense is the most effective form of consultation we can have, was to come out strongly in favour of shifting it to the other side of the road, would that influence your view in terms of what or might be done?

A. It would influence my view as it would do in any case but I suppose my answer would also say which community are we talking about? Are we talking about the community now or in 20 years time or in 50 years time? Are we talking about those people who use Great North Road, you know, it's not simply a question of the representation we have.

5

Q. Do you think that the people who live near to this stack might have a little bit more influence in terms of weighting than the people who just drive by it every day?

A. I would expect so but I would also be seeking to defer to Ms Linzey on some of these matters.

10

Q. Would your support for this project disappear away if the Board was to determine that in fact that stack should shift to the other side of the road?

A. No it would no.

15

Q. It's – are we talking here about a preference but it's not a preference that's so strongly held that's going to –

A. It's not a deal-breaker.

Q. Mmm?

A. It's not a deal-breaker.

20 **COURT ADJOURNS: 3.33 PM**

COURT RESUMES: 3.50 PM**CROSS-EXAMINATION CONTINUES: MR ALLAN**

5 Q. I wonder if we could find please Ms Linzey's supplementary rebuttal statement which is the one where she looks at option 3, one, two and three, for the southern end of the tunnel.

A. Yes I have that.

10 Q. The questions I'd like to ask you direct really to option 3 which is the one that my clients would like to see put in place. And the matrix at the back of that statement, being annexure E, contains a list of comments, a series of comments from different consultants and under the heading "Urban Design" it has Lynne Hancock and then has a series of comments and can I just ask you if those are comments that you wrote?

A. They are.

Q. The comments on the options and the comments (inaudible 15:51:20)?

15 A. Yes.

Q. And they fairly and fully summarise your position on those options?

A. They do.

THE COURT: JUDGE NEWHOOK

Friends of Oakley Creek.

20 CROSS-EXAMINATION: MS DOCHERTY

Q. I note that in your rebuttal evidence, annexure B, the last page that is included is a new sheet numbered 229 for the reconstruction of Waterview Glades?

A. Yes.

25 Q. Looking at the notes of this plan could you please inform me where exactly note number 11 refers to – oh sorry, note number 12.

A. Yes well note 12 should be somewhere in the vicinity of those three buildings that we see to the bottom right.

Q. Down the bottom of the page?

30 A. Yeah.

Q. In the centre?

A. I guess it – what we're seeing there is existing vegetation so in that area.

5 Q. So reading this note number 12 the second part of the sentence, "Any vegetation removed via the creation of construction yard 7 to be replaced with similar species following construction"?

A. Yes.

Q. This is referring to the vegetation within the line – within the coloured area of this plan, is that correct?

10 A. My understanding is it's referring to the vegetation that's coloured grey.

Q. Coloured grey?

A. Yeah.

15 Q. "Similar" seems sort of a loose term to be using in this plan note. Similar in what sense? Will the species that replace the trees removed be taken from the planting lists that are proposed?

A. They would be, yes.

Q. Does the replacement of these similar species include the species that are to be found in the natural wetland that is to the side of construction yard 7 that will be removed?

20 A. I have to confess, I can't speak precisely about what species are there, but there are species selection lists in volume F16 of the – which are the urban landscape design plans, there are species schedules that attach to the plans that talk about different kinds of planting appropriate for different kinds of areas. So the riparian area planting would be appropriate here.

25 Q. But there's nothing specific in there to protect or retain the freshwater riparian wetland, that's that little area within the construction yard footprint?

30 A. There if – well clearly there isn't a specific note to that effect at the moment. And the intention is certainly there.

Q. The intent is there?

A. Mmm.

Q. Construction yard 7 lies within an area that Friends of Oakley Creek have an active environmental weed control, a native vegetation

programme and also animal pest control strategy in place. Looking at sheet 229, "Note M1 outlines of proposed recurring planting." And I also note that condition OS6 on page 49 of the revised conditions also refers to this recurring planting. Reading this management plan approach note, on sheet 229, It's a little unclear to me, whether this is an intention or if this is actually something that is proposed?

A. Well this is concept plan currently, as it says in that management plan note. Certainly with any of the management plan notes on the urban landscape drawings, this is an offer by NZTA or a commitment to do the work, but the detail of the work is to be worked out with council because these are areas that are of concern to both. I would suggest that's probably also where the specific detail of the planting restoration should take place.

Q. Have ecologists been involved in the design process of this new sheet, this plan, 229?

A. I don't know.

Q. So you're not sure whether the recurring planting proposed in this location will be in accordance with the ecological objectives of the Oakley Creek rehabilitation, realignment guidelines?

A. The Oakley Creek guidelines were developed by the ecologists and those guidelines have been very important in all of the concept design for the area around Oakley Creek. The species list that are currently attached F16 reflect that input, so they would consistent in my view, with those guidelines.

Q. Is there any reason why the archaeological sites are not recorded or located on this page?

A. I haven't, I don't know whether there's a reason why those aren't there.

Q. But this is where it could be included, to ensure that they're protected?

A. I would have, I would have no problem including those –

30 **THE COURT: JUDGE NEWHOOK**

Ms Docherty, I think that's a question for somebody else.

CROSS-EXAMINATION CONTINUES: MS DOCHERTY

- 5 Q. Now turning our attention to the southern end of the project, page 6, paragraph 13 of your rebuttal evidence. You respond to the suggestion that planting on the railway designation has been changed from mass of flax to the low growing native species, we were talking about before. Something to clarify. Can you clarify whether this means a mix of species, instead of the mass, the flax or is it just a mass of some other single species?
- A. The intention would be a mix of species.
- 10 Q. A mix of species?
- A. Yes.
- Q. Thank you for clarifying that.
- A. And again, subject to detailed design.
- 15 Q. Plan 22 in your annexure B of your rebuttal evidence, note 11 describes the planting around the area where the Oakley Creek tributary, the Stoddard Road tributary, as it's known, is realigned?
- A. Yes.
- Q. Note 11, it notes the planting is to assist the long term visual mitigation of the project in this area. Will these canopy species referred to be maintained in the long term, to achieve this long term visual mitigation objective?
- 20 A. Maintenance period is something that's going to be the subject of a condition.
- Q. I note that you are part of the expert caucusing session for landscape and visual effects?
- 25 A. Yes.
- Q. Would you still agree with the outcome from that session that a 10 year maintenance period would be more appropriate to mitigate the effects of this project?
- 30 A. Yes I signed the caucusing statement and yes I stand by that.
- Q. Just going back to that Oakley Creek tributary at Stoddard Road on sheet 222. Can you clarify, that the planting in this area's consistent with the Oakley Creek realignment and rehabilitation guidelines, that set out to mitigate the ecological effects of the project?

1600

A. Yes, as I said again the intention on all of these plans is that the species as described in the schedules that attach to these plans are consistent with those guidelines.

5 Q. So it's not just from visual mitigation purposes?

A. It's not, it's also ecological planting, that's correct.

Q. Just touching back on that maintenance question. Do all of the various management plans for the landscaped areas and maintenance, does this include animal pest control management?

10 A. I don't know I'm sorry.

Q. Were animal pests, such as possums or rabbits, considered to be a deterrent to the long – to the successful establishment and long term effectiveness of visual mitigation plantings?

A. I don't feel I can answer that question, I'm sorry I don't know the answer.

15 **THE COURT: JUDGE NEWHOOK**

You'll need to ask others Ms Docherty. As to the detail of conditions of consent you could ask questions of Ms Linzey.

CROSS-EXAMINATION CONTINUES: MS DOCHERTY

20 Q. My final question, the stormwater treatment wetlands that are indicated in these maps, are they to be fenced off?

A. Fencing may be appropriate. Just in terms of making sure that there is no danger with people falling into the ponds.

Q. For people accessing, so people won't be accessing –

A. That's correct.

25 Q. Those wetlands. And what sort of fencing would be used, if that was the case?

A. Well generally through the project the recommendation is that any fencing in areas where people would still want to be looking in would be mesh, visually permeable.

30 **CROSS-EXAMINATION: MR MCCURDY**

Q. Referring to urban landscape plan sheet 212.

A. 212?

Q. 212. And looking at the Star Mills archaeological site, which is, it's not labelled on this plan, but it's the area immediately to the north of the stormwater pond 3.

5 A. There is a more detailed plan of that site if you'd rather speak to 224. It's also in annexure B.

Q. Thank you for that. And the grey rectangles showing on the site in urban design terms, what do they represent?

10 A. Well as you'll see there's a little note, note number 8. Is that where we are? Talks about –

Q. Yes.

A. So these are indicative foundations of the Star Mill and tannery and quarry site.

Q. So that's schematic at the moment –

15 A. That's correct, yeah.

Q. That version. urban design detail at this point?

A. No no no.

20 Q. So in terms of developing that urban design would it be appropriate that the arrangements and detailing and the visual effects were sympathetic to both the archaeological remains and to what was there in the days of the mill and the tannery?

A. I would imagine so, but do you, do you have what – are you thinking about architectural finishes or what level of detail are you interested in?

25 Q. Two or three things. One would be the bridge which is number 7 on this detailed plan.

A. Yes.

30 Q. And that's on the alignment of the old tannery bridge, which was built some time around 1879 or shortly afterwards. So the question for that one, would it be appropriate to do it – to design it as it would have been in those days?

A. My view would be no.

Q. And why would that...?

A. I think where – well I suppose this is also a question that I probably should defer to Dr Clough but I – from a point, from the urban design

point of view because we're talking about designing elements I will just go so far as to say that my preferred approach is to not replicate or create the historic pastiche. I think where elements exist and they are telling a story it's wonderful and important to retain them. I don't believe that recreating them actually does them a service or indeed a service to heritage going forward if you like.

5

Q. I certainly wouldn't use the word "pastiche" in that respect and possibly not a literal replication, but something that is in fact sympathetic with what was there, otherwise what are you telling the public about what used to be there?

10

A. I see, I understand your point. I suppose this is probably not the forum to design this bridge.

Q. I understand.

A. And I'm sure there'll be many views that go into the design, I'm just saying from a professional point of view I would prefer to see something fairly low key, fairly modern and using interpretive signage where those elements have been lost, perhaps even with photographs of what that image might have been so people could compare.

15

Q. Now just on that note I am sure that the original bridge was low key and utilitarian. On the same thing, the evidence of the original layout of the mill, the millers access road, the bull race that's, not all of it's known but it is gradually coming through. Would you consider incorporating that arrangement in the paths for urban design would be appropriate?

20

A. Again, I'm very much in consultation with the heritage experts, I would imagine that that would be a strong driver for any design and this is at this point, a conceptual and indicative design.

25

Q. And a final question, the old oak trees between the mill site and the Great North Road, some of which will survive the building of the ramps. Is it appropriate to incorporate them then in the urban design, given that they've been there some 130 years or even 165 years?

30

A. You mean transplanting them or leaving them where they are?

Q. The ones that are not directly in the path of the flyovers, leaving them where they are?

- A. As a general principle, any large mature trees through the project that can stay, I would strongly support staying, being protected and staying.

QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP

5 Q. Ms Hancock at the commencement of your evidence you drew out attention to an amended drawing, it was in the series, you know what series it was in, sheet 222?

A. Yes, that's correct, F16.

10 Q. I wonder if we could bring that up on the – now what I wanted to clarify was whether the amendment to that sheet applies just to the parcel of land that has the notation, "M2" in it, which is the area south of the walkway, or footpath, or whether it includes, as that drawing seems to suggest, the parcel of land within the railway designation, that has in my drawing the number "2" on it, which is part of what I lightly referred to yesterday as "the flax forest"?

15 A. Well we're trying to reduce the flax forest for you, so the latter is correct.

Q. Right, so it's both, it's M2 and 2?

A. Yes.

Q. Thank you.

THE COURT: JUDGE NEWHOOK

20 Q. So that's why what's on the screen differs from what we've got in the book?

A. Correct. Not, simply because Counsel Dunlop didn't like it I have to say?

THE COURT: COMMISSIONER DUNLOP

25 I'd be surprised if that was the case.

THE COURT: JUDGE NEWHOOK

I think it was another member, I'd refrain from asking whether flax is a great breeding ground for rats, I've asked it now.

QUESTIONS FROM THE COURT CONTINUES: COMMISSIONER DUNLOP

Q. Now moving to your rebuttal in paragraph 30 you were discussing, as I understand it, the proposed Eric Armishaw Park route?

5 A. Yes.

Q. And you traverse various aspects of that proposal. I was wondering what effect, you think, the bridge might have on the amenity of the open space where it lands and in fact where it takes off from? I think you have spent a little bit of time on where it takes off from but if
10 Eric Armishaw Park were to be the landing place –

A. Yes.

Q. – having now got some knowledge of –

A. Yes.

Q. – that park, I'm trying to envisage in my mind's eye what might a
15 300 metre plus bridge look like coming down there. Is that something that you can help us understand the potential effects of?

A. I have considered that. I have to say I actually was at
Eric Armishaw Park on the day of the big flood when I didn't almost get
back across the causeway because it was so inundated.
20 Eric Armishaw Park, similarly when there's high water, is very much reduced in size. It seems to me, and again without going into the detail of the design, that any bridge landing there would be significant both in terms of the impact on – and again Mr Little obviously could talk about quantum, but logically it would take up a significant area of that park. I
25 also have some concerns about the fact that it's slicing through what's a quite sensitive foreshore area as it comes into land and I don't know really what the impact would be of large piers or a large structure but I can only imagine that it would be considerable.

Q. I was going to ask you about that. As I understand the evidence it's
30 proposed to do some eco toe and replacement planting in that intertidal area between the causeway and the park?

A. It's also a wildlife reserve.

Q. Another sort of minor point, Ms Hancock, on some of the urban design and landscape plain drawings, there's an explanatory note that qualifies, expands on, the management plan approach.

A. Yes.

5 Q. And I'm trying to find the sheet now that it's on.

A. In the rebuttal set, probably the first one, annexure B210 has it?

Q. While I've got 2119, it serves the purpose.

A. Sure.

10 Q. And it's for myself quite significant words. There's a note, "These items are conceptual only. Shown for reference for discussion and agreement with council through the management plan process (including future cost share and arrangements).

A. Yes.

15 Q. Now that's a significant caveat but the minor point I was going to make is that that note doesn't seem to appear, unless I've really lost the plot, on all the drawings, is that right, yet it seems to be an important qualification?

20 A. It wouldn't appear on all the drawings. If I can refer you to my evidence-in-chief, paragraphs 32 and 33 explain it although perhaps not sufficiently. Where there's a management plan note, it refers to elements that actually require agreement with council. It might be that these things are outside the designation or that they are owned by council. It's not to undermine the commitment or the offering of NZTA to do something of that order in that area, it's simply reflecting the fact that
25 without conversation, discussion, negotiation with council, we can't be sure exactly what form that might take.

Q. So would you agree that if there were to be any aspect of the management plan which the Board thought in the event there was granting consent needed to be secured –

30 A. Yes.

Q. – because it was viewed as being critical to the project, then would it be appropriate to address that through conditions rather than leave it to the outcome of the management plan process?

A. It may well be but I – that’s a matter for you I would imagine. I think the other thing that may make a difference through this process is the outcome of any negotiations parallel here. For example, aspects of open space that might be agreed might then move from being a management plan approach to something that’s firmed up as it were and just, you know, comes into the drawing set.

5

1615

Q. I’ll take the “may well” part of that answer thank you Ms Hancock. If we have a look at OS.3 on page 46.

10

A. Sorry was that 36?

Q. No 46. There’s a reference in B to the location of any artworks and educational signage. To your knowledge is there to be any artworks – sorry, are there to be any artworks?

15

A. No artworks have been identified as such, but a process that involves council and other stakeholders, including the community, has been mooted such that there could well be public art or, as it says here, educational signage associated with certain aspects of the project.

20

Q. You have to forgive me, I can’t remember everything I’ve read now, but is there reference in the application documents or the evidence to artwork on any of the engineering structures?

A. There is not.

Q. From an urban design perspective would you consider that that might be a good thing, following on from the approach that we’ve seen and some people enjoy –

25

A. There could –

Q. – on other NZTA projects in the urban area?

30

A. It could be a good thing. If I can very briefly tell you that the process that’s been undertaken on the Victoria Park Tunnel alliance, which I have some involvement with, has been to engage artists. In fact artists representative of the local Iwi to work not so much to deliver standalone art pieces, but to work directly with the design team so that elements within the project capture some of that culture and heritage. It’s not – so what we are, what we end up with is actually a more, certainly a more in my view, attractive project for it.

Q. And there is evidence about the design approach to the, to some of the major retaining walls, and I'm thinking of those leading to and from the portals.

A. Yes.

5 Q. And indeed carrying that theme into the original southern ventilation building?

A. Yes.

Q. The first – I don't know whether I need to go here, but it sort of does illustrate a point. The first line of OS.3 it reads, "All open space restoration plans shall be prepared in accordance with the UDL plans".

10

A. I have "general accordant" within my copy.

Q. In general accordant with, yes. This is a matter of some moment, some considerable moment. When, in your professional opinion, would the sorts of planting that is illustrated or the other matters that are illustrated on your urban design and landscape plans cease to be in general accordant? Can you answer that question? Like how would one know when you'd crossed some threshold?

15

A. Ideally I suppose what you would do is refer back through any principles, requirements or minimum requirements that went with any contract that was met to an ongoing involvement with NZTA's urban design advisor, or indeed with some representative of the project who could arbitrate as to how the detailed design as it developed was reflective of the principles in the urban landscape design framework and plans. I think that's probably really as far as we can go.

20

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

Q. I think you were here when I asked Mr Little about what – about whether he'd taken into account in arriving his preference for option 3?

A. Yes.

Q. The supposed additional cost?

30

A. Yes.

1620

Q. Did you take that into account in arriving at your preference for option 3?

A. No, cost was a matter for others.

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

Q. Ms Hancock, in your rebuttal evidence, page 32, it's annexure C, there's a drawing of the basalt columns?

5 A. Mhm.

Q. And you say here that the one at location A is to be retained?

A. That's correct.

Q. But looking at the photos, that one in B is worth preserving as well I would have thought. What happens to B, location B?

10 A. B I'm afraid goes, because the stream is realigned.

Q. So what happens to it, are you going to cover it up?

A. I don't know about the construction detail but it certainly won't, it won't be part of the stream anymore, I imagine it will be filled in.

15 Q. Okay, well we'll consider that. I too had a question for Mr Little but he deferred to you, it's actually been deferred three or four times and you're getting towards the end of the (inaudible 16:21:30). The issue was construction yards and the trees that exist on that land at the moment. If they are mature exotics, when those areas are returned after the construction yard is no longer required, why can't we put exotics back where they were, and if we can, do we have to wait seven years to get something that's anything or can we put in a older tree and look after it?

20 A. The planting approach for new planting for the project is clearly not to use exotics of any kind, as you will understand from looking at the drawings. Where there are large mature trees in the project that are able to be transplanted and used throughout the project, not perhaps necessarily to come back where they were, but where they can be used appropriately elsewhere, I think that's a suitable response. We've identified for example, for the northern ventilation building, that given my preference for the stack staying in the location it's in, that the transplanting of a mature tree between that location and the school boundary, would actually offer immediate visual buffering. So there are I think some arguments for identifying which of those trees have value, have significance and seeing where they can be located. I would

25

30

imagine that would probably be the subject of another detailed investigation.

Q. I guess I just can't understand why exotics can't be replaced with exotics, there are some lovely trees besides cabbage trees. So why can't we use exotics, I just don't understand?

A. The approach to planting is very much driven both by what the former Waitakere City Council and Auckland City Council policy, that the areas we are in are areas of ecological significance and that it's very important to have an ecological approach to the planting and to support management planting so...

Q. I guess I've got to leave it there, but I mean when you read through this, the native birds aren't supporting the trees that are there now, so maybe it's to bring the native birds back?

A. Well Mr Slaven, when he speaks later on I think might go into this in more detail, but some work has been done to look at the areas of vegetation loss versus vegetation put back by the project. And there is a significant increase in ecological vegetation coming in through the project and I would hope and expect that that also means that there might be more likelihood to support birdlife.

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

Q. Now Ms Hancock, first a minor matter, as much for counsel as for you. We've seen a new version of plan 222 this afternoon, that should probably be formally produced Ms Janissen. Have you got hard copies of it?

25 1625

EXHIBIT 3 PRODUCED – PLAN 222 (NEW VERSION)

Q. Again you were passed a question by Mr Little concerning the matters I raised about CPTED concerns in issue six of the caucus statement, bottom of page 9, about the 172 Methuen Road accessway to Alan Wood Reserve?

30

A. Yes.

Q. And after I pushed a bit, I think we started to make a bit of progress about CPTED options that might be available and we also made some

progress with rewording of the relevant condition. But in case we think that that rewording of the condition is not quite enough and myself, I don't know yet that it will be, can you give us a bit of help about what a CPTED review might assist with in that little corridor between fences from Methuen Road – if I can find the right plan now.

5

A. 220?

Q. 22?

A. 220.

10

Q. 220 thank you. Yes, now did you agree with his description of what the possible CPTED concerns might be, particularly towards the northern end of that alleyway between fences?

A. I appreciate his concerns but I'm a bit more optimistic about what's possible.

15

Q. Good, I like optimism. Tell me what makes you a little more optimistic about this?

A. Okay well I think it's a balance of things. I understand that that accessway will remain, need to remain open in any case for maintenance so can't close it off, therefore we have to live with it, therefore we need to make it as good as we can possibly make it. The Ministry of Justice as you, I'm sure you know, has a range of guidelines on the things you look at when you're undertaking a CPTED assessment or when you're trying to make safer places.

20

Q. Well I don't think the Ministry of Justice does. The Ministry of Justice has way too many books of words already. This will be the Ministry for the Environment I imagine will it?

25

A. No actually I don't –

Q. No?

30

A. – believe so. But I can confirm that. But what's important really obviously is clear and direct line of travel, is optimum visibility. The wider we can, you know, the wider a pathway is the better. We can't change that but what we can do, I think, is relook at the design response as that alleyway comes down into the reserve. You'll appreciate that because that wasn't envisaged earlier, what's shown there in the, you know, the green, both retaining access to vegetation and planting new,

would need to be looked at with a view to opening that up much more, so at least when you come out into the reserve you've got more visibility. I think also if we can, you know, assume that there'll be some, you know, reasonably good use of the cycleway and the pathway network then that's going to provide some of the connections that would help with that.

5

Q. So in terms of the first idea that, which I had vaguely in my mind by way of creation of a bit of a splay into the, on into the reserve by some physical means might be what you're describing?

10 A. Yes I mean we're somewhat constrained by that rather odd alignment of property boundaries.

Q. Yes.

1630

A. But I believe that there would be a design solution that could certainly improve on what there is currently.

15

Q. Yes.

A. And that, with increased usage, would be of benefit. This was also something that was – it would provide an additional connection into that space at quite a useful point on Methuen Road.

20 Q. Mmm.

A. And I'm sorry to tell you, but it is the Ministry of Justice.

RE-EXAMINATION: MS JANISSSEN – NIL

WITNESS EXCUSED

MS JANISSSEN CALLS

RODNEY EDWARD CLOUGH (AFFIRMED)

Q. Is your full name Rodney Edward Cough?

A. It is.

5 Q. And have you prepared evidence-in-chief dated 8 November 2010?

A. I have.

Q. Have you prepared rebuttal evidence dated the 1st of February 2001?

A. I have.

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

A. They are.

Q. Are there any matters in your evidence that you wish to correct at this stage?

15 A. Yes there's just one omission. In the proposed archaeological conditions ARCH3, as I've only got a printout you'll have to –

THE COURT: JUDGE NEWHOOK

Ms Linzey will tell us.

EXAMINATION CONTINUES: MS JANISSSEN

Q. Is that in your rebuttal evidence or your evidence-in-chief?

20 A. It should be at the back of my rebuttal.

Q. That's page 13 sir in the rebuttal evidence.

A. Yes it is page 13. I've omitted to put in I guess we'd call it E which would be, "In the case of human remains the New Zealand Police need to be notified."

25 **THE COURT: JUDGE NEWHOOK**

Q. That's ARCH3?

A. ARCH3 and we'll call it E. It's a fairly standard one. I'm not sure how I managed to omit it but it was brought to my attention sir.

30

MS JANISSEN:

That correction sir will also then need to be made on the condition booklet, page 64, which we will add to that.

THE COURT: JUDGE NEWHOOK

5 Yes that's right.

EXAMINATION CONTINUES: MS JANISSEN

Q. Subject to that correction, do you confirm that the contents of your evidence are true and correct?

A. Yes I do.

10 CROSS-EXAMINATION: MS DOCHERTY

Q. In your rebuttal evidence, page number 8, paragraphs 24 to 26, you discuss a heritage area that may be part of a site R11/2205, have you been to this location where, along the eastern banks of Oakley Creek through the dray roads?

15 A. Yes I have.

Q. And have you also been to the western bank?

A. Yes I've been to both. It's, no I won't – that's all right, carry on.

Q. The dray roads that are referred to in that location, what heritage status do they have? Are you aware of any?

20 A. No I think they fall within the Oakley Creek heritage zone so they're an accepted part of the general heritage significance of that area.

Q. You note in paragraph 25 that these features recorded on the western bank are located just outside the footprint of construction yard 7 and would therefore not be affected by the project?

25 A. Yes that's true.

Q. Given that they're located just outside the footprint of construction yard 7, would it be beneficial to perhaps include them in the plan for that construction yard?

30 A. Yes, that – and it would be beneficial to – well we've included that other little site into that construction yard so, yes, it would be appropriate to bring those in as well.

Q. Would that review be undertaken prior to the construction?

A. Yes, yes.

Q. Good, that's all.

5 A. Yes that can be part of our – many of the sites we'll be fencing out and marking out prior to construction.

CROSS-EXAMINATION: MR MCCURDY

10 Q. I wonder could we have drawing GIS3814238/2.1 which is the constraints showing the archaeological sites in the Waterview interchange and also referring to the archaeological conditions on page 65.

WITNESS REFERRED TO DRAWING GIS3814238/2.1

Q. And Dr Clough, you carried –

THE COURT: JUDGE NEWHOOK

15 Just wait, we'll get that plan up first. Ms Linzey, which part of the materials do we find this one?

MS LINZEY:

FO9.

THE COURT: JUDGE NEWHOOK

20 F09 is it?

MS LINZEY:

Annexure B sorry, evidence-in-chief.

CROSS-EXAMINATION CONTINUES: MR DOCHERTY

25 Q. You carried out comprehensive assessment of (inaudible 16:38:39) potential archaeological features in the designation area, do I have this correct?

A. Yes a combination of Brent Druskovich and myself and Ben Thorne, there was several of us that have gone through the area, yes.

Q. I refer particularly to site R112191 which is the Star Mills and Star Tannery on the south side and north side of the creek at the end of Cowley Street. Overall what heritage significance do you ascribe to the Star Mills site?

5 A. Oh, high. Regional. Of high regional significance.

Q. The Auckland City Council, using a slightly different classification system, describe the site as “iconic”. Given the difference in convention, do you concur with that description?

10 A. I don’t actually like the term icon but I have no problem with assuming that they mean highly significant. On a regional level I’m happy with it.

Q. Would it be fair to say that part of the heritage significance comes from the fact that this is very probably the last remaining colonial mill site in Auckland with substantive visible remains?

1640

15 A. I think that’s definitely the reason that attributes its high significance.

Q. Are you familiar with the historical and social paper trail that’s been discovered over recent times, beginning with Evan Oakley’s petition to the provincial Government in 1844?

20 A. Yes, that was provided to me by yourself and Robin Mason and we’re most grateful for it. It’s a fascinating document.

Q. And would a good deal of the significance of this site come from the overlaying richness of the physical remains and the documentary evidence?

25 A. Yes and I mean it’s definitely one of the earliest mill sites, it’s the 1840s. Looks like it has beginnings in the 1840s and it has so many layers through different mill owners and then into the tannery and the quarrying, and prior to all of that a Māori settlement site. So you bring that all together and you have a rather rich heritage landscape concentrated in that area.

30 Q. And on the strength of that would you concur that every effort should be made to preserve these historical remains and to avoid damage to them during construction and afterwards?

A. Yeah well I mean even through the whole planning process, a great deal of effort has gone to, you know, stretch the engineering constraints to

move the ramps away from those remains and of course, you know, it follows that every effort should be made to protect and fence off during construction.

5 Q. And do you consider that the proposed archaeological conditions, page 64 and following, which have been developed in extent of (inaudible 16:42:05) process, do you think they now go far enough in protecting and preserving the remains?

10 A. Yes I'm happy with all of the archaeological site management conditions. The archaeological site management plan I think probably nails it and make sure that there's maximising protection during construction.

Q. Given that, would you concur nevertheless that considerable vigilance will still be required by the project archaeologist, the Auckland Council and the Historic Places Trust?

15 A. Yes.

Q. Given the nature of construction projects?

20 A. I think, you know, we've – certainly I've, in my rebuttal and in my evidence-in-chief, believe that a lot of the decision making as to what happens down there should be a joint effort through the Historic Places Trust, through local, through the Oakley Creek group and your own protection society, and the council heritage people. A great deal of vigilance is always necessary, but the project team are fully aware of all of these issues and the conditions I think fully reflect that and there's a great deal of training required of all the contractors. There's a lot of detail and thought gone into making sure that any effects are minimised.

25 Q. Now I'm referring to the cross hatched area on the north of the creek, which is the part of the Star Tannery site where the tanning pits and various other structures were. Can you give an idea of what you might find once you do your underground investigations in that area?

30 A. I would expect to find foundation piles for above ground structures that are no longer there. I think the low earthen walls, for those of you who have been to the site, there are rectangular low earthen, rectilinear low earthen walls and they are likely to be associated with former foundation piles. There appears to be remains of perhaps brick fireplaces or brick

structures that have been pushed around and other iron objects, so I expect industrial waste, possibly more detail within some of the sunken structures indicative perhaps tanning pits. We're not sure, but that type of industrial remain would be common.

5 Q. And would you expect to find Māori settlement remains in that same area?

A. Yeah there's several areas of Māori settlement. There's the usual fairly strappy middens eroding out of the creek bank, but there's one area in between the creek and the quarry that is a remnant ridge that has a couple of storage pits and thick black soil shell midden eroding down off the top of the ridge. So there's quite a few elements of Maori settlement there.

10

Q. And you're aware of the old oak trees within the mill site and further towards the Great North Road?

15 A. Yes, yes.

Q. Which in fact was part of the mill village in the days when that was Waterview. And it's possible, probably in fact that they were planted during the tannery era as a source of oak bark for the tanning pits. And do you think they ought to be preserved as part of this historic landscape?

20

A. Yes, where possible. I mean from memory there's about 10 within sector 5, 10 fairly significant oak trees and I think from memory five of those should be able to be protected not under the ramp alignments, so effort should be made to preserve them.

25 Q. And should the condition 5F on the vegetation management plan, should it include the retention of historically significant trees. At the moment it talks about get rid of damaging vegetation, should, or perhaps add another conditions on the retention of significant trees?

A. I mean I'm looking at them from the heritage value. That is certainly an issue that we need to address and there's no reason why we can't look at retaining any of the mature oak trees where possible, where they're not under ramps or similar.

30

Q. On the mills sites there are 20 mature *robinia pseudoacacia* trees. I understand their root structure is quite invasive, there are three very old

trees and all the rest appear to have grown from suckers from those ones. Would you consider that they should be removed for protection of potential underground remains?

5 A. Well not just the *robinia* but even on the northern side where some of the *karaka* are coming through and there's *privet* and other things, we'd need to look at each tree, not so much case by case but in areas where there are concentrated archaeological remains and where the roots are likely to have damaging effects, then those trees should be candidates for removal.

10 Q. And this might be outside your brief, but if say *robinia*, *oak pohutukawa* have to be moved out of the path of structures, would you consider that there is a case for reserving the timber that results for heritage projects elsewhere?

15 A. Yes, I mean that's in a similar vein to our treatment of the remnant stone wall on the other side of the motorway, where we're saying where we have to have an effect on that stone wall, then the stone itself should be used appropriately in other heritage projects. So I have no problem with using any of the timber if it's appropriate for heritage projects.

20 Q. And condition 5E refers to remedial work to sea walls, and particularly I understand the wall adjacent to where the mill wheel ran and also, gather it's quite a simple job, you can see where the stones are in the bed and where they came out of the wall. There isn't a mention of the substantial iron boiler which dates from 1871 and what do you believe should be done by way of conservation and reinstatement of the boiler?

25 A. That's more of an oversight than anything. The treatment we recommended for some of the old flour mill iron works up in Riverhead, we're suggesting several treatments, either Shell Ensis is one and I think Altex is another possible – Shell Ensis has about a five year management cycle so you'd have to reapply it after five years and I think
30 Altex is something like a 10 year cycle. So I mean I think it would be appropriate to, obviously to treat the boiler but beyond just a chemical treatment.

1650

THE COURT: JUDGE NEWHOOK

Q. Some sort of – Dr Clough, some sort of resin is it?

5 A. Yeah it's – well some of them are like micro crystalline waxes, but you've probably heard of fish oil which is the old-fashioned treatment for stopping excessive erosion on ironwork. So there are, there are more modern, they're more mode equivalents for fish oil and the other thing I would recommend for it is making sure that any vegetation – well biocide to kill off any vegetation on the ironwork, to keep away moisture basically. So keeping it as dry and as free of vegetation, free of
10 accumulated humic material and a chemical treatment.

CROSS-EXAMINATION CONTINUES: MR MCCURDY

Q. At the moment the boiler's on its side on the ground. Would you consider reconstructing the brick furnace foundation that would have been there in the design of a (inaudible 16:50:54) boiler?

15 A. I think it's possible. It's something we do need to – all the heritage people interested in the heritage of the site and the reconstruction of the site, we'd have to get around the table and look at the possibilities.

Q. And going slightly further along that line, in preserving and interpreting the site do you consider that the design elements, I suppose the urban design elements should respect the historic values of the remains?
20

A. Yes and I heard your question of Lynne Hancock earlier on regarding the bridge. I would respond and say that, yes any of the design we do in that area should be sympathetic with the heritage surrounds and I, like you, I would identify the bridge as something fairly functional and utilitarian, but equally I wouldn't want – I'd want it to be sympathetic with, but identifiably different. So there are difficulties and it was probably just a straight flat beam bridge, but I believe there's some issue over canoe access further up the creek and things, so we have height limitations, but within that something functional, something fairly
25 basis.
30

Q. Perhaps timber rather than a steel truss might be –

A. That's something we could discuss.

Q. Given the (inaudible 16:52:24) when it was built about 1879. And more generally, the arrangement of paths and other features, do you think that that should reflect what was there in the date of the mill and the tannery?

5 A. Yes. Where – there’s a sort of a public amenity thing there, it would need to flow from a, you know, a walkway would need to flow across the bridge and through and around the various features to enable interpretation. So if any existing paths there enable that easy interpretation then I – then yes, but we may have to create other paths
10 to take us through features or near features to bring them to attention.

Q. One of the areas I was thinking of is on the south side of where the position would be, the Millers Road is (inaudible 16:53:24) and the position of the mill race and they are clear of the earthworks. They’d be under the raised part of the flyovers so do you think it would be
15 appropriate to reinstate them –

A. Yes I –

Q. – as they were?

A. Yeah, by all means. I mean it could be introduced as part of the village road and would make – add interest to the interpretation.

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

Q. There’s the stone wall and this is archaeology condition on page 66 number 7. Originally I think 30 metres of the wall – sorry this is –

A. Site R11 2213.

Q. That’s the one. Originally 30 metres of the wall was going to be affected
25 by ramp 3. Later on Historic Places Trust requested if that could be reduced to 15 metres, but now when we get to condition 7, “Damage to the drystone wall shall be minimised as far as possible.” That fills me with confidence. And because when you get – it gets worse, because when we get down to (c) “The remainder of the stone wall,” five stones,
30 what’s the remainder of the stone wall? So –

1655

THE COURT: JUDGE NEWHOOK

You're an optimist.

QUESTIONS FROM THE BOARD CONTINUES: MS JACKSON

5 Q. I'm a practical person. Why can't we have so many metres is going to be affected and the rest shall be preserved?

A. That's something I'll have to take up with the engineers to see how specific we can be.

Q. Oh that really fills me with confidence.

10 A. 30 metres was a maximum and the Trust has requested that we look at reducing that as far as we can and then beyond that any stone that is used and affected is taken into other heritage projects.

THE COURT: COMMISSIONER DUNLOP

You aren't going to get away with this.

QUESTIONS FROM THE BOARD CONTINUES: MS JACKSON

15 Q. So when – so is 15 metres more realistic than 30?

A. I think 15 metres is achievable, yes.

Q. And really, seriously now, how significant is the stone wall in archaeological terms?

20 A. It's of local significance. I wouldn't say it scores sufficiently to put it on the district, on a district plan. We put it through a similar scoring process to – we put the mill and that area through a scoring process and it scored very highly. Up there in A grade schedule. We put the stone wall through a similar schedule and it didn't come – it wouldn't fall within a – of such, it wouldn't be of such significance as to warrant scheduling.
25 It's removed from context, it's all alone, it's never seen and it – whereas, you know, compare it to the context of the mill site –

Q. Mmm.

A. – and the remains there, it just doesn't compare. So I'd say it's of local significance.

30

QUESTIONS FROM THE BOARD: MS HARDIE

Q. I've just got another wall actually. This is the one that's within Waterview School which obviously it hasn't got the same age as the other one, it was built in the 1950's and you've suggested that that one has local heritage significance as well and that you've pretty much sort of said it's not really a big deal because it's not going to be affected by the project.

A. As far as I'm aware that's the case.

Q. Right, that's where I'm coming to. So it's outside the proposed designation, I'm just wondering in terms of, for these walls, what perhaps would you suggest in terms of them – perhaps may be damaged by vibration and I don't see anything in the conditions which talks about structures. I see dwellings and houses and bits and pieces, but not generally structures?

A. Oh I would certainly have no problem with a condition that for instance applied to the stone, all of the stone walls, there's many – there's a number of stone walls along the route. They're dry – largely dry stone wall and if any vibrational damage, then maintenance and restoration would be in order.

Q. Perhaps we could use the stones from the first wall?

A. We could use the stones from the northern side.

QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP

Q. Dr Clough, it's testing my memory but as I recollect the evidence, the heritage area, if I can use that term, at Waterview much of which is under the ramps, proposed ramps, would remain part of the land owned by the Agency, that's the scheme of it?

A. Ah –

Q. Much of it?

A. Well part of it is already within the existing designation from – on the northern side from memory.

Q. That is the scheme of it isn't it that?

A. Yeah.

- Q. If we go to the condition ARCH1 on page 63, it says, “The Agency shall complete and implement through the CEMP the Archaeological Site Management Plan submitted with the Notice of Requirement,” da de da da da. This is coming to the point of the question, am I correct in thinking that the archaeological site management plan would need to have an ongoing element to it. It’s not something that you complete the plan and you implement it once, but using the example of the boiler, there would be the need for someone to maintain a husbandry role of the resource, guided by a plan into the future?
- 5
- 10 A. Yes, I mean –
- Q. Am I understanding that correctly?
- A. The boiler immediately came to mind, because you have to a cyclical maintenance plan. So yes any management plan would have to deal with bits of stone wall that had collapsed in the wheel pit or undue growth of vegetation or trees that may dislodge the stonework. Yes it would have to be maintained on a regular basis and that would be part of the plan.
- 15
- Q. We wouldn’t want it to lapse back into something like (inaudible 17:01:05)?
- 20 A. No, I think given the fact that we’re putting walkways and interpretation there, that goes hand in hand with maintenance.
- Q. So I don’t know whether it’s belts and razors, but condition Arch 1 perhaps should have that flavour edited into it, with the plans to be completed, implemented and continue to be administered. That’s a mouthful, but you know what I’m saying?
- 25
- A. Yes.
- Q. You’d agree with that?
- A. Yes I do and I, well I suspect that the Auckland Council Heritage Team is probably the logical home for control of that through parks and everything. We’d have to work out how to achieve it, but yes.
- 30

QUESTIONS FROM THE BOARD: MR DORMER – NIL

QUESTIONS FROM THE COURT: JUDGE NEWHOOK

Q. This question probably isn't for you at all Dr Clough. I'll float it and somebody else can answer it now or later. It simply comes off the back of Member Dunlop's question. Is there any intention that the land containing the archaeological sites would at some point be divested by NZTA after the works have been completed, invested for instance in Auckland Council or will they remain under the full control of NZTA. The latter?

10 MS LINZEY:

They will be maintained under the NZTA. The consultation to date with Auckland Council has identified that they are not looking for that area as part of the open space, the (inaudible 17:02:57) has been kept separate from the calculations with the intention –

15 THE COURT: JUDGE NEWHOOK

Yes, I'm sure that was somewhere in the materials but I wouldn't be able to find it as of this moment, but I think it's important for us to know that in connection with the question that Member Dunlop was asking. Thank you for that Ms Linzey.

20 RE-EXAMINATION: MS JANISSSEN

Q. In relation to the various protections that need to take place with respect to the historic elements of the project that are affected. To what extent is there any overlap with any consents or approvals that may be required from the Historic Places Trust?

25 A. The Historic Places, well we'd need an authority from the Historic Places Trust to carry out any of the, well some of the remedial works, particularly sort of putting back stones in the wheel pit for the mill and it would all be done in consultation with the Historic Places Trust. The – I'm not sure how far they would go in putting conditions relating to the treatment of the boiler or anything, that would be something that would come out of discussion with them. But certainly an authority would be required for not just the project itself, but for any remedial works.

WITNESS EXCUSED

THE COURT: JUDGE NEWHOOK - HOUSEKEEPING

COURT ADJOURNS: 5.11 PM