

**BOARD OF INQUIRY  
WATERVIEW CONNECTION PROPOSAL**



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

**AND**

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

**THE BOARD OF INQUIRY**  
Environment Judge L Newhook  
Commissioner R Dunlop  
Alan Dormer  
Susan Jackson  
Sandra Hardie

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**Transcription of HEARING  
Day 7 – Tuesday 1 March 2011**

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**COURT RESUMES ON TUESDAY 1 MARCH 2011 AT 9.35 AM**

**THE COURT: JUDGE NEWHOOK – HOUSEKEEPING**

**MS JANISSEN CALLS**

**5 GAVIN WESTWOOD FISHER (AFFIRMED)**

Q. Is your full name Gavin Westwood Fisher?

A. Yes.

Q. And have you prepared a statement of evidence-in-chief dated the 11<sup>th</sup> of November 2010?

10 A. Yes.

Q. And have you prepared a statement of rebuttal evidence dated 3<sup>rd</sup> of February 2011?

A. Yes.

15 Q. And have you prepared supplementary evidence dated the 17<sup>th</sup> of February and the 28<sup>th</sup> of February 2011?

A. Yes.

Q. Are your qualifications as set out in paragraphs 2 to 4 of your evidence-in-chief?

A. They are.

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

A. No.

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

25 A. I do.

**CROSS-EXAMINATION: MR LANNING**

30 Q. Good morning Mr Fisher, just to confirm, looking at your caucusing statement dated 28<sup>th</sup> of February 2011, there at section 5 under the heading, paragraph 5 under the heading, “areas that have been resolved”, you’ve got some sub-paragraphs there beginning with an issue of monitoring. Can you just confirm that is it your understanding

that that section of your caucusing statement relates to the conditions which Ms Petersen suggested in her document dated 28 February?

A. They're very related, yes.

5 Q. So in those conditions which Ms Petersen drafted dated 28<sup>th</sup> February, that dealt with the issue of air emissions from the portals when those ventilation fans are turned off, that's correct?

A. Yes.

Q. And so as far as you're aware that issue's now resolved as between experts?

10 A. As far as I'm aware, yes.

**CROSS-EXAMINATION: MR ALLAN**

Q. Mr Fisher, I'll take you to paragraph 6 please of your supplementary evidence of the 17<sup>th</sup> of February.

A. Yes.

15 **THE COURT: JUDGE NEWHOOK**

Paragraph?

**MR ALLAN:**

Paragraph 6 sir.

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

Q. In that paragraph (inaudible 9:43:51) commences the latest modelling results show that using 15 metre high vents instead of 25 metres results in very minor changes, correct?

A. Yes.

25 Q. You then go on to say in that paragraph, having discussed the fact that the changes are minor, "The ground level concentrations do increase very slightly, very close to the vents (within 50 metres)."

A. Yes.

30 Q. You say that they're still only in the order of 1 to 1.5% of the limit values in the National Environmental Standards. Now the Waterview

School, parts of the school are within 50 metres of the stack aren't they, at the northern end?

A. Yes.

5 Q. And am I right in thinking that the people who are generally most susceptible to the effects arising from pollutants and other environmental factors would be children or older people?

0945

A. In general, yes.

10 Q. So is it fair to say that it is preferable, if one can do it, to put the stack in this case or stacks generally as far away as one can from concentrations of those kinds of people?

15 A. Well in general I agree with that statement, but in this specific case because the magnitude effects are so small I don't think it makes much difference here nor there, in a effects sense. Simply because of the huge variability that you see in (inaudible 9:45:27).

Q. These stacks once they're built will be in place for many decades won't they?

A. Oh, certainly.

20 Q. And the level of scientific knowledge about the impacts of pollutants doesn't remain constant does it, it increases over with time?

A. Generally.

**THE COURT: JUDGE NEWHOOK**

Sorry just pause for a moment please.

25 **MR FISHER:**

I'm speaking too soft.

**THE COURT: JUDGE NEWHOOK**

Some of us can't hear your answers Mr Fisher.

30 **MR FISHER:**

I'll stand up and speak –

**THE COURT: JUDGE NEWHOOK**

If you just angle that, no –

**MR FISHER:**

5 I'll speak more broadly.

**THE COURT: JUDGE NEWHOOK**

No no –

**MR FISHER:**

10 No this is fine. I can just project a little more

**THE COURT: JUDGE NEWHOOK**

No you're actually further away from the microphone when you're standing.

**MR FISHER:**

15 I'll still try to project more.

**THE COURT: JUDGE NEWHOOK**

Yes well try and – just lean towards the microphone, angle it towards you.  
That's better.

**CROSS-EXAMINATION CONTINUES: MR ALLAN**

20 Q. So the level of information we have scientifically about these issues is increasing with time. And is it fair to say that in general we tend to learn that smaller and smaller concentrations can be problematic, even when we thought they weren't going to be?

A. Yes that's certainly the case.

25 Q. So again in terms of your expertise, having a buffer isn't a bad thing at all is it?

A. No definitely not. Buffers can be very, very good, provided they're done properly and cost effective.

- Q. And when we're making a call on whether we should have a buffer or not we should bear in mind the long term duration that these will be in place and the fact that scientific knowledge can increase over time?
- A. We certainly should bear those things in mind, but seeing as we don't  
5 know exactly what that knowledge might be we're on dangerous territory on making too many assumptions about it.

**QUESTIONS FROM THE BOARD: MS JACKSON**

- Q. Mr Fisher, the monitoring of the air quality in the tunnels, and this is with regards to at times when you turn the fans off, can you just  
10 confirm what your decision was when the fans should be turned off please, because there's numerous options floating around at the moment?
- A. I believe from the caucusing report that we submitted this morning we've agreed that it is appropriate to monitor the ambient concentration of  
15 NO<sub>2</sub> at a location outside the portal that is closest to where somebody might be, like the closest residents. That will be tied to the national environmental standards and NZTA have committed to ensure that that standard is not breached at that location, and we've all agreed to that.
- Q. A question about construction. I see here they're going to have a truck  
20 washdown because we all know how clouds of dust and mud and what comes off a construction yard when a vehicle drives onto the carriageway. So you're convinced, are you, that the truck washdown will stop the mud going out onto the tarseal carriageway? Because there's nothing worse than driving through clods of mud and when it  
25 dries it just makes more dust as the vehicles drive through it, so you are convinced, are you, that the truck washdowns proposed are going to be effective?
- A. Well I've never actually washed a truck, but I think from my understanding of what the conditions say and the breadth and depth of  
30 them there is ample scope for those controls to be in place and to be effective in mitigating any such effect.
- Q. So –

A. In other words, there's lots of people and systems addressing exactly that sort of thing that are in the conditions and in the construction management plans.

5 Q. But you talk about truck washdown, I understood the trucks would drive through a, like a pond of water.

A. Well again I'm getting outside of my expertise, but when you look at the detail of various conditions – I can't point them out because this is a new concept to me – there are provisions in there that if that turn into a problem the contractors have to address it, if it turns into an air quality or  
10 a dust problem they have to address it and if that means doing something different with their washing or driving thing, they have to do it.

Q. Well I'm sorry if it's a new concept to you but it – because it's in your report and the rebuttal, but you've answered the question, thank you.

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

15 Q. Mr Fisher, can I just ask who prepared the caucusing agreement?

A. That was done by Rachael Nicoll who attended the meeting with her handy PC while we were all arguing.

Q. And did everyone read the caucusing agreement?

A. Well I certainly did, and I believe the other two did because – three did  
20 because they signed it.

Q. There just seems to be a little bit of a difference between the conditions and Ms Petersen's but I guess we'll come back to that one, in terms of proposed conditions. Just another question. This PM 2.5 versus PM 10 – and I know you've gone into it in some depth in your  
25 supplementary information, but can you just run it through for me please, in terms of which one's the standard, which one's a target, what's the difference between the two with regards to how?

A. Yes, it's been an unfortunate technical sort of thing to deal with that, the  
30 interchangeability between PM 10 and PM 2.5. PM 10 is the standard, definitely. And the regulations apply to PM 10. PM 10 is a thing that's being monitored all around the country and all around Auckland for a number of years and most of the analysis and conclusions on particulates up till now have been on PM 10, for that reason. PM 2.5

has been a sort of more recent thing appearing, in that there is not as much monitoring, there's not as much information or sort of health effects results, and so it doesn't – it isn't covered by a standard. It may be in the future, the Ministry of Environment almost certainly would like to see it, but currently it isn't. And one of the reasons, as I explained in that sort of write-up, was that because we don't have as greater an understanding on what PM 10 is – PM 2.5 is doing rather than PM 10. That's changing slowly, and who knows what might happen in the future, but as of today the regulations and the science is mostly based on PM 10.

5  
10  
Q. Okay, but in paragraph 14 of your supplementary you've said that PM 2.5 is the subject of Auckland regional air quality target?

A. Oh yes, the difference between targets and standards. Well, standards are, they're national and they've got very powerful legislative backing in the environmental standards. There's a lot of teeth behind that, the assessment and effects of PM 10. Targets are not of the same grade in the sense that they're set by regional councils, some of them, probably most of them, and they're used more as a management tool rather than a legislative stick. I mean that's a grey area, but the reason I brought it up I think in that detail relates to the offset question which we haven't discussed, and in my mind there's a difference in the legislative requirements for offsets between PM 2.5 and PM 10, because of the difference between standards and targets.

15  
20  
Q. And so in the conditions is there a proposal there that looks at PM 10? I note there's a proposed change to OA7, possibly eight. So is there a condition which sets the limit back to a standard or is it sending a limit to what's in the Auckland regional plan?

0955

A. No the monitoring at the primary air quality sites will include both PM 10 and PM 2.5, they will be I guess legislative required to keep the PM 10 values under the standard, but happens with PM 2.5 is – well it's not quite, not quite so clear, at the moment it's exceeded and the Auckland Council has some mandate to try and reduce that. But I don't



know that that responsibility lies entirely with NZTA because it's due to emissions from all sorts of sources.

5 Q. Okay. And just one more question with regards to, I know that mitigation is an issue for the Board to consider, but in terms of when you've look at – and you've made a comment said, "This might be fair if NZTA was building a route through greenfields". And my understanding is that that's exactly what NZTA are proposing to do in section 9, that there's no road through that area at this stage is there?

10 A. Oh, the point of that is that there are emissions from roads there already, and they're quite significant and they lead to concentrations of various air pollutants in various places. The effect of this proposal is to increase those, but only very, very slightly, not as much as if they'd brought a whole new 80,000 cars a day road through. I mean the increases go up by just a small percentage in some places, they go  
15 down by a small percentage in some place, I mean overall in the region they're only go up – the traffic numbers only go up by, what is it, .06% according to Andrew Murray the traffic planner. So it's, it's not really a greenfields development, in fact as I've said a number of times in evidence in the various places that if you've got a given number of  
20 vehicles in the area it's actually better to have them going at a nice speed along a motorway than stopping and starting along local streets.

Q. Does it make a difference with regards to whether or not that road is on a ridge or down in a valley, relating to air quality?

25 A. Yes it probably will just because as everybody knows and a number of submitters have said that you can get pooling in the valley, which is probably one of the reasons why the monitoring site in the lower Oakley Creek area shows these current PM 2.5 exceedances it probably is a little bit of pooling. Whereas if you're on top of a nice ridge it all blows away.

30 Q. Okay. So do you know of any exceeding the PM 10 in those locations?

A. No I believe there are no PM 10 exceedances in that area from those monitors.

**QUESTIONS FROM THE BOARD: MR DORMER - NIL****QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP**

5 Q. Mr Fisher I just had a couple of questions arising out of your second supplementary statement, and in particular the wording of the proposed new condition 0A.8.

A. Yes.

10 Q. Which is in your appendix 1. Am I correct in assuming that the peer review panel would operate for the life of the consent, and during such would provide the annual reports, is that the scheme that you've envisaged here Mr Fisher?

15 A. Well, I think it can do but our collective experiences of these type of panels is they can be – or they are extremely useful in the early stages of a project. But they soon run out of steam because things settle down, people have become satisfied with what's going on and they sort of do themselves out of an existence. In my mind there's no reason why it couldn't go for ever, but I don't think it will and I think for the peer review panel it would be important to give them, if you like the authority for them to decide on what scope or length of time they would like to go for. So if there are ongoing issues obviously it keeps going. But my view  
20 those issues will settle down within two or three years.

Q. I understand what you're saying and from experience I can relate to that. Is there a mechanism in the documentation that would allow for the process that you've just described to be followed through?

A. Um...

25 Q. And if not, in your opinion should there be?

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30 A. I don't think it's necessary. We deliberately have not put a time limit on that condition, either short or long, simply because it's not written down, but it was the intention of the caucusing experts to allow that panel to have that authority to decide themselves. So in my view I don't think it's necessary.

- Q. Well perhaps it might be explicit because other people might have contrary expectations, but we can come to that. What is the intended effect of a recommendation from the peer review panel to the (inaudible 10:00:38)?
- 5 A. The intention of the expert group was to be able to have these independent experts make their own judgement about what was happening with firstly the monitoring to describe what was in the monitoring reports in terms of the general populous could understand, to assess whether that monitoring needed to be changed, to continue or
- 10 cease or whatever. To offer any of their own recommendations about things like how the vent predictions are working, how the tunnel portal emissions are working, whether the fans being turned off at certain times of the day was working. In other words examine those from a technical perspective, but not have any sort of in a sense real power to
- 15 say, "You shall do this," but to give that information who might have the power or desire to do that, being the Auckland Council and the Agency itself. And I think that's perfectly workable, given that you've got two very large, very responsible organisations. And in my view, the Agency is not going to do something silly about stuff like this, they're in it for the
- 20 long-term and they're in it for the environmental protection, and you might call that a bit sort of well trusting, but they're a big outfit and they have a lot of our money to spend.
- Q. I should probably know the answer to this Mr Fisher, but I'm going to ask you anyway. Is there provision in the proposed conditions for a
- 25 section 128 review procedure, and specifically for the air consents?
- A. Not in mine, I'll have to get Ms Linzey or Ms Janissen to answer that one.
- Q. In your experience, would it be unusual for a major air discharge consent to make provision for a section 128 review?
- 30 A. I think it would be extremely unusual, it's probably not unusual in a specific discharge but for a transport related discharge, mmm, I'll leave it to Ms Janissen.

**MS JANISSSEN:**

Perhaps I could just answer that one there. If your request is whether or not there's a section 128 review condition in relation to an operational noise issue, there are no operational noise consents.

**5 THE COURT: JUDGE NEWHOOK**

Not noise.

**MS JANISSSEN:**

10 Sorry, air. There are no operational air consents being applied for because they're a permitted activity.

**COMMISSIONER DUNLOP:**

So the short answer to my question then is that there is no discharge consent?

15

**MS JANISSSEN:**

Correct. Sir these are designation conditions.

**COMMISSIONER DUNLOP:**

20 So they're designation conditions?

**MS JANISSSEN:**

They are, yes.

**25 COMMISSIONER DUNLOP:**

Well we're tuck that one away. How does 128 apply to designations, if at all?

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

30 Q. And just finally Mr Fisher, I think you've already eluded to it, but in paragraph 18 of your latest statement, the 0.06% number that you're

referring to there, is that the induced increase in traffic volumes is it, that you're –

- A. That's right, that's come from Andrew Murray about with the changes in trips through the whole of the Auckland region.

**5 QUESTIONS FROM THE COURT: JUDGE NEWHOOK**

Q. Mr Fisher I'm just a little bit confused, we've had a rush of process occurring in the last few days in relation to the preparation of statements, draft conditions, caucusing agreements and the like. What I have spread out in front of me is 10<sup>th</sup> of February version of proposed  
10 OA7 condition. I have in front of me Ms Petersen's stab at draft OA7 and OA8, dated yesterday, 28<sup>th</sup> of February. And I have the caucusing agreement with its appendix 1, with as item 3 at the bottom of that page, "agreed condition OA7." Now Ms Petersen's draft OA7 doesn't line up entirely very much with the allegedly agreed OA7 and I'll be  
15 asking Mr Lanning and Ms Petersen this to by the way. The agreed OA7 appears to me, although I've not put the microscope on it or a magnifying glass, appears little or no different from the draft, then I thought a bit longer, but it's of a similar flavour to that which was in the 10<sup>th</sup> of February conditions?

20 A. It's almost identical.

Q. Where did the experts get to, did the item 3 on appendix 1 to the caucusing agreement, replace by agreement, as you understood, the draft OA7 that Ms Petersen might have put together a bit earlier yesterday?

25 A. No, no, she put that in good faith in her supplementary evidence, and that's fine. And it was a topic of discussion yesterday. I won't go into all the technical details unless you want me to but we –

Q. No, I'm just – I think a reasonably straightforward answer, as to where the group got to?

30 A. The straightforward answer is that her desire to see that has been ameliorated slightly by the fact that we have agreed to have this expert panel. So the issues I think, you'll have to confirm it with her. The

issues I think she was trying to address, she's accepted will be addressed through the mechanism of the expert panel, I believe.

Q. So it probably is a time of day thing?

A. Yes.

5 Q. The sequencing of these various pieces of paper that happened in a rush.

**THE COURT: JUDGE NEWHOOK**

Ms Janissen, is that your understanding.

10 **MS JANISSSEN:**

Yes sir, perhaps I can clarify. The draft conditions from Ms Petersen actually came in on Friday to some of the other parties and I think they were just tabled to the Board today.

**THE COURT: JUDGE NEWHOOK**

15 Yes they bear yesterday's date, that's what (inaudible 10:07:07).

**MS JANISSSEN:**

So far as I understand, certainly I think the caucus statement is quite clear in sub-paragraph (d) on page 2 that, "The conditions relating to monitoring and  
20 the panel append to the report have been agreed by all of the parties as suitable to resolve all technical monitoring issues."

**QUESTIONS FROM THE COURT CONTINUES: JUDGE NEWHOOK**

Q. I've got one other matter that arises from the draft amended conditions in appendix 1 to the caucusing agreement but I'm going to be putting  
25 them to Mr Lanning and Ms Petersen. I want to know the Auckland Council's view of the use of a standalone peer review panel in comparison to activity undertaken by the consent authorities. A bit of an extension of Member Dunlop's question really. You've expressed your view I think Mr Fisher, that you see this as a useful way to go and  
30 you see the Agency as a big and responsible body, that was your

answer to him. So I'll be finding out from the council what it thinks of that?

A. I think the use of a peer review panel is a very proactive and powerful thing.

5 Q. What we often see, what we often get, is the use of a peer review panel to assist in making recommendations to the ultimate consent authority and that's what I'm going to be asking them about.

A. Fair enough.

Q. Do you have any comment on that, now's your opportunity?

10 A. No, because we've had a number of – in the technical group we've had a number of discussions, it's just who is the ultimate authority on a designation, not clear to us.

Q. Well we'll leave that one to the lawyers if there is an issue there.

**RE-EXAMINATION: MS JANISSSEN – NIL**

15 **WITNESS EXCUSED**

**THE COURT: JUDGE NEWHOOK**

Now Mr Lanning, back to you.

**MR LANNING CALLS****5 ANDREW PETER STILES (SWORN)**

1010

Q. Good morning, is your full name Andrew Peter Stiles?

A. Yes it is.

Q. And have you produced a statement of evidence for this hearing dated  
10 15<sup>th</sup> of December 2010?

A. Yes I have.

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

A. Yes I do.

15 Q. Are there any changes you wish to make to your evidence?

A. None.

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

A. Yes.

**CROSS-EXAMINATION: MS JANISSSEN**

20 Q. You've concluded that the potential hydrogeological and ground  
settlement effects of this project works on the Phyllis Street Reserve  
are none or minimal, is that correct?

A. That's correct.

Q. And with respect to the Agency's proposed works on the reserve  
25 they're limited to tunnelling some 50 metres beneath the reserve?

A. That's my understanding, yes.

Q. The groundwater within the Phyllis Street Reserve landfill materials  
currently drains primarily into Oakley Creek, doesn't it?

A. That's what I believe. Some will also be draining down through the  
30 underlying material, but we think the majority probably goes into the  
creek.



Q. So when assessing the effects of the Agency's project you were concerned to ensure that its works would have only limited drainage into the Oakley Creek?

5 A. The – when I assessed the effects looking more at the effects of under drainage into the underlying material. We were concerned that the drainage to do with the tunnel, the water into the tunnel, would give greater drainage through the underlying either Tauranga Group or with the Waitemata Group soils. The drainage into the creek will be continuing I think regardless of what the tunnelling is doing.

10 Q. And was that because of a concern about the potential effects of leachate on the creek?

A. That's right. The concern really is the contaminants. If there are no contaminants in the groundwater or leachate then it really doesn't become too much concern because only a very small amount of water, 15 a head of water, in the base of the landfill.

Q. Now you're aware that Auckland Council has suggested that the Phyllis Street Reserve be converted into sports fields, is that correct?

A. Yes I'm aware of that.

20 Q. Your statement of evidence doesn't address the suitability of the reserve for sports fields does it?

A. No that's something which came up much later.

Q. And that's because that's not part of the Agency's project, is that correct?

A. Yes, also it's largely part of, a part of the construction.

25 Q. But the provisions of sports fields on the Phyllis Street Reserve is part of the council's proposed mitigation package in this hearing isn't it?

A. That's what I understand yes.

Q. Landfill sites are normally susceptible to settlement aren't they?

30 A. They'll be two forms of settlement. There'll be settlement if you induce any kind of surcharge, i.e. if you change the current ground plan. There'll also be a long term settlement due to biological decay of the refuse, but in this case this is a old landfill, fairly material landfill and so the latter case would be relatively minor. The only settlement would be if you put on substantial quantities of additional fill.

Q. So would you expect then that the settlement would increase if you constructed a sports field on top of the existing landfill cap?

5 A. It would depend on what the net surcharge was. If you take off material to form a lower platform then you put back material of an equivalent loading the net surcharge, any additional surcharge would be zero so in theory there should be no settlement, but if you build it up by say a metre to get the final level then yes, there would be some settlement, but it would probably be relatively minor and relatively uniform over the site.

10 Q. And currently I think it's, this is indicated in Mr Gallagher's evidence, the current proposal or suggestion from the council was that they'll use a sand carpet?

15 A. The sand carpet would be used to drain the field, but that sand car – if you were going to put in a permeable cap there's really a cap of sorts over the field, but the sand carpet would be on top of that cap, you wouldn't have it under there, wouldn't have it directly on top of the landfill so there'll be a barrier between any water draining into the sand carpet and the landfill.

20 Q. Would that provision of the sand carpet add a load onto the existing landfill?

25 A. Again it would depend on the final levels which were selected. The design might opt for say excavating half a metre or a meter of material then constructing the sports fields such that the final level was at approximately the current level. In which case again the net load would be very similar to what it is now and settlement would be minimal.

Q. The actual design of course hasn't been carried out for the sports field at this point?

A. Not to my knowledge. I think it's just a concept at the moment.

30 Q. And the provision of any possible drainage, for example, would be very important for the sports field?

A. Oh drainage would be important. I'm not an expert on sports fields, but the drainage is usually a fairly critical component for ensuring its long term use.

Q. And would one of the key design issues, with respect to the sports field, be ensuring that no further water permeates through the landfill into Oakley Creek?

5 A. Well you – clearly you would not want water from the sports field because you’re concentrating in the sand layer to be able to drain through the, into landfill for the landfill to pick up the contaminants, and thereby eventually into the creek or downwards into the underlying aquifer. So that would be our criteria.

10 Q. The design work on that aspect of the sports field has not yet been done though has it?

A. That’s my understanding, no I think it’s just a concept.

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

15 Q. Mr Stiles, in your report, it’s page 9, 4.14, you refer to total and differential settlements for Phyllis Street Reserve of about 300 to 400 millimetres have been predicted by BECA. Do you not agree with that?

A. Yes I’ve got a comment of that. I’ve said in my evidence and I’m in agreement with that.

20 Q. Yes that is in your evidence, but I just thought I heard you say that there will be no settlement to be concerned about at Phyllis Street Reserve?

A. That – sorry that I think that – I was being asked about settlement from the sports field.

Q. From redevelopment of –

25 A. From redevelopment of the sports field.

Q. – the sports fields? Oh okay.

A. The settlement in 4.14 as a result of the tunnelling, out of the groundwater and mechanical effects.

Q. So 300 to 400 millimetres is fairly significant isn’t it?

30 A. As a total settlement, but it’s - the total settlement, the maximum would be over the axis of the tunnel and that will be a differential across the full width of Phyllis Reserve, which is a very, very gradual gradient.

Q. So how does that work as you walk across a sports field?

A. Well the change in gradient is something like .2 of a degree. It's absolutely minimal because of the width of the zone. There's a plan in one of the NZTA, I think G13 –

Q. Yes I've got a note of that.

5 A. And it's figure E14, that shows their assessment of the extent of the settlement. And if you look at the, if you work out the differential – the maximum settlement and the differential, the actual gradient it's very, very flat. You just wouldn't notice it compared to the seasonal. There's probably more seasonal change due to shrink swell of the soils than you  
10 would notice walking across.

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

Q. Mr Stiles, just going back to Phyllis Street Reserve. Just from your knowledge of the reserve and the original landfill that was there, what sort of cap, you know how deep is the cap there? Would putting a sports field on that actually have an effect in terms of the potential  
15 contaminants that are within that landfill?

A. The current cap across the landfill on the northern side of Phyllis Reserve is about between about 300 and 500 millimetres thick. It's – and it's not a specifically constructed cap, not an engineered cap. So that if a sports field was to be constructed one stage would be to form a  
20 much more, a much better quality cap over the field to separate the sports fields from the potentially contaminated landfill material.

1020

Q. Okay, and I understand that the area is being used for sport fields at  
25 the moment?

A. There are, there are sports fields on the southern half, I think it's shown on the – on some of the drawings and on the northern side, if more of an open field. Since I've been involved with it – with the project it's just been an open field and no formal sports field as such.

30 Q. Thank you.

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

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

**RE-EXAMINATION: MR LANNING – NIL**

**WITNESS EXCUSED**

**MR LANNING CALLS**

**HAYDEN RUSSELL EASTON (AFFIRMED)**

Q. Good morning, is your full name Hayden Russell Easton?

A. Yes.

5 Q. And have you produced a statement of evidence for this hearing dated 16<sup>th</sup> of December 2010?

A. Yes.

Q. Are there any corrections or amendments you wish to make of that evidence?

10 A. No.

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

A. Yes.

Q. Could you answer any questions please.

**THE COURT: JUDGE NEWHOOK**

15 Yes now let me see if there are any questions from the members of the board.

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

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

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

**QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP**

20 Q. Morning Mr Easton.

A. Morning.

Q. This is coming pretty cold to me, but just re-visiting your evidence I've got a flag here against your paragraph 4.11 on page 8.

A. Yes.

25 Q. You say, if post construction PAH concentrations were to exceed that given level the applicant in your view should investigate an implement further storm water treatment options to reduce the concentrations below the level you've set out there.

A. Yes.

Q. How would that – what sort of mechanism is there in the proposed consent conditions do to trigger that implementation of further storm water treatment options. How would that work out?

5 A. First of all work was carried out by Jonathan Moores on behalf of the NZTA looking at motorway run offs particularly looking at hydrocarbon loads coming from various roads. There were two roads that were of interest to me when looking at the statement that came out of caucusing to actually withdraw this point. One of the sites was located on Redvale, which is around the Oteha Valley Road off ramp. From the data that  
10 was captured from that site, it was my perception the values of polycyclic aromatic hydrocarbons PAH was nowhere around the ball park of 15 milligrams per litre from memory I think it was only even .8. Taking in mind however, that the traffic loads – the volumes of loads are going to be different, I think it's going to be a two-fold difference being in  
15 the greater at the Waterview intersection. It still wouldn't be and nowhere in comparison to even reading anywhere close to 15 milligrams per litre. 15 milligrams per litre comes from MFE guidelines which looks at petroleum sites. That's where and known from research effect levels can be found. So what they have got in there, the treatment devices  
20 proposed for the project, they will be certainly able to manage any potential load of polycyclic aromatic hydrocarbons coming from the project.

Q. That's helpful background, with respect I'm not sure that's actually answered my question, I think I'll just leave it there and legal counsel  
25 might be able to assist me with during the subsequent course of the hearing thanks.

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

**RE-EXAMINATION: MR LANNING – NIL**

**WITNESS EXCUSED**

30

**THE COURT: COMMISSIONER DUNLOP:**

Excuse me Mr Lanning.

**MR LANNING:**

Yes.

5 **THE COURT: COMMISSIONER DUNLOP:**

You would've heard my comment to Mr Stiles at the end there. And I should know this but I assume there is unlike air, a discharge consent for the run off contaminants from the roadways. Let's assume that there is for the moment. There is – yes there is right. It's the area in which NZTA says it's pulling up its  
10 socks. Unlike air, we've got a consent this time. No I repeat my question to Mr Stiles, if you know monitoring were to show that this level that's of concern to him were exceeded.

**MR LANNING:**

Yes.

15 **THE COURT: COMMISSIONER DUNLOP:**

You know what mechanism is there in the proposed consent conditions to investigate and implement further treatment options to use his words?

**MR LANNING:**

My friend Ms Janissen looks like she wants to answer, she'll be able to tell  
20 you in detail.

**THE COURT: COMMISSIONER DUNLOP:**

Yes she can help me.

**MS JANISSSEN:**

Yes sir there's nothing in the conditions at the moment, and that is because  
25 the expert caucusing statements specifically addressed it.



**THE COURT: COMMISSIONER DUNLOP:**

Right.

**MS JANISSSEN:**

For storm water and that was at paragraph 14, page 8. Where they referred  
5 to Mr Easton's recommendation for monitoring, Mr Easton and Dr Fisher  
concluded that the request for manual grab sampling of PAH is not warranted,  
it was reached the discussion of literature and findings from Mr Moore et  
cetera presented during the Court processing session. So agreement has  
been made by all parties that PAH concentrations within the storm water  
10 discharge from the proposed storm water treatment devices are not  
anticipated to have more than a minor environmental affect. So to that end  
there is no condition relating to that.

**THE COURT: COMMISSIONER DUNLOP:**

That's really helpful in respect of this specific matter for question Ms Janissen.  
15 If sort of retreat from the specific to the general what sort of regime does the  
agency envisage in these conditions for section 128 reviews if any? Shall I  
repeat what I said to Mr Fisher?

**MS JANISSSEN:**

Yes.

**20 THE COURT: COMMISSIONER DUNLOP:**

That it's not unusual on major consents to have such a condition, but this  
(inaudible 10:29:20) seems to be from my recollection, it could be imperfect,  
seems to be quite on the subject.

**MS JANISSSEN:**

25 Yes perhaps we can have a look at that because I don't know the answer off  
hand on that one, and I need to go back to your earlier question about the  
applicability of section 128 to designations as well.

**THE COURT: COMMISSIONER DUNLOP:**

Yes that's -

**MS JANISSSEN:**

So I'm sure I've answered before but it's not with me right now.

5 **THE COURT: COMMISSIONER DUNLOP:**

Yes, but there could be a disconnect in the Act there, but there's a principle at foot here isn't there?

**MS JANISSSEN:**

Yes.

10 **MR LANNING:**

Sir just on that last point Your Honour might remember the Barrack Road case where that issue was discussed so that's the Villages of New Zealand case where – Member Dunlop was involved in that.

1030

15 **THE COURT: JUDGE NEWHOOK**

Yes thank you for that observation. The issue's been circulating in the minds of some of us in recent days and your observation may crystallise that, thank you very much.

20 **MR LANNING:**

I think the answer was, that the Court agreed that you could have review conditions on designations that there was no limitation created by the fact that Part 8 of the Act didn't have an equivalent section on till later.

**THE COURT: JUDGE NEWHOOK**

25 I think it comes back to the relevance and fairness and general operation of conditions of consent on designations.

**COMMISSIONER DUNLOP:**

It's coming back now.

**THE COURT: JUDGE NEWHOOK**

Well somewhere between a trickle and a flood, but that's very helpful thank  
5 you.

**MR LANNING CALLS****DOMINIC McCARTHY (AFFIRMED)**

Q. Good morning is your name Dominic McCarthy?

A. It is.

5 Q. And have you produced a statement of evidence-in-chief for this hearing dated the 17<sup>th</sup> of December 2010?

A. I have.

Q. Do you have any corrections or modifications you wish to make to that evidence?

10 A. No.

Q. Can you therefore confirm that that statement of evidence is true and correct?

A. I do.

**THE COURT: JUDGE NEWHOOK**

15 Forest & Bird, Mr McNatty, do you wish to question this witness?

**CROSS-EXAMINATION: MR McNATTY**

Q. Good morning Mr McCarthy. I've got a few general questions and they relate specifically on how the stormwater discharge will affect the coastal processes within the marine reserve. It's not quite related to your evidence but I would believe it would be very related to your expertise. Would you agree that the northern part of the Motu Manawa Marine Reserve has a naturally occurring flushing mechanism that disperses the accumulation of contaminants within the immediate marine sediments?

20

25 A. Yes.

Q. Would you agree that the southern part of the Motu Manawa Marine Reserve encapsulated by the State Highway 16 causeway, does not have a similar flushing mechanism?

A. Yes.

30 Q. In one of the technical documents within Auckland Regional Council's, I think it's TP170, Waterview Basin is described as a settling zone for stormwater discharge. Is it your opinion that stormwater contaminants

would continue to build within the Waterview Basin part of the Motu Manawa Marine Reserve?

A. If they were released into the Waterview Basin, yes they would continue to accumulate.

5 Q. In your opinion, would a flushing mechanism be an appropriate method to remove those contaminants?

A. Not necessarily.

Q. When you say, “not necessarily”, would an example on a diversion of Oakley Creek out to the seaward side of the State Highway 16 causeway be a possible management method?

10

A. I’m not quite following you I’m sorry. Oakley Creek already discharges under the motorway so...

Q. Yes but prior to that it discharges into the basin?

A. Can you ask the question again please?

15 Q. I’m only using it as an example though. But as a possible management method for the sediments within the Waterview Basin, would it for example a diversion of Oakley Creek to the seaward side of State Highway 16, not discharging into Waterview Basin be a possible sediment management method?

20 A. Yes, and contaminants. The issue is where does that material then go and what you do is balance out the potential for sedimentation and accumulation of contaminants in Waterview, this is its ultimate fate if it is released into the wider harbour and that could include (inaudible 10:35:21) out in parts of the Pollen Island area or redistribution within the harbour and for example accumulation within Shoal Bay.

25

Q. In your opinion, is the proposed method of stormwater treatment into the Motu Manawa Marine Reserve part of the Waterview Inlet part of that reserve able to prevent the accumulation of contaminants?

A. I think from reading transcripts that it’s been explained that there will be a continued accumulation of contaminants in that area.

30

Q. Did you complete an historical assessment of the Waterview Inlet area when you reviewed the evidence of the Agency (inaudible 10:36:23)?

A. Not in any great detail, no.

Q. Are you aware that within Forest & Bird Motu Manawa Restoration Group evidence, is an allegation that the Agency has been discharging contaminated stormwater into the marine reserve from unconsented areas of existing impervious surfaces, in possible breach of the RMA component of the exception allowing the continuous discharges in the gazette notice under the Marine Reserves Act?

5

A. I'm aware of that, yes.

Q. Were you aware of that at the time you prepared your –

A. No.

10

Q. Would that have made a difference in how you would have assessed your evidence?

A. I might have spent more time looking at the transitional coastal plan for example. But the primary thrust of my evidence was to do with other matters, it encompasses a large number of issues including the positive matters in the first instance and then a series of other matters. So it might have made some difference, but not a huge amount I would have thought.

15

**THE COURT: JUDGE NEWHOOK**

Mr McCurdy?

20

**MS DOCHERTY:**

Mr McCurdy's indicated that he has no questions.

**THE COURT: JUDGE NEWHOOK**

Members of the Board. Member Dunlop do you wish to have questions, Member Dormer doesn't, Member Hardie.

25

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

**QUESTIONS FROM THE BOARD: MR DORMER**

**QUESTIONS FROM THE COURT: MS HARDIE**

Q. Mr McCarthy, just with regards to condition C12, which refers to the shell banks. It seems like these shell banks are proposed to be replaced somewhere in a suitable location to the agreement of the Department of Conservation and to Auckland Council and then they'll be monitored. But I'm wondering what's the consequence of them not being reworked by the waves and reattaching to the unmodified shell banks, if that did happen?

A. I'm possibly not the best person to answer that. It's more of a coastal processes issue I believe. But broadly my understanding is that the issue is monitoring whether or not the material is remobilised through natural processes which form the chenier shell banks in the first place.

Q. Would you just repeat that again for me please?

A. I understand that the primary issue is whether or not the stockpiled shell gets mobilised through natural processes and reforms the chenier shell banks through the natural processes that make them form in the first place.

Q. So is it simply, your understanding, is it simply to look at it and say, "Oh it did reattach or it didn't"? I'm just trying to work out in terms of what's the purpose of that monitoring if there's no consequence to that monitoring?

1040

A. Sorry I'm probably not –

Q. Do you think you're –

A. – the best person to respond to the word "reattached." I don't understand exactly what the requirement there is. I do understand the basic principle and so that's what I've been talking about. "Reattached," I'm not sure exactly what that means.

Q. Would you be the person to ask then with regards to the intertidal area, the 500 millimetre tow at the bank of the proposed reclamation? Is that you? Have I got the wrong person? Just in terms of the purpose of it and whether or not these shell banks would actually be placed

within this – or the appropriateness of placing these shell banks in that intertidal area?

A. I'm not sure that I am the right person to tell you the truth.

Q. Okay.

5 A. Possibly Sharon De Luca.

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

It occurs to me, and I will admit that I was struggling with this very issue, is the crossover between the coastal issues that this witness addresses and coastal processes issues, and noting that he wasn't a part of the caucusing on coastal processes. We do have available to us Dr Brian Stewart who prepared our report in the area of coastal processes and if we need some further assistance with these matters we could ask him, and we would not do so. Behind the scenes of course we would do so, here in open Court at the appropriate time. So I'm struggling with the same issues of crossover and demarcation, but I think that may assist you and me with a solution Member Hardie.

10  
15

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

Q. Mr McCarthy, you state in your report that there's concern over the uncontaminated, possibly uncontaminated water from the copper dams being released into the coastal management area, and a new condition is suggested, C17, that's at the end of your report, but it's not in the book of conditions yet. Is it your understanding that new condition C17, which is number – paragraph 39 of your report, is it your understanding that that condition is to be added into the conditions?

20

A. In the rebuttal evidence from Graeme Ridley there's a suggested revision which I've accepted as being an amendment that improves my proposed condition. He also proposes that rather than being a coastal condition it goes in the environment erosion and sediment control area and it goes in as, I think it's condition E10 proposed now.

25

Q. So C17 is superseded by E10?

30

A. I believe so, yes.



- Q. Right, okay. I have another question for Auckland City Council, Auckland Council about vegetation removal within the CMA, specifically mangroves and recently there was resource consents issued for the removal of mangroves in Waiuku and also at  
5 Pahurehure Inlet whereby mangroves can be removed, but only by hand. And this is an incredible job and little volunteers are out there methodically chipping away at these things, plant by plant, with hectares of sea of mangroves in front of them. So suddenly this can be done with a machine. What's the difference?
- 10 A. One of the major and significant differences is the requirement to remove the mangroves in order to expand State Highway 16, as opposed to moving the mangroves for other purposes, including amenity value; open space, access to open water. And the differences between, the circumstances that prevail at Waiuku, Pahurehure and beside  
15 Motu Manawa Reserve and for these particular works.
- Q. I would agree with you at Pahurehure Inlet because I understand that that is for recreation purposes, but at Waiuku it's to open up a historic waterway that's been absolutely choked. Would you issue a new resource consent to these people so that they can get a machine in  
20 there and let rip?
- A. If you were to grant me that authority.

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

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

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

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

**WITNESS EXCUSED**

**MR LANNING CALLS****DENNIS JOHN SCOTT (SWORN)**

Q. Is your name Dennis John Scott?

A. It is.

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

A. That's correct.

Q. Do you have any corrections or amendments to be made to that evidence?

10 A. No I do not.

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

A. Yes I do.

**CROSS-EXAMINATION: MS JANISSEN**

15 Q. You attended the expert caucusing on the 26<sup>th</sup> of January 2011 with respect to the visual experts?

A. That's correct, yes.

Q. And in that caucusing the joint report by the experts you supported the proposed stack location of the northern ventilation stack in its current proposal, is that correct?

20 A. That's correct.

Q. And you did not support moving the stack across the Great North Road?

A. No I do not.

Q. Could you explain the reasons for that please.

25 A. Yes, could be longwinded, I hope not. I guess as with the other design experts our raw philosophy and thrust here is to actually secure some integrity of the functions of those buildings to be located together. There's a comfort in that, it's a design scenario that I believe works in this situation.

30 A. Yes that's correct, yes.

1050

- Q. And are you aware that the air quality experts have agreed that a 15 metre high ventilation stack may be acceptable so far as the air quality effects are concerned?
- A. Yes that's correct yes.
- 5 Q. As a visual and landscape expert would you have a preference for a 15 metre or a 25 metre stack?
- A. Of course the shorter stack is going to find favour.
- Q. Okay, in – referring to a separate issue now in your evidence you state that the effects of the proposal on the kindergarten are moderate, and that's of the lodged proposal?
- 10 A. Yes that's correct.
- Q. Are you aware that the agency has agreed to a permanent relocation of the kindergarten across to Oakley Avenue?
- A. I am aware of that offer yes.
- 15 Q. Does that alter your opinion about the effects that you consider the kindergarten will experience from the vent stack, and the buildings?
- A. Well it's going to improve from their perspective yes.
- Q. So that would be a positive impact on the kindergarten?
- A. It's a positive outcome yes.
- 20 Q. Referring back now again to the northern ventilation stack, you support the design of that stack of being an element of urban sculpture?
- A. That's correct.
- Q. And you supported being a design that's integrated with the ventilation buildings as well?
- 25 A. Yes.
- Q. You accept I think, that the agency cannot disguise the ventilation stack whether or not it's 15 metres or 25?
- A. No you cannot.
- Q. But I think you state in your evidence that you don't consider that the visual effect of purely being able to see it from a number of viewpoints is necessarily adverse?
- 30 A. That's correct.
- Q. And that's provided it's designed appropriately?
- A. With the proviso of the design input.

Q. Okay, since you've prepared your evidence and since I think, even the expert caucusing are you aware that the agency now proposes to submit an outline plan of works with respect to the design of the northern ventilation building and stack?

5 A. Yes.

Q. And do you consider that that is appropriate?

A. That's an appropriate approach, yes.

Q. Would that give you greater confidence that the final detail design of these buildings will achieve an appropriate design outcome -

10 A. Yes.

Q. For that site?

A. Yes, it's approach I support yes.

**COURT ADJOURNS: 10.52 AM**

15

**COURT RESUMES: 11.14 AM****CROSS-EXAMINATION: MS DEVINE**

- Q. Are you aware that the Albert Eden ward of Auckland has one of the lowest – the lowest level of open space to population ratio in the city?
- 5 A. I wasn't – no I wasn't aware of that I'm sorry.
- Q. Would you accept –
- A. Yes.
- Q. – that that seems right to you?
- A. Yeah.
- 10 Q. Increasing access to open space would benefit the Waterview and Owairaka communities wouldn't it?
- A. Yes.
- Q. And connections between open space in these areas could open up other connections to parks, shops and other facilities couldn't it?
- 15 A. That's correct.
- Q. And those are all public benefits aren't they?
- A. Yes they are.
- Q. Should the Board of Inquiry seek to impose additional conditions on the NZ – on NZTA to address the many adverse effects on the local community from this project, then from your experience would increasing the access to open space would be an effective way of doing that wouldn't it?
- 20 A. It would provided that open space has a purpose and we're just not creating connections just for the sake of creating connections. They need to have some functional reality about the opportunities, and efficiency and effectiveness, those sorts of issues.
- 25 Q. In terms of the northern stack, you accept that the northern stack would have a lasting visual effect don't you?
- A. Yes.
- 30 Q. And you support locating the northern stack as far away as practicable from the kindergarten and school without compromising the aesthetic

value and integrity of Oakley Creek Esplanade Reserve and Waterview Reserve don't you?

A. Yes.

5 Q. Those significantly visually affected by the stack are the community that uses the resources at the school, aren't they?

10 A. Yes that's one community. There are three communities in my mind that are going to have to – where there's going to be an effect. There is the resident community then of course there's the transitional community. Many are regular users through this space. And then of course there's visitors and other transitional communities. So, and all of those communities will have a different perception of these elements.

Q. The permanent residents who see the stack on a day to day basis would have a significant visual effect –

A. Absolutely.

15 Q. – from the stack wouldn't they?

A. That is correct.

Q. One of the reasons for locating the stack as far away as practical, as you suggest in the conditions, is to remove the dominance of the stack over the school and the kindergarten isn't it?

20 A. It – the stack will have some dominance, but it's mainly from the open space areas of the school. It's not going to be as dominant, in my opinion, from the actual buildings themselves. The school is in fact quite well screened at this point in time by some large trees on that adjacent boundary, but from the fields themselves, yes the stack is going to have a prominent effect on that area.

25 Q. And any person entering the school and using the school's resources –

A. Absolutely.

Q. – will be able to see that?

A. Yes.

30 Q. In your evidence you give two reasons as problems for shifting the stack. One is a desire to protect the reserve, and the other is because on that side of the road, across the road so to speak, the stack wouldn't have sufficient prominence to read as an urban sculpture?

That's a bit back to front I think. There's no requirement for the stack to be a prominent urban sculpture is there?

A. Well once we – I guess once we focus on the idea or the construct of an urban sculpture then I believe that takes on a different significance, and the sculpture does need to be something of prominence in itself to have that presence, that urban presence that is the desire of that approach.

5

Q. You're placing emphasis on making the large stack a prominent feature aren't you?

A. Yes, yes.

10

Q. You'd accept that –

A. It's a celebration.

Q. – the community – a celebration?

A. Yes.

Q. I'm not sure –

15

A. Potentially.

Q. – that the local community would agree with that. From the local community perspective in those three categories that you're talking about, moving the stack across the road would help reduce its dominance, it's "in your face" sort of aspect as it walks in and out of the school wouldn't it?

20

A. It would definitely in terms of the Waterview community, yes.

Q. Looking at the southern building and the southern stack, you're familiar with Ms Linzey's supplementary –

A. Yes.

25

Q. – planning evidence and the –

A. Yes.

Q. – three options there? I need you to have a look at a couple of plans. Could you have in front of you the F16 landscape and urban design plan?

30

**WITNESS REFERRED TO LANDSCAPE AND URBAN DESIGN PLAN, F16**

A. F16.

Q. Urban design and landscape plans, it's sheet 219. I'll just give you a moment to find that.

1120

A. Sorry which sheet number is this?

Q. It's 219.

5 A. 219, sorry I didn't hear, yes I have that now.

Q. I just want to refer to notes 13 and 14, the 13 simply for reference if you see where the – not so much that the note that the annotation which has 13 on it, on that particular plan it shows where the surface area just before you enter the tunnel is location doesn't it?

10 A. The portal yes.

Q. Now thinking back to the three options that we were just speaking of before –

A. Yes.

15 Q. – that's a location roughly to the left of that 13 bubble where the ventilation will be at option 3 –

A. That's correct.

Q. – and in this exercise?

A. That's correct.

20 Q. Now looking at note 14, and their landscape provided along that boundary of where that building will be located, there's no reason why the landscaping at note 14 can't be provided is there?

A. No that's correct.

25 Q. Regardless of note 11 there, which is the rail landscaping, that landscaping at 14 would screen the view of the option 3 building for the properties behind that New Zealand Rail area wouldn't it?

A. That's correct.

Q. Thank you Mr Scott those are my questions.

### **CROSS-EXAMINATION: MR ALLAN**

30 Q. I'd like to start if I could with just a brief discussion about your profession if I can put that way and the way that it functions, am I right in thinking that when you're assessing visual impact you're attempting to use an objective approach to identify the way that viewers will respond subjectively to something in the landscape?



A. Yes.

Q. So what we're endeavouring to do is to form a view on how other people will respond to something that will occur in an area that they're familiar with?

5 A. Yes that's part of it as well.

Q. Would you accept that if the residents of say, Waterview came to a strong and fairly consistent view on what might be a third visual outcome of this project, that that's something that should be taken into account?

10 A. It is indeed something that should be taken into account, however I do need to preface that, because being a champion of community led design, communities do make decisions often without the full suite of information possible to actually assist them to make that informed decision. So that's quite important that communities don't always have  
15 all of the information at their fingertip to make the informed decision.

Q. And in this case the information, let's deal with the northern stack shall we?

A. Yes, yes.

Q. (inaudible 11:24:05) stacks, we're discussing the northern stack on the  
20 tunnel.

A. That's correct.

Q. The sort of information the community might benefit from having would be a range of options, pictures of options –

A. Yes.

25 Q. – a information of a sort that's been provided in (inaudible 11:24:20) in this hearing?

A. That's correct.

Q. So your opinion I presume has been undertaken or presented to date on the basis of information that you've had available which has been  
30 fairly limited in terms of what preferences might be?

A. Yes it has, yes.

Q. And from your perspective if the public duly informed and with availability of information in adequate amounts came to a different

conclusion that's something that might well change your view on what the condition should be?

A. Of course yes.

1125

5 Q. I want to talk briefly about the northern stack itself. It's a large structure, isn't it, and that's –

A. It is.

Q. – whether it's a 25 metre tall or a 15 metre tall structure, it's still a large structure, correct?

10 A. Absolutely.

Q. And it's of a height that's significantly taller than other buildings in the vicinity?

A. That's correct.

15 Q. The only structures in the wider vicinity that might be of a similar scale would be, I guess, the interchange structures themselves and perhaps trees on the right-hand side of the road as you're heading towards the motorway?

A. Potentially, yes, yeah.

20 Q. It's a form of structure that's quite unlike anything else in the Waterview residential area isn't it?

A. Yes.

Q. And that's the case whether it's simply functionally designed or (inaudible 11:25:57) designed or if it's turned into some form of –

A. That's right.

25 Q. – urban sculpture?

A. And irrespective of location, mmm.

30 Q. And as you've said to Ms Devine, it's a structure that's located close to the school and is likely – well it's going to be visible for much of the school and it's going to have some degree of domination over that school ground?

A. Absolutely.

Q. Yes?

A. Yes.

Q. And it's currently proposed to sit at, what I would call I guess, the termination of the view as one's driving down Great North Road towards the Pt Chev interchange –

A. That's correct.

5 Q. – from Blockhouse Bay Road?

A. Yes.

Q. So it's going to be a very hard structure to miss visually for drivers coming –

A. Yes.

10 Q. – northwards? It'll be sitting on the right-hand side, bleakly, as one's driving south?

A. That's correct.

Q. But again it's going to be very obvious isn't it?

A. (no audible answer 11:26:50).

15 **THE COURT: JUDGE NEWHOOK**

Now Mr Scott you need - instead of just nodding in answer to some of these questions you need to say, "Yes," or if you disagree, "No." Sometimes there's just the head motion and you're expecting to move on.

20 **MR SCOTT:**

Apologies sir. I thought I was.

**THE COURT: JUDGE NEWHOOK**

We've got to record it all.

25 **MR ALLAN:**

I have picked up the answer sir but I appreciate it's not as loud as it might be.

**CROSS-EXAMINATION CONTINUES: MR ALLAN**

Q. And when it's in place this is going to be the most obvious structure in Waterview to people passing by the suburb isn't it?

30 A. It is going to be an obvious structure, but it is going to be seen within the context of a whole range of other very obvious structures, obvious

infrastructures which are, which do have a scale of their own. This is a large scale change.

Q. And the structures you're talking about are things –

A. Ramps.

5 Q. – like portal?

A. Yeah.

Q. For motorway interchange?

A. Yes.

10 Q. Can I refine my statement then and say that would you accept that those are structures that will define the edge of Waterview?

A. Yes they will.

Q. Whereas the stack will in fact be inside Waterview, in the sense that it's to the right-hand side of the road heading south?

15 A. Oh I think the stack will also be an element that will define Waterview, because it is on the edge of it in that sense. Because we're actually in a transitional land use here. The transitional land use is the functional buildings, the stack and the motorway itself.

20 Q. I'm going to suggest to you that it is – if one moved the stack to the other side of Great North Road then the functional buildings that remain which are of a residential scale –

A. Yes.

Q. – will fit quite easily, or can be made to fit quite easily, with the residential area and the school and the other residential activities around there –

25 A. They can, yes.

Q. In a way that's not possible when we have the stack in its current location?

A. Yes there would be a reduced element of height in that area.

30 Q. It would be more than that though won't it, because the stack is obviously – if I can put it this way – an alien structure in a residential suburb like Waterview in a way that the other buildings that are proposed for that site won't necessarily be, because of the way that they're going to be designed?

A. Yes that's true, but the other structures are also of a new – and could be termed as "alien", even though at this point in time we do have an existing motorway interchange there.

Q. By other structures –

5 A. These are significant.

Q. By "other structures" I'm meaning –

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

No just pause Mr Allen, he did want to say why he's been economical with his answers but you must let him complete.

10 1130

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

Q. Sorry Mr Scott.

A. Yes, yes I mean the structures the change to the interchange alone is going to be – is of significant scale and that is going to have a similar  
15 effect on the – on those effects for that community.

Q. Can I take you please to annexure E of Andre Walters rebuttal evidence and I don't know whether Mr Scott has that but I wonder if we could get it on the screen.

A. I might have it.

20 Q. It's the plan of the alternative stack locations.

A. Oh, yes I think it's actually attached to our joint caucusing.

Q. Now that's up on the screen.

A. Yes that's correct.

Q. I'd just like work through these structures. As one is driving up  
25 Great North Road from the interchange with the new structures in place.

A. Yes.

Q. We'll have a series of interchange ramps and the like.

A. That's right.

30 Q. On the right-hand side of the road and they gradually come together, and then they disappear into a tunnel portal?

A. That's right.

- Q. Which on this plan is shown immediately left of Herdman Street?
- A. That's correct.
- Q. So up to that point on Great North Road we've had motorway infrastructure but we've also of course had quite a lot of planting on the right-hand side of Great North Road –
- 5 A. Yes.
- Q. – to try and soften the effect of that. So Herdman Street is really where Waterview now begins isn't it?
- A. It is.
- 10 Q. In terms of the community?
- A. That's correct.
- Q. And public perception. And we have on this plan four structures which are marked a 430 square metre building, a 219 square metre building, a 180 square metre building, and a 4 tonne gantry for fans structure marked in grey?
- 15 A. Yes.
- Q. Now your understanding is, is it that those are buildings that are intended to be of a scale that at least enables them to fit reasonably well with the residential context in which they're going to be found?
- 20 A. That's correct, yes.
- Q. And my suggestion to you is that from where Herdman Street joins Great North Road –
- A. Yes.
- Q. – you're essentially in a residential environment and albeit with an arterial road moving through it to the South?
- 25 A. Yes.
- Q. And the new buildings that I've just listed to you are buildings that can contribute to that residential scale and feel –
- A. Yes.
- 30 Q. – notwithstanding the fact that they're not residential in nature?
- A. No I agree totally, yes.
- Q. If one retains in the middle of those buildings the proposed stack –
- A. Mmm.

Q. Then we are bringing into that environment aren't we, one more significant element of the motorway infrastructure?

A. We are indeed.

5 Q. And that changes ones perception that we're into a residential scale because it's much bigger than that?

A. Yes if one was looking at it purely in those terms, you're absolutely right I have to accept that.

Q. Which terms are you looking at it in?

10 A. Well it's an integrate outcome isn't it because the ascetics and the function are related matters.

Q. So to you, it's desirable that the stack be close to the other buildings?

A. It is.

Q. And is it desirable that somebody driving along perceives the stack and the other buildings as being functionally connected?

15 A. I think over time that will definitely be the case.

Q. Do you accept that other people might have the view that they don't care what those buildings have inside them, and what the function is?

A. That' is – that's also possible.

20 Q. And that if by disregarding the function they are able to remove the stack from the midst of those buildings, that would be beneficial too?

A. It would be beneficial to those people yeah.

25 Q. Now you've spoken at some length regarding the sculptural elements of the building and if I can take you please to paragraphs 549, and 551 of your evidence, I'd like to go through the reasoning that you've set out there.

A. Yes.

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

Page?

### **MR ALLAN:**

30 It's page 19 of his evidence sir.

1135

**CROSS-EXAMINATION CONTINUES: MR ALLAN**

- 5 Q. I'll begin with 549, you say, "I reject the proposal to put the stack on the other side of Great North Road, on two grounds. First ground is the area is a public reserve and the permanent use of the reserve land is in my opinion inappropriate, given that other peripheral space would be required for service access and security issues and would further compromise reserve activities." I want to ask you, well start this way. That sentence reads to me as if it is the fact that there's "peripheral" space that would be required for other functions that causes you to say, "I reject this proposal," am I right in reading that?
- 10 A. Yes, at the time I was under the understanding that there would be peripheral uses around the edge of that building, which would have another effect essentially.
- Q. And was it the cumulative effect of those elements that caused you to have some concern about that location?
- 15 A. No, not solely. The big issue for me is the reserve issue.
- Q. So you're saying we shouldn't use reserve land at all for these things?
- A. No, that's not necessarily true, I mean Oakley Creek for me and for many Aucklanders is gaining in significance, it's just not a local reserve anymore. Because of its length, its connectivity, there's a lot of focus on this reserve from a lot of parts of the community and there's also a lot of restoration going on in there and it's a highly utilised reserve. Now the other issue about it, is that it is a green space, which does have some significance as part of the Great North Road continuing. And that in itself brings it into some prominence and significance as a green open space.
- 20 A. Yes.
- Q. Let's look at that plan of Mr Walters, annexure E. He's put in there an alternative vent stack 1 location, do you see that?
- 25 A. Yes.
- Q. And that's the one I'd like to discuss with you. The footprint of that alternative vent stack 1 is quite small isn't it?
- 30 A. Yes they're relatively small, yeah.
- Q. And it's right on the edge of the reserve –
- A. That's correct.



Q. – in the sense that it's right hard up against, well as close as one can come to get, to Great North Road?

A. Yes.

Q. And Great North Road is a piece of urban infrastructure?

5 A. Yes.

Q. As is the BP service station, a short distance to the north on the same side of the road?

A. That's correct.

10 Q. Now you've talked about Oakley Creek Reserve's length and its connectivity?

A. Yes.

Q. This is a very small part of that much larger reserve isn't it?

A. That is correct.

15 Q. And would you accept that if one had to put a stack on that reserve this is about a good as spot as you could get in terms of its peripheral nature?

20 A. In terms of the peripheral nature of that potential choice. But I do have to add to that, the scale, we come back to the scale issue as well as the location issue. The scale of that stack is actually going to have a significant effect on the scale of the reserve itself. It will read as a very significant element and it's going to read as a significant element wherever we put it. So therein lies the choice, do we keep the integrity of some functionalism or do we put the stack next to an area of open space which has a whole range of other functions and meanings for the community and therein lies the dilemma. And I have to admit it's a dilemma.

25 Q. If I'm down in the valley in Oakley Creek, I'm probably not going to be noticing the stack too much am I, I've got a lot of vegetation around me, a stream to look at and a whole lot of things that keep my attention?

30 A. That's correct.

Q. If I'm walking up, I think it's called is it the Glades, Waterview Glades?

A. Yes.

Q. Across the Glades, I'm going to see the stack in whichever location it's been placed in aren't I?

A. You are.

Q. And it's still going to be the major visual element that I see?

5 A. It is, but I think we're all accepting that –

Q. And it's going to be in a fairly similar sort of –

1140

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

Just pause. He didn't finish.

### **10 CROSS-EXAMINATION CONTINUES: MR ALLAN**

A. And I think we're all accepting these realities about this element.

Q. It's going to be in the same sort of visual arc?

A. Yes it is.

Q. As it would be now?

15 A. Mmm.

Q. But if I – if it's placed in alternative vent stack 1 location one would expect, wouldn't one, that there was going to be quite a lot of planting around it –

A. Yes.

20 Q. – because it might reduce or soften its visual effect?

A. I don't think planting is going to reduce or soften the visual effect of this structure.

Q. At all?

25 A. Oh around the base of it, yes. It – this structure is going to read wherever it is located.

Q. Now I'm going to suggest to you that in terms of the public's experience of Oakley as a whole, the difference in impact in terms of locating the stack at the current proposed location on the left-hand side of Great North Road heading north and alternative vent stack location  
30 1 on the right-hand side is pretty minimal?

- A. I'm not su – I'm not convinced that that is true. I still believe that by locating it on the other side, I do believe that it is going to take on some, a different sort of effect and prominence.
- 5 Q. One of the elements which is different is going to have a lot more effect upon the school, isn't it, on the left-hand side of the road heading north?
- A. On the school grounds itself, yes.
- Q. And the exercise –
- A. Definitely.
- 10 Q. – that the Board's having to go through is one of weighing up the various pluses and minuses and trying to form –
- A. That's correct.
- Q. – a view based on some kind of prioritisation of the importance of various –
- 15 A. That's correct.
- Q. – receiving audiences? Move through your evidence to paragraph 5.50 you say the second reason is that while the Unitec escarpment rises above the Oakley Creek and contains the reserve corridor could assist in reducing the apparent scale and height of the ventilation stack. "The narrow enclosed landscape in my opinion does not afford the structure the prominence it requires to read as an urban sculpture"?
- 20 A. Yes.
- Q. Now the first part of that sentence to me says the new location, the location on the right-hand side of the road looking north, reduces visibility of the structure?
- 25 A. No – yes, there will be some assistance with the escarpment in reducing its apparent size and scale.
- Q. So it's –
- 30 A. But it won't be great.
- Q. – impact...
- A. But it will, it will help.

- Q. But what that first part of the sentence says is, I read from that, is that by reducing visibility we can have some beneficial effects in terms of the pure visibility of the structure?
- 5 A. Yes. Yes we've got to come back to the fundamental design construct that's underpinning this, and that is the whole idea of the design scenario that is now in the decision making forum, is this idea of a sculpture. And for the public sculpture to work, in my opinion, it actually needs some prominence because that's its purpose. It's a piece of public art.
- 10 Q. Because the second part of your sentence says if you move it it isn't visible enough?
- A. In some ways that's true, yes.
- Q. Does Waterview need a sculpture Mr Scott?
- A. Not necessarily, but where opportunities arise I think these are elements that do become very positive landmarks, I guess, in a community.
- 15 Q. You see that's encapsulated the issue.
- A. Yes.
- Q. You talked about a positive landmark.
- A. Yes.
- 20 Q. I'm going to suggest to you that the response – let's talk, call it a sculpture. The response to sculpture is an emotional response, that's the nature –
- A. Yes it is.
- Q. – of art?
- 25 A. Yes it is.
- Q. And our response to art is a function of things like context. What do we know about the design? What do we know about the language that's being used?
- A. That's right.
- 30 Q. What do we know about the function and what do we know about the purpose? Are those all things that influence our response to art?
- A. Of course, mmm.
- Q. So you say the sculpture is a celebration –
- A. Yes.

- Q. – in the answer to one of the questions from my friend. What exactly is the celebration of for the community of Waterview?
- A. Well the issue is, is that there's a functional need to locate a structure of this scale in this particular area as part of the implementation of this infrastructure. So we're actually sitting with a reality. We need this structure for functional reasons. Now here is the celebration, here is the opportunity, from a design sense. To actually turn it into something which could become a celebration. That's a very real opportunity.
- 5
- Q. There's another opportunity – or there's another possibility, isn't there, which is it turns it into something that becomes a reminder, and a very obvious one, to the community that NZTA came in one day and put a motorway through their midst –
- 10
- A. That's right, mmm.
- Q. – and planted a stack –
- 15
- A. That's right.
- Q. – right next to their school?
- A. That's correct.
- Q. That might lead to some negative responses mightn't it?
- A. It always is. There's always going to be that dilemma.
- 20
- Q. And isn't it the case that the people – I guess it's looking forward and trying to make a guess to how people respond – but, isn't it possible that the people who respond most negatively to the sculpture may well be the people who are living closest to it?
- A. They may well be, and I accept that.
- 25
- Q. Do you think that when we're weighing up all these factors the opinions of the people who live to the sculpture, or who send their children to the school that's underneath the sculpture, might have greater weight than the opinions of those of us who drive down Great North Road weekly, daily, monthly, whatever?
- 30
- A. Yes in many ways that could be so, but also as I start – when I started out, we are actually in an area where there is more than one community, and the community actually using this space as a functional space is also a critical part of this community. It's as simple as that. So it is all about which of the very finely tuned elements that we need to balance

here, one goes with professionally, and I think I've given my opinion on that.

Q. And as we said earlier that's an opinion based on the level of information you've had to date?

5 A. Yes, yes.

Q. With respect to preferences –

A. Yes.

Q. – with public?

A. Yes.

10 Q. And that's not particularly great.

A. Well I've always understood that the community would have – has the attitude that they have had towards that, yes.

Q. So what's your understanding at the moment of the community's attitude towards the northern stack?

15 A. Well there is, there's an attitude that they would like to see it shifted to another location, and I understand that. They see it as a negative element at the moment.

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

Friends of Oakley Creek, Ms Docherty.

#### **20 CROSS-EXAMINATION: MS DOCHERTY**

Q. You attended the landscape caucusing, an agreed outcome of which was a proposed 10 year maintenance period in condition LV5, is that correct?

A. Yes that's correct.

25 Q. Earlier in the memorandum of counsel on behalf of NZTA dated 10<sup>th</sup> of February 2011 this proposal is rejected, has been rejected?

A. Yes I understand.

Q. Do you accept the importance of landscaping in permanently visually mitigating the effects of this project?

30 A. Oh definitely. I believe that the landscape is one of the other big opportunities here. We have a road and then we're going to have a new landscape, and that is a huge outcome, positive outcome.

Q. Do you consider that a five year maintenance period would be long enough to ensure the successful long term performance of the mitigation plantings or landscaping?

1150

5 A. Yes, well I did mention a five year term in my evidence when I questioned the two year term. But always, as we know from experience, the longer the term of implementation and maintenance the better the result.

Q. So you stand by the 10 year –

10 A. Yes.

**THE COURT: JUDGE NEWHOOK**

Mr McCurdy, Star Mills?

**CROSS-EXAMINATION: MR McCURDY – NIL**

**THE COURT: JUDGE NEWHOOK**

15 Member Dunlop?

**QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP**

Q. Mr Scott, I've been following the line of evidence about the potential landscape and visual effects that would occur on State Highway 16 between the Te Atatu Road interchange and Henderson Creek. It was  
20 Mr Brown's evidence that there is substantial vegetation along that interface, that edge, which would be removed and not as I understand it replaced to any great extent?

A. That's correct.

Q. And you've addressed the same matter in paragraph 5.13 of your  
25 rebuttal?

A. Yes.

Q. My question of you is whether, having looked at the urban design and landscape plans and the noise mitigation walls, and the relevant conditions which are cross-referenced into the urban design and  
30 landscape framework?

A. That's correct.

Q. Whether you, what degree of confidence you have that a satisfactory outcome will be achieved for the residents along the edge that I described in opening?

5 A. Yes, during caucusing, because this is quite important, one of my central issues that was to be discussed was the issue of the noise walls and the opportunities associated with them. During the caucusing the urban designers and Mr Brown, the landscape architect, gave me a much deeper insight I guess into the intent of that urban design  
10 framework, and I have to say that I was a lot more comfortable with their – once I'd heard their specific answers, rather than being able to actually find those answers myself, you know during my assessment. So I guess, not totally satisfactory but as good an answer I believe as we can actually expect. The disturbing thing for me is the removal of  
15 the scale of the vegetation that is actually going to occur.

Q. If we look at F17, the noise walls on sheet 101 and there's a key that goes with that, if I understand it correctly the green indicates three metres high and the yellow three and a half metres high?

A. Yes.

20 Q. And then if we have a look, which I think you would agree is quite a significant height?

A. Yes it is.

Q. And then if we have a look at the urban design and landscape brainwork at figure B27 and some of the illustrations that are in that  
25 area, you get an indication of the scale of planting that would be possible at the base of those structures?

A. Yes, sorry I'm not –

Q. Do you have the framework with you Mr Scott, the urban design and landscape framework, as opposed to the management plan?

30 A. No, no I'm with you. I'm not sure if I have actually. Sorry I've got so much in front of me.

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

Ms Linzey can pull it up on the Ipad for you.



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

Q. B27 is the, seems to be the relevant drawing.

**THE COURT: JUDGE NEWHOOK**

5 I think Mr Scott had probably better get the book in front of him because otherwise there's going to be an awful lot of darting and diving around in the Ipad. So if somebody on the council team would please – or the NZTA team, would please get this framework book and place it in front of Mr Scott. One of the EPA team's gone in search of one that's within their captivity.

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

A. Sorry, could you repeat the page reference now?

Q. Yes, figure B27, which is on page B24.

A. Sorry, on page?

15 Q. B24?

A. Yes.

Q. At the same time Mr Scott you could have a look at page B15, put a pencil or a finger in there?

A. Yes.

20 Q. My question is whether the scale of planting that's illustrated on B27 and I think it's the drawing in the bottom left-hand corner, which is got a wall and a cycleway?

A. Yes.

25 Q. What is your view on the ability of planting on that sort of scale to mitigate the effects of walls that are proposed to be three and three and a half metres high along this southern section of the motorway?

30 A. Yes, it's – I have to say that it's not replacing like with like at this point in time. What we do have here now is a totally different approach of actually introducing a range of aesthetics including the nature of the wall, the material of the wall, the (inaudible 11:59:24) and the association of planting with that hard element and that has been the

proposed mitigation technique. But it's not going to be "the same" again, it's a different approach.

Q. If we go back to page B15 and figures B12, 13 and 14, what comment do you have on the proposed design of those noise walls

5

1200

A. Yes.

10 Q. What comment do you have on the proposed design of those noise walls, which as I understand it would be an example of what may be deployed along the edge that I've referred you to?

A. That's correct, which is really essentially echoing the statement that I have just made.

15 Q. Right.

A. As it's a different, a totally different design approach and –

Q. Well what I'm looking for sorry pardon.

A. – I mean I find it quite positive from a design perspective.

Q. You know what's going to be my next question?

20 A. Yes.

Q. Whether you felt that there was any enhancement or different approach, but without wanting to put words in your mouth you think that it's more or less on an appropriate track?

A. That's correct.

25 Q. Right.

A. I don't – see I don't know whether the scale of the trees for example in figure B 12 –

Q. Yes.

A. – are actually illustrated at their finished scale.

30 Q. No. But if you go back to B 27 you could see how those cabbage trees that are shown in B 12.

A. Yes.

Q. Could be replicated perhaps?

A. That's absolutely correct.

Q. Right and that would give some vertical scale to the horizontal treatment that's illustrated in B 27?

A. That's correct, yes.

Q. So if we come back to the conditions –

5 A. Mhm.

Q. – Mr Scott in LV 1.

A. Mhm.

10 Q. On page 42, it explains that the urban design and landscape plans are to be reviewed and revised in accordance with the conditions and submitted to the council for certification that they comply with the conditions or the consents and designation, prior to construction the plans shall include A planting to screen houses, and particularly relevant to my line of question, and noise walls?

A. That's correct.

15 Q. So there's going to have to be more detail provided there as I understand it and do you see scope of further detail?

A. Oh, absolutely and that was an issue that I did raise both within my evidence.

Q. And if we go – beg your pardon.

20 A. And also a caucusing, and I think I had quite lengthy introduction about the relevance of implementation and ensuring that the proposals, which are all positive proposals, do go through some refinement process. Because just simply because of the nature of the project and how it's going to morph over time.

25 Q. Yes. If we turn over to LV.2 Mr Scott.

A. Yes.

30 Q. We see that the urban design and landscape plans which are referred in cross reference to F 16, "Shall be revised to take into consideration the following, finalisation of the noise barriers as required by OM3 in accordance with the design principles for noise walls in the urban landscape and design framework."

A. That's correct.

Q. Which takes us back to where we were before?

A. Yes.

Q. So I think probably my last question is whether in your experience it would be appropriate should consent be granted for more detail to be added to F 16 and may be some other background documentation?

A. Yes.

5 Q. As part of any consent that might be granted, or whether it's appropriate to leave that to just come through the implementation phases of project?

A. Yes therein lies the other dilemma which – and how much energy does one put into to shoring up the conditions of consent to make absolutely  
10 sure or is there another process which is part of that a semi informal requirement that will continually happen. The condition a consent of course is always a desirable approach, but if we can get the right and appropriate words.

Q. Or drawings?

15 A. Or drawings, and both yes.

Q. Yes. So ultimately it's a matter of judgement between –

A. Yes it is.

Q. – the process whereby these things might be allowed to evolve?

A. Yes.

20 Q. A further creative thought is given to them?

A. That's correct.

Q. And securing the appropriate degree of certainty at the consenting stage on the other hand?

A. That's correct.

25 Q. So the final question would have to be, do you think the balance is appropriate at this juncture?

A. I think at this juncture, because in reality there is some uncertainty of outcome still, and because things will change on the ground, that is a reality. A project of this scale can never be totally tied down upfront  
30 unfortunately.

Q. Thank you Mr Scott, and thank you for bearing me as we worked through some pretty complicated documentation.

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

**MR DORMER:**

No questions of Mr Scott but one request of help from Ms Devine if I may. Ms Devine you've referred on a number of occasions to the Albert/Eden ward having the lowest proportion of open space reserve of any ward in the city.

5 And I'm sure I must've read it in the evidence somewhere, but could you direct me at some convenient time to where that appears in the evidence?

**MS DEVINE:**

I could do Mr Dormer, I can also – I'm sure it will come up in relation to Mr Beer's cross-examination as part of what counsel has.

10 **MR DORMER:**

And will he have maps showing the ward boundaries where that issue can be pursued?

**MS DEVINE:**

15 I'm sure I can produce elicited some documentation that might be produced by him if necessary sir.

**MR DORMER:**

I should disclose in this regard that in another life I was solicitor for Mt Eden and the city solicitor for Mt Albert and we used to run that argument quite a lot in those days.

20 **MS DEVINE:**

You'll be familiar with that then Mr Dormer.

**MR DORMER:**

I will.

**THE COURT: JUDGE NEWHOOK**

25 In fact it's Member Dormer's fault.

**MR DORMER:**

I do remember the council avidly – both councils avidly seeking money rather than land by way of reserve contributions. But yes I'd appreciate some maps and things like that.

**5 MS DEVINE:**

Certainly sir and we could perhaps address some references in the legal submissions for the Board.

**QUESTIONS FROM THE BOARD: MR DORMER**

10 Q. Yes, thank you. Thank you Mr Scott – wait a minute, you're familiar with Victoria Park Market I imagine?

A. Yes, yeah reasonably.

Q. And the big chimney that sticks up into the sky there?

A. Mhm.

1210

15 Q. Are there any useful parallels, comparisons we might draw from that structure, that might assist in understanding here?

A. Well in the sense that that chimney has a direct functional relationship with the original use of that building.

Q. Which was as an incinerator wasn't it?

20 A. That's correct. Of course today it's taken on a more artistic understanding in the general public perception. I mean it's a significant element in that part of town, yes. So its function might have morphed, but over time this whole idea of condition familiarisation is what sometimes seeps these elements into our psyche in our community.

25 Q. The function of this stack isn't going to morph is it?

A. No, it's – well it may well do in people's perception.

Q. Do you think the...

A. It would certainly become a landmark and an icon. Potentially, if it's designed well of course.

30 Q. My perception is that the function of the Victoria Park stack might have morphed, might have become more a treasured item in our community

landscape once the building was no longer used for its original purpose. Are my suspicions perhaps correct?

A. Yes, yeah.

5 Q. Thank you for that, that's the only one I can think of that's – may provide anything.

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

Q. Mr Scott, the design of the noise barriers, particularly the concrete ones, there's such a vast range available isn't there? There's the very pretty ones under Auckland Central at the moment with kowhai –

10 A. That's correct.

Q. – imprinted on them?

A. Mmm.

Q. So I guess what I'm after is some sort of more final design of what we're expected to approve, or decline.

15 A. Mmm.

Q. So the drawings that we have at the moment, are they likely to change much?

A. In my understanding, probably not. There is a themed approach to the different parts of the motorway, that's my understanding, within the urban design framework. So there's a series of types and style which sit within those themes which have been essentially designed, or promoted.

20

Q. Do you think concrete noise walls have been used too much and do you think they're user-friendly?

25 A. Of course the concrete noise wall, I mean its main function is of course that, just that, noise. And what – it's been a movement, not just in New Zealand, but internationally to actually try and soften the effect of those through another design approach, which is superficial if you like, or sufficial or using different textures, and so on.

30 Q. From the original application we've seen a significant change in the design of the vent stacks?

A. Yes.

Q. Both in height and in amenity value.

A. Absolutely.

Q. My question is, are you aware of the community's general opinion on whether they think it's enough improvement?

A. No I'm not, I'm sorry.

5 Q. So we'll hear from submitters?

A. Yes.

Q. Okay. Do you consider that the design of the stacks at the moment, the basalt and the flax, do you think they're appropriate for the area?

1215

10 A. I think as an initial effort I was very presently surprised with the creative energy that did go into that, it is a significant departure from the original application. And maybe there is some way to go yet, we don't know.

Q. Because really it's a blank canvass at the moment isn't it?

A. It is.

15 Q. And it would be really terrific if Waterview was to end up with something that the community was proud of?

A. Oh, absolutely –

Q. Yeah.

A. – there's no doubting that yes.

20 Q. So one would hope that if the community is happy with it that it doesn't change too much again?

A. That's correct.

Q. Thank you.

A. Thank you.

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

Q. Mr Scott just one brief question, just going back to the theme that you just talked about with (inaudible 12:15:49)

A. Yes.

30 Q. The proposal is for the stack – the ventilation and stack buildings to have an outline plan, there's no proposal for that for the walls and it seems to be a theme that ties the fence, that buildings and the walls together?

A. Yes.



Q. Would you envisage that there would that same consultation and change process (inaudible 12:16:15)?

5 A. Yes it could in those particular specific areas there could be some opportunity of some more integrated design associated with the buildings, the stack, and there are associated wall structures. But they have been designed quite comprehensively, well the construct is to design them comprehensively. For example you can see the portal shapes and the fenestrations and the materials have all been purposely designed to integrate with each other.

10 Q. Thank you I appreciate that.

A. Yes.

Q. I'm just wondering that if say there is a change –

A. Yes.

15 Q. – in the ventilation and stack buildings, you know because it is going to be going out for community discussion whether or not having fixed designs for the noise walls, would actually be a bit of hindrance?

A. Yes, I guess I stay with that last statement, because if there was a change in the design in a sense that should be reflected in the immediate, the other immediate elements around, around those designs  
20 yes.

Q. Thank you.

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

25 Q. Mr Scott you're in favour of – or you have praised in a qualified way the construct drawings and attempt to introduce mitigation around buildings and stacks. And I think you're in support of conversion of this aspect of the project from outright consent to an outline plan procedure?

A. Mmm.

30 Q. And I rather imagine that you wouldn't want to tie the hands of future designers engaging that process to an undue degree?

A. No.

Q. The law on the lines of Member Dormer's questions to you –

A. That's right.

Q. – and putting aside the Victoria Park Market stack which was interesting. You've been to the Wellington waterfront?

A. Yes.

5 Q. And you've seen the Heritage cranes standing on the edge of the wharves?

A. Yes.

Q. Have you been to Cockatoo Island in Sydney?

A. No I haven't actually sir.

10 Q. The old ship yards and vintage cranes and other objects which are how somewhat admired in the community?

A. That's correct.

Q. My question for you though is this, those places haven't really departed from their industrial roots have they?

15 A. No they haven't, there's a long lived historic reference to those design elements, yes.

Q. Yes. And they aren't really part of residential communities or even hard up against residential communities are they?

A. No they're not.

Q. Those sorts of places.

20 A. Mmm.

Q. How do you bite on this then, if consent is granted and this an aspect of the consent goes into an outlined plan solution and designers are led into it. Might one recommend the – or even require the avoidance of industrial design in this residential community and adjacent to this important Oakley Creek reserve that you say is growing beyond a neighbourhood reserve and into something of perhaps regional importance?

25 A. Yes, I think the design references in terms of the outcome which, you know, would be desirable, does have to come from themes that are actually sitting in that environment. Now I think the construct approach has attempted to do that with the nautical theme and also the appropriate vegetation and –

30 Q. Oh but that's –

A. – that's where the flax came from.

Q. Where those bubbles that are around, thanks for that.

A. Yeah and all those things, which is growing on me. But I think –

Q. Just as the Sky Tower has grown on the community, but Mr Allan's BP service station hasn't all right. I just couldn't resist that Mr Allan.

5 A. But I think the design brief needs to reflect those sorts of elements, because this is quite a complex environment. Sure, there's a residential component to it, but it's already part of a major transport infrastructure route and it's also got the educational institute. So – and it's also very much part of that upper Auckland estuarine area. So these are  
10 elements that could be bought into the thinking of that particular opportunity, as I see it.

Q. Yes.

A. So –

Q. But I think can we just get back to my question.

15 A. Yes.

Q. I just want a response from you, I suspect that this aspect of consent's going to be forthcoming, this aspect is going to have be worked around somewhat more amongst those who are conversant with drafting conditions of consent –

20 A. Yes.

Q. – and writing management plans and –

A. That's right.

Q. – the like of it. Might one actually go so far perhaps as providing some guidance that something shouldn't look industrial in this particular  
25 location? I'm thinking the northern building stack particularly, maybe the southern ones as well.

A. I don't think it necessarily should look industrial in that – in the hard specific sense of industrial. I think it actually could take on a different mantle. I mean it is a transitional space.

30 Q. A mantle more referable to infrastructure than in –

A. Absolutely, and the –

Q. – industrial?

A. – coast it's on –

Q. Is that what you're saying?

35 A. Yes.

- Q. I think we might be needing to think some more about this.
- A. Yeah.
- Q. And I've got a question for Ms Linzey in a moment, but that's all I have for you.

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

**WITNESS EXCUSED**

**THE COURT: JUDGE NEWHOOK**

Now while Mr Scott is leaving the witness box and before we have the next witness – just have a seat for a moment Mr Lanning – Ms Linzey, the questions that Member Dunlop was asking this witness and, perhaps to a lesser degree, the questions I was asking, do raise an issue that perhaps you've been addressing in producing the next 120 page version of draft conditions, I don't know. But questions built around that framework document that Member Dunlop was asking particular questions about, and for me it actually comes back to statements found in part A2, the purpose of the framework, remembering all the while that this was a non-lodged document, but did inform the assessment of effects on the environment. We have in there statements for instance found in A2.3. "It is not the purpose of this document to determine or describe the extent of mitigation to identify the effects of the project. The ULDF does however provide details and concepts which have been used in the AE to assess the project where appropriate in the recommendation of mitigation for the project. In other words it has informed design concepts for mitigation planting." Now several of us, in a way all of us, have been asking questions about how community expectations can occur and then be understood, recognised, addressed, retained and without getting prescriptive about necessarily what is going to happen, perhaps along the lines of Member Jackson's questioning, nevertheless obtaining some reasonable expectation and importantly, probably from the legal point of view, some extent of linking between conditions of consent and materials like the framework document. So while that document's been important for the NZTA consultant team, it's in danger, at this time, of being just in limbo or ignored unless there's something that I've missed in the draft conditions, and I don't pretend to know them backwards by any manner of means. Is that something that can be worked on?

**30 MS LINZEY:**

Yeah, yes. There are a number of conditions that make mention –

**THE COURT: JUDGE NEWHOOK**

Could you just take the microphone closer to your position, thank you.

**MS LINZEY:**

- 5 There are a number of conditions that go back and make mention of section B, in particular, of the urban design framework and they are where there is an acknowledgement that some subsequent design needs to be taken forward, and usually with a consultation process embodied in it. So the intention is that you draw from those design principles again in some of that redesign element.
- 10 In areas where the proposal has moved from that design principle into the plans, so the principles of the urban design landscape framework have been drawn forward into the urban design plan –

**THE COURT: JUDGE NEWHOOK**

- 15 They drop down to a terribly general sort of expression in the F series plans, don't they?

**MS LINZEY:**

Yes, right.

**THE COURT: JUDGE NEWHOOK**

- 20 They're lines on aerial photographs.

**MS LINZEY:**

In terms of the actual – in terms of the plan with the –

**THE COURT: JUDGE NEWHOOK**

- 25 And a key with a reasonable sort of description of the –

**MS LINZEY:**

Yes, yeah yeah sure.

**THE COURT: JUDGE NEWHOOK**

- plan, but they become terribly general at that point. So some of this material for instance about sort of quite interesting design work I think one sees about the articulation of noise barriers. I don't really get the flavour of that coming  
5 through into the notes on the key in the F series plans. And they could get lost.

**MS LINZEY:**

It – yes, it's, I suppose it's a level of detail of how much gets into the  
10 conditions, but we can certainly have another look at the F series plans.

**THE COURT: JUDGE NEWHOOK**

It might remain a question of informing the ultimate design, but at the moment some of us are inclined to think the link is too weak. You may, in bringing an answer to us, soon, perhaps rather than later, I'm not saying it has to be  
15 tomorrow, but as soon as you can, I'll be listening to other witnesses and so that they can also understand the concepts. Point us in the direction of the particular conditions that you say refer to part B of the framework document, and also any objective comments that you might have for strengthening of the link, if it occurs to you that something could be done along those lines. The  
20 framework document is a very interesting one and clearly is an important tool in the work of the consultant team. We just think it's potentially at risk of being somewhat lost.

**MS LINZEY:**

25 Thank you, I can – sir perhaps if I can just provide an initial response. There is, and there has always been an intention, to specifically incorporate the design principles of section B and at the moment that's in – and I don't know if this is completely, but it's DC8 which is the outline plan of works, DC9.

**THE COURT: JUDGE NEWHOOK**

30 Page?

**MS JANISSSEN:**

Page 3. So that's the outline plan of works for the northern vent building. The final form of those buildings shall be in accordance with the design principles of section B and the following requirements. So it's got quite a high priority there. Over the page –  
5 1230

**THE COURT: JUDGE NEWHOOK**

Yes.

**MS JANISSSEN:**

10 Over the page on –

**THE COURT: JUDGE NEWHOOK**

And not surprisingly Member Dunlop drew my attention to DC 8 D while I was asking my questions to Mr Scott about the industrial aspects.

**MS JANISSSEN:**

15 Yes, and then sir also DC 9, the same provision applies in terms of a design of the southern ventilation buildings and stack shall be in accordance with design principles of section B. And the next most relevant reference is on page 43, which I think has already come out in question from the board members. Landscape and visual condition 2A, that finalisation of the noise  
20 barriers in accordance with – but I appreciate your – page 43 sorry sir.

**THE COURT: JUDGE NEWHOOK**

Yes if –

**MS JANISSSEN:**

But I appreciate your concern and we'll go back and look at the plans as well  
25 to see if they sufficiently incorporate reference to those principles.



**THE COURT: JUDGE NEWHOOK**

Yes the draft conditions are extensive and one never wants to see something so bound up that it's utterly set in concrete and complete inflexibility emerges that frustrates good further design work. But I think it is important to have  
5 these links.

**MS JANISSEN:**

Certainly.

**THE COURT: JUDGE NEWHOOK**

So thank you for that offer. All right now is Mr Cussins available again  
10 Lanning?

**MR LANNING:**

Yes sir.

**MR LANNING CALLS****ANTHONY CUSSINS (SWORN)**

Q. Is your name Anthony (inaudible 12:32:39) Cussins?

A. It is.

5 Q. And you've produced a statement of evidence for this hearing dated the 16 of December 2010?

A. I have.

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

10 A. I do.

Q. Do you have any corrections or amendments you should make to that evidence?

A. I don't no.

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

15 A. I can confirm that.

**THE COURT: JUDGE NEWHOOK**

Yes good afternoon Mr Cussins, no questions from parties. Member Hardie do you have any questions from Mr Cussins?

**QUESTIONS FROM THE BOARD: MS HARDIE - NIL**20 **THE COURT: JUDGE NEWHOOK**

Member Jackson?

**QUESTIONS FROM THE BOARD: MS JACKSON**

Q. Just one thank you. Mr Cussins the disposal off site of contaminated fill where is it going?

25 A. There are various disposal options for the fill, one of the processes under the management plan is to characterise materials which will then be into three groups of either clean fill, managed fill, or to licensed landfill. And depending on the quality of those materials and that identification process, they will then go to one of those clearly licensed  
30 destinations. But I don't understand that those have been finalised until

that process is through, but they will go to either one of those three categories of license facilities.

Q. So if contaminated fill is to be trucked to a dumping site somewhere, are there going to be conditions in place where it's covered so that there's not dust blowing all over the road as it goes?

5

A. Yes, with reference to the contaminated soils management plan, my review of that indicates and confirms to me that all the management process will be in place that that material will be transported appropriately and safely to its disposal facility.

10

Q. Right thank you.

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

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

**QUESTIONS FROM THE COURT - NIL**

**WITNESS EXCUSED**

15

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**MR LANNING CALLS**

**JANET PETERSEN (AFFIRMED)**

Q. Is your name Janet Petersen?

5 A. Yes.

Q. And have you produced a statement of evidence-in-chief for this hearing dated 17<sup>th</sup> of December 2010?

A. Yes.

10 Q. And have you produced a supplementary statement of evidence, dated 24 February 2011?

A. Yes.

Q. And do you have the experience and qualifications set out in paragraphs 1.1 through to 1.5 of your evidence-in-chief?

A. Yes.

15 Q. Do you have any corrections or amendments you wish to make to any of that evidence?

A. No.

Q. Can you please confirm that both of those statements of evidence are true and correct?

20 A. Yes they are.

**CROSS-EXAMINATION: MS JANISSEN**

25 Q. I'd just like to refer to the two remaining areas of disagreement with the experts. The first relates to construction effects and conditions relating to construction effects. Isn't it correct that the provisions that you're concerned with are already contained within the construction air quality management plan?

A. You'll have to refer me to the page numbers.

Q. Certainly, at section 1.2, pages 2 to 3.

**THE COURT: JUDGE NEWHOOK**

30 This is G series?

**MS JANIISSEN:**

Yes sir, sorry it's G series, it's G1.

**CROSS-EXAMINATION CONTINUES: MS JANIISSEN**

A. Yes.

5 Q. And within the management plan then it provides, "That the requirements of various statutes, regulations, consents with a common aim to avoid remedy or mitigate and in order for the construction of the project to comply with all requirements, the discharge of dust, odour and hazardous air pollutants from the site must comply with the following, which is commonly known as the no nuisance policy." Then  
10 it incorporates in effect those conditions that you have been seeking to be added to the designation?

A. Yes.

**THE COURT: JUDGE NEWHOOK**

15 Page, the page in G1.

**MS JANIISSEN:**

Sorry sir, it's page 2 under appendix M, section 1.2

**THE COURT: JUDGE NEWHOOK**

20 I'll find it later thank you. I understand it I think well enough for the moment.

**CROSS-EXAMINATION CONTINUES: MS JANIISSEN**

Q. So isn't it correct that by virtue of the construction air quality conditions which refers to the implementation of the management plan, they are in effect already included as part of this project?

25 A. Yes.

Q. So what you're asking for is a repetition again in the conditions, which simply adds to the wording?

A. It's to incorporate for certainty to put into the consent conditions.

Q. But isn't it correct that the consent conditions already incorporated implementation of the management plan which incorporates those conditions?

A. Yes.

5 Q. The next issue I'll relate to is your supplementary evidence and if I could refer please to your paragraph 6.1 and the top of page 5, this is to do with offsets.

**THE COURT: JUDGE NEWHOOK**

Sorry, give us that reference again?

10

**MS JANISSEN:**

Sir it's top of page 5 of the supplementary evidence of Ms Petersen.

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**THE COURT: JUDGE NEWHOOK**

15 Of last week.

**CROSS-EXAMINATION CONTINUES: MS JANISSEN**

Q. And you've indicated there that – I think you just state “the offsetting emissions warrant serious consideration for this project,” correct?

A. Yes.

20 Q. You've suggested no particular offset regime or condition in your evidence have you?

A. No.

Q. And you agree with Mr Fisher that any form of offset regime would require further work and how it would be implemented?

25 A. Mmm, yes.

Q. And is that because it's very important that any form of regime gets it right, so to speak?

A. Yes and also there's some work that needs to be done in terms of how that would be implemented in its.... Mmm.

30 Q. And that work hasn't been done yet?

A. No.

Q. What is the Auckland Council policy with respect to offsets?

A. We have no policy at the moment, but we will need to implement a policy under the national environmental standards, which will be promulgated shortly.

5 Q. So if some form of offsetting regime was implemented with this project it would be on the, essentially on the back of no policy that is currently in place?

A. At the moment, yes, but in future there may be policies.

10 Q. But in effect then you'd be almost creating policy by virtue of this proceeding?

A. I don't know whether that would create a precedence or policy. Somebody would be able to answer –

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

That becomes a legal question there Ms Janissen.

#### **15 CROSS-EXAMINATION CONTINUES: MS JANISSEN**

Q. Certainly. Actually that was leading straight onto my next question, is if there was some form of offset regime implemented here wouldn't that create a precedent for Auckland Council?

20 A. I don't think so because this is one of the largest infrastructure projects that have been, that are being built in Auckland for some time and so this may not set a precedence on that basis.

25 Q. If you've got an offset regime on the basis of exceedances, existing exceedances of PM 2.5 though, surely the council would also be required to require offsets for any other traffic generating activity within sector 9?

A. That would have to be investigated.

Q. But you couldn't apply – the council could not apply it for one project, but effectively ignore it for any other project?

30 A. I think you could choose to apply offsets based on the significance of your project.

Q. But at the moment you've got no specific policy in that regard?

A. That policy would need to be developed.

Q. And you have read the second supplementary evidence of Mr Fisher?

A. Just this morning.

Q. If I could refer you to that evidence please at paragraph 10, which deals with offsets.

5 **WITNESS REFERRED TO MR FISHER'S EVIDENCE**

A. Yes.

Q. Given that there is no current policy and there is further work to be done you would agree with Mr Fisher that for this project it would be difficult to implement?

10 A. I think you may not be able to implement it as part of the consent conditions, but you may choose to implement it as part of some other process.

Q. But I guess the purpose of this hearing as to what this Board should be imposing by way of designation or consent conditions if the project's  
15 approved, correct?

A. Yes.

Q. So this Board needs to make a decision of this hearing, correct?

A. Yes.

**THE COURT: JUDGE NEWHOOK**

20 Albert Eden Local Board.

**ALBERT EDEN REPRESENTATIVE:**

No questions thank you.

**THE COURT: JUDGE NEWHOOK**

25 Living Communities, Mr Allan. He's gone then he has no questions in that case.

**QUESTIONS FROM THE BOARD: MS HARDIE**

Q. Ms Petersen, with regards to condition OA5 there seems to be a requirement there for the NZTA shall undertake an investigation if  
30 there's an exceedance in the relevant air quality standards?

A. Yes.



Q. Does that give any certainty as to what's going to happen if there is an exceedance?

A. No.

5 Q. So from a regulatory point of view, in terms of trying to look at implementing the conditions, would you be able to implement it with that condition?

A. The clauses that we developed yesterday in caucusing would address that somewhat, although I understand there's some further drafting that might be required by the planners and that review panel would be  
10 investigating those things, and there may be some action as a result of those investigations.

Q. I'm not sure if I saw anything with regards to OA5 with regards to the caucusing yesterday. Is that somewhere tied up in the proposed ramifications –

15 A. OA5 relates back to OA2 and OA2 has been amended following the caucusing yesterday.

**MS JANISSEN:**

Perhaps Member Hardie I could assist there, the HC is looking at reviewing  
20 that condition because you're absolutely correct. My question next to it is "and then what?" So I think there needs to be a report to the council or something like that, but that will be addressed in the next set of conditions.

**MS HARDIE:**

25 Thank you.

**THE COURT: JUDGE NEWHOOK**

When are we going to see these by the way? Is there a printing press running is there?

30 **MS LINZEY:**

Well I have the set, but that's not much use to everybody else so yes, it's just a printing logistics, yes.

**QUESTIONS FROM THE BOARD: MS JACKSON**

5 Q. Ms Petersen, OO1 condition refers to the height above ground of being a minimum of 15 metres. To the community that means 15 metres and that's it, so in your opinion what would change, what condition would exist to mean that you have to go above the minimum height of 15 metres for the stack?

A. I don't know, but that would be up to the NZTA if they've felt that they needed to go higher than that. The minimum there is to ensure that the air quality effects are as stated in assessment of effects.

10 Q. So when it was said that if you reduce the stack from 25 metres to 15 metres there's not really any significant – or no more than a minor difference, surely that should just read “should be built to a height of 15 metres,” and leave out the “minimum”?

A. That –

15 Q. Maybe it should be “maximum”?

A. No. Well yeah I guess that's up to the NZTA. They are still in the process of designing their stack so that minimum allows them flexibility, but they may choose to revise those words.

20 Q. Okay, but I really do think that the community has a right to know what “a minimum of 15 metres” really means.

A. Okay.

**THE COURT: JUDGE NEWHOOK**

Perhaps something for others to think about.

25 **MS JACKSON:**

I think so.

**THE COURT: JUDGE NEWHOOK**

30 Q. We're going to be stopping in just a moment. I will indicate what my question's going to be and then I think we'll be pausing for two minutes, concerning the Christchurch situation. I want you to look at OA7 as dated 10<sup>th</sup> of February, the appendix 1 to Mr Fisher's second supplementary and your proposed draft OA7 and OA8 dated 28<sup>th</sup> of

February. So I'll put those in front of you and we'll now stop for two minutes in remembrance of the natural disaster in Christchurch.

1250

**QUESTIONS FROM THE COURT: JUDGE NEWHOOK**

5 Q. Ms Petersen I think you heard me shadowing the question before  
when I put it to Mr Fisher. Item 3 on appendix 1 to second  
supplementary, which he informs us part of the agreed, of the newly  
agreed conditions, this one being OA7, bears some resemblance to  
the drafts on the 10<sup>th</sup> of February. But OA7 as placed before us by you  
10 with yesterday's date is quite different and focuses in particular on PM  
2.5s for instance. Was he right when he said that he understood you  
to have come to an agreement with the others in the caucusing group  
over item 3, particularly given the attention paid in item 1 on that  
appendix 1 sheet to condition OA8 in the suggested appointment of a  
15 peer review panel?

A. Yes, and also he was able to, we were able to decide that the NO2 was  
the constraining pollutant in this circumstance in terms of the emissions  
from the portal.

Q. Yes, so that effectively became the yard stick did it?

20 A. Yes, yes.

**QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP**

Q. Ms Petersen do you have a copy there of the emission impossible  
report prepared for the Board dated the 25<sup>th</sup> of February,  
supplementary section 42A?

25 A. I do, yes.

Q. Can you just have a look at paragraph 50 please on page 8. It's a  
while since I've read this, although the 25<sup>th</sup> of February's not all that  
long ago. As I understand, what the authors are saying here is that  
policy 4.4.16 could be invoked to support, offset and approach in  
sector 9 and just to remind ourselves that policy reads paraphrased,  
30 "Any new transport projects which have the potential to adversely  
affect air quality, should be assessed at a level considered appropriate

for the size and scale of the project or proposal and shall consider the following matters.” And at (c), it’s, “Any alternatives or methods to mitigate effects on air quality et cetera, et cetera.”?

5 A. Yes.

Q. And it’s also my recollection from the materials, I haven’t got chapter and verse here, it’s my recollection that there’s a permitted activity in the regional air land and water plan that provides that discharges of air emissions created from motor vehicles running along the road, more eloquently expressed, is a permitted activity?

10

A. Yes that’s correct.

Q. Now what can the effect of policy 4.4.16 be in the face of the said permitted activity?

A. I think that’s a question for a lawyer to answer.

15 **THE COURT: JUDGE NEWHOOK**

I think that is an acceptable answer in the circumstances.

**COMMISSIONER DUNLOP:**

Thank you Ms Petersen. It’s one that you might have to deal with another day, on another occasion perhaps.

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

**RE-EXAMINATION: MR LANNING – NIL**

**WITNESS EXCUSED**

**MS JANISSEN:**

Sir, could I perhaps just ask one question before we adjourn, just with respect to the actual printing of these conditions. In response to your query of Ms Linzey about looking at as to how the urban design framework could be better incorporated. Would you like that to be addressed – I mean it could be addressed in a third supplementary statement which we're just about to print off or we could do it in the next one because I'm expecting there is going to be a fourth?

**THE COURT: JUDGE NEWHOOK**

10 I don't think we will have seen the end of the iteration so I think that one could await, but don't want it to fall between the cracks.

**COURT ADJOURNS: 12.58 PM**

**COURT RESUMES: 2.17 PM**

**THE COURT: JUDGE NEWHOOK**

Now Mr Lanning are you going to call Mr Clark?

**MS HARTLEY:**

5 Ms Hartley sir.

**THE COURT: JUDGE NEWHOOK**

Ms Hartley is going to call Mr Clark.

**MS HARTLEY:**

Sir Mr Clark's already in the box.

10

**MS HARTLEY CALLS**

**IAN DAVID CLARK (SWORN)**

Q. Is your full name Ian David Clark?

A. Yes.

5 Q. And you have prepared a statement of evidence dated 17 December 2010?

A. I have.

Q. Can you confirm that you have the qualifications set out in paragraphs 1.2 to 1.4 of your evidence?

10 A. I do.

Q. And Mr Clark do you have any corrections to your evidence?

A. There is one line of correction which is the footnote at the bottom of page 4, footnote 1, the page reference should be 105, and not page 98.

**THE COURT: JUDGE NEWHOOK**

15 Q. 105?

A. Yes.

**EXAMINATION CONTINUES: MS HARTLEY**

Q. And with that correction can you confirm to the board that your statement of evidence is true and correct?

20 A. Yes.

Q. Thank you please answer any questions.

**THE COURT: JUDGE NEWHOOK**

Yes, right thank you, Albert Eden local board. You're are – I'm sorry just remind –

25 **MS WILSON:**

Sorry sir, Ms Wilson for the local board.

**THE COURT: JUDGE NEWHOOK**

Ms Wilson thank you.

**CROSS-EXAMINATION: MS WILSON**

- Q. Good afternoon Mr Clark, just as a general way of qualifying your experience would it be fair to say that you have experience with the design and planning for pedestrian and cycle links?
- 5 A. More the planning side, I'm a transport planner rather than a traffic engineer.
- Q. In your experience have you ever had input into design guides for pedestrian links, of what might the good characteristics for those that include?
- 10 A. In a general sense yes.
- Q. Thank you. In respect of the gap in the pedestrian and cycle way, which runs between State Highway 16 and State Highway 20, in your evidence you express a concern don't you that the project is not as integrated as it could otherwise be in terms of other transport modes, is that correct?
- 15 A. That's correct I'm concerned of the missing link from the cycle way.
- Q. And in your opinion it would be more efficient to complete that connection together with this project, is that correct?
- A. That is my opinion yes, it's clearly undesirable to extend the current connection along State Highway 20, are not to keep going.
- 20 Q. And as a general proposition if there are more attractive cycle and pedestrian links available for people to use, then that will encourage them to use those modes of transport over and above using private vehicles, is that a fair comment?
- 25 A. Yes that is fair comment, I did do some research a few years ago which did demonstrate that if you provide cycle facilities you create your demand for cycling.
- Q. And so that supports a multi modal transport network doesn't it?
- A. It certainly does yes.
- 30 Q. In your evidence you state that the projection will have significant adverse effects on the local community, is that correct especially during the construction period?
- A. That qualification is correct yes.



- Q. And in your opinion will providing the full cycle way connection now, enhance the benefits of the project for the local community?
- A. I did note in my evidence the adverse effects during construction, the evidence of Mr Gottler, and Mr Murray gives details of the sorts of effects that we're talking about during construction. Such as narrowing lanes, reductions in speeds, and some temporary closures, so that's the main concern yes.
- Q. So providing the cycle way would be one way of offsetting some of those adverse effects?
- 10 A. That's correct if we can get good cycle connections then it may offset the likely increases in traffic congestion and the loss of productivity during construction?
- Q. Could that also be correct of the provision and upgrading of other links which might enable access to open space for example?
- 15 A. Yes it certainly could have and the single cycle way connection isn't the panacea for all problems so there could be other alternative connections provided.
- Q. Just moving back to the design of pedestrian and cycle links, is it fair to say the characteristics of a good pedestrian and cycle way would include good lighting and good safety?
- 20 A. Yes.
- Q. And it would be preferable generally to have less crossings and busy roads?
- A. Yes that's one consideration yes.
- 25 Q. Is it generally preferable for pedestrians and cyclists to be away from busy roads and noise and emissions, obviously where that's possible?
- A. It is acknowledged that they're different types of cyclists, certainly for recreational, less confident cyclists, then separation is very desirable. Some of the more confident cyclists are more concerned with a direction connection and therefore have less concern about being in with traffic. But certainly cyclists and heavy traffic are not a good combination.
- 30 Q. So in some cases a more direct route is preferable particularly if someone's commuting from point A to point B?

A. That's correct they are more concerned about time, and may be less about the pleasantness of the cycle trip.

5 Q. And you will no doubt be very familiar with the Great North Road interchange, and NZTA's proposed pedestrian and cycle link through the interchange, and then heading off towards Eric Armishaw Park, are you familiar with that?

A. Yes I'm aware of that.

10 Q. Would you agree that for a person wanting to get from Waterview across to Pt Chev and to Eric Armishaw Park, that the route proposed by NZTA is a relatively long route and it requires several crossings of a relatively busy road?

1425

A. I will accept that there's several crossings at various points of Great North Road at the interchange and it's not a direct connection.

15 Q. Would it be fair to say that a bridge from Waterview to Eric Armishaw Park, obviously depending on its design and the locations of the entry and exit points, would provide a more attractive route and a more direct route than the link proposed by NZTA?

20 A. This was discussed in the open space caucusing and I was on record with Cycle Action Auckland, saying I preferred the alternative of going through the interchange, rather than what's become known as the Eric Armishaw Bridge. The concerns I expressed about a more direct connection were more peoples feeling of passive surveillance, often called the CPTED issues. It would be quite a long crossing but I  
25 certainly agree in terms of road safety it's a much safer alternative and it's a more direct connection. But I have concerns about its achievability, really the CPTED concerns.

#### **CROSS-EXAMINATION: MS JANISSSEN**

30 Q. You agree that the Waterview Project does not create any adverse transport effects that requires a cycle link between State Highway 16 and State Highway 20, isn't that correct?

- A. This was agreed during the transport caucus when that point was agreed, although we noted that there was other access related issues being covered by the open space caucus.
- 5 Q. But focussing specifically on the fact that there's no adverse transport effect that's created by the project that warrants a cycle link?
- A. That's correct, generally there'll be reductions in traffic flows through this area.
- Q. And you've also stated in your evidence that the project won't have any adverse effect on the existing cycle network?
- 10 A. That's correct, but there's no current facility right from State Highway 16 to 20.
- Q. And I think in answer to my learned friend you indicated that your expertise is in transport planning, correct?
- A. That's correct.
- 15 Q. You agree that the Auckland Council has policy directives and responsibilities with respect to providing cycling facilities?
- A. I accept that they were quoted in their rebuttal of Andrew Murray.
- Q. And you agree that it would be desirable for the Agency and the council to work together to progress provision of such a cycleway?
- 20 A. Yes again that was covered in both the joint statements by open space and the transport groups.
- Q. And you also recognise that the Agency has already agreed jointly with the council and the Auckland Transport to investigate opportunities to implement and fund the cycleway connection?
- 25 A. Yes I've seen the letters that were provided with Mr Parker's rebuttal. I think the concern here is there is no firm agreement on whose responsibility it is for the majority of the costs. There is some goodwill here from the sound of it, there's reference to both agencies using its resources and its knowledge, but I believe there's not full agreement on
- 30 whose responsibility it is to provide and fund the facility.
- Q. There's also disagreement amongst the traffic and transport experts as to whether the cycleway is necessary to meet the project objectives, correct?
- A. That is correct.

Q. And that's set out in the expert caucusing statement?

A. That is correct.

Q. And the Agency's position or their experts position is that the construction of that cycleway is not reasonably necessary to met the project objectives?

A. That is their view, yes.

Q. I think it's noted in the caucus statement, it is your view that the cycleway is necessary to meet objectives, I quote, "Related to supporting mobility and modal choices by providing a multi modal corridor linking State Highway 16 and 20." That's your position?

A. That's correct, yes.

1430

Q. The project objectives that you refer to, that's specifically with respect to – or I think objective number 4 – do you have Tommy, perhaps if I could ask if you've got Tommy Parker's in front of you that might be the easiest – at page 3.

**WITNESS REFERRED TO EVIDENCE OF TOMMY PARKER**

Q. So I'm just going to ask you about the objectives, I think it's page 5 actually of Mr Parker's rebuttal evidence.

20 A. Yes I have that.

Q. Could I just clarify. There is no project objective to provide a multi-modal corridor is there?

A. The closest one is probably number 4, the top of page 5, which talks about modal choices by providing opportunities for improved public transport, cycling and walking.

25 Q. But there's actually no specific project objective to provide a multi-modal corridor?

A. That phrase isn't used to my knowledge, no.

Q. Referring then to the objective you have referred to which is number 4, that refers to supporting mobility and modal choices within the wider Auckland region by providing opportunities for improved public transport, cycling and walking, correct?

30 A. That is correct.

Q. And you must agree that in terms of the – or the Agency has indicated about joint funding and implementation of the cycleway with Auckland Council that this project does provide opportunities for improved public transport, cycling and walking?

5 A. I accept that some facilities are being provided, yes.

Q. The difference in opinion is the extent to which the Agency's going?

A. That's correct.

Q. But you would agree that the Agency's project is meeting objective 4 to the extent that it is providing opportunities for improved cycling and walking?

10

A. It is providing some opportunities, the question is how many should provide?

Q. And you would also agree that the project is protecting opportunities for the future passenger transport development, and that's particularly with respect to rail?

15

A. Yes I understand the rail line is being protected.

Q. Can I just take you briefly to the caucusing statement just to clarify with respect to the temporary traffic conditions. And in that regard I just want to clarify, I note that yourself and Mr Gottler for the Agency have met, discussed and have agreed to the wording of the temporary traffic conditions, and those are as contained now within the Agency's book of conditions?

20

A. That's correct.

Q. Could you just clarify, I note that your agreement was subject to Auckland Transport's acceptance of the Traffic Management Governance Group as the appropriate forum. Has Auckland Transport – or are you aware of what Auckland Transport's view is on that?

25

A. Yes I have had a response on that. My concern in my evidence-in-chief was that Auckland Council would always be told what was going to happen. Some of my suggested conditions sought approval, which during the caucus process was pointed out to me that's probably not appropriate when some of the approvals would relate to issues on the state highway. So the main concern is that there is collaboration and talking to Mr Gottler, the understanding is that the governance group

30

5 does work collaboratively and no two parties can, let's say "out vote" somebody else, have a right a vit – sorry, out vote somebody else. So therefore if Auckland Transport doesn't like something it has the power to say that and control what happens in its own local roads. Auckland Transport understand that and accept that that is then the right forum for the approval of the CTMP and the site specific TMPs.

**THE COURT: JUDGE NEWHOOK**

All right just pause there please Ms Janissen. The qualification that you were asking about is expressed where in the caucusing statement?

10

**MS JANISSEN:**

Sorry sir, page 9 of the transport caucusing statement.

**THE COURT: JUDGE NEWHOOK**

Yes I've got that.

15

**MS JANISSEN:**

In –

**THE COURT: JUDGE NEWHOOK**

The statement – I just wanted to see where the qualification was.

20

**MS JANISSEN:**

Yes, underneath "temporary traffic conditions" it said, "Mr Clark and Mr Gottler agreed subject to," and there were three provisions. Auckland Transport's acceptance of the governance group so I just wanted to clarify that first.

25 **THE COURT: JUDGE NEWHOOK**

Yes I've got a question mark on that. Yes, thank you.

**CROSS-EXAMINATION CONTINUES: MS JANISSEN**

Q. The second issue was with respect to the Education Liaison Group. Are you aware if that's now been clarified?

A. Yes, again I suggested that the times referred to in the temporary conditions should start at 3.00 pm, not 4.00 pm, my concern being issues around schools at 3 o'clock. Mr Gottler has explained in his  
5 the overall governance group of particular issues around schools. So rather than a blanket stop at 3 o'clock is appropriate for specific issues to be addressed through that forum and so I'm not concerned that that suggested a change of condition.

1435

10 Q. And my final question is there was also your subject to Auckland Transport and Auckland councils for the agreed detail wording proposed in the temporary traffic conditions. Is it your understanding that the council or Auckland Transport proposes any chances to that wording?

15 A. No.

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

Q. Well I'm just going to pick up there on a couple there if you don't mind, and I'm going to jump in. Perhaps I wasn't listening good enough because I was concerned to find out where this qualification was and  
20 in relation to the temporary traffic conditions that I just asked Ms Janissen about. So Mr Clark your answer then in terms of the first of the three bullet point qualifications on page 9 of the caucusing agreement was what, has that qualification been removed?

A. Yes Auckland Transport accept that the governance group is the  
25 appropriate forum and Auckland Transport's happy it has enough say at that governance group.

Q. Yes. And as to the second qualification are you saying that you're happy with the condition which I think appears on page 12 of the caucusing statement?

30 A. Yes.

Q. Yes. And the qualification in the third bullet point has also been satisfied?

A. That's correct.

Q. Right, okay so what we expect to see in Ms Linzey's next book will be this on page 12, without any changes so far as you're concerned?

A. That's correct.

Q. And NZ – and Auckland Transport?

5 A. That's correct.

Q. Good thank you, that clarifies that. Right now questions from other board members. Starting with member Jackson?

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

10 Q. Thank you Mr Clark did you – were you involved in the traffic modelling for this project?

A. I have reviewed the traffic modelling, yes.

15 Q. The problem I have with it is the current debacle I suppose you could describe it, where State Highway 20 meets State Highway 1 going south. And now going home to the south of Auckland one meets the traffic line from Manukau at about Otahuhu. So what comfort do we have that once these tunnels and this whole project is on the ground, that there's not going to be that sort of mess where they all meet, and I mean, the traffic coming through those tunnels, if they get held up for any reason it's going to be a diabolical nightmare on the local roads, in the tunnels and where the ramps meet State Highway 16 going through to Auckland. Where is the comfort that this isn't going to happen again?

20 A. I'm very aware of the circumstances that led to the problem at Manukau, in that a piece of road widening that was expected to have happen at the same time as the extension of State Highway 20 did not happen. So that's the widening of the Southern Motorway south from Manukau to Papakura. You could say that that example is relevant to this case where Auckland Transport, originally Auckland City Council sought traffic modelling tests in case other pieces of work currently included in the traffic modelling do not happen. The two examples we gave were the widening of State Highway 16 west from Lincoln Road to Hobsonville, I understand is not fully committed. It's very likely and it's an agreed measure to include in most transport modelling for the region.



Similarly the widening of Roskill extension from four to six lines, is likely but won't happen for some years. The modelling that was included in Mr Murray's evidence then excluded those two piece of infrastructure to demonstrate the effects of those not happening in a timely manner. So I think the Manukau problem has been a real concern to the NZTA in terms of making sure that the full package of works is delivered on time. Which clearly wasn't the case with that problem down at Manukau.

5

Q. I guess the difference is here that it is possible to have traffic back-up into a tunnel and that will need some special attention?

10

A. I believe that's the case and there is reference to a tunnel (inaudible 2:40:31) management plan may be by having lights on the entry to the tunnel which could limit the rate into the tunnel through advanced signage and then stopping people if queuing expected.

Q. Which then would then would back-up the traffic onto the local roads?

15

A. That would probably the case, 'cos people would probably try to get off when they could ie at the earlier interchanges.

Q. Yeah.

A. If they knew there was a long queue coming up.

Q. Thank you.

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

Q. Board member Jackson doesn't know is that last Friday afternoon at 5 o'clock I tried the other way, travelling from the airport through to Manukau, to head south. I think it's worse, you've got it fine.

25

A. Sir I believe that has now happened in response to the initial problem and the ramp signals are now new.

Q. Yes I believe it's the – the queuing has been thrown on to the – they're all just placed onto the State Highway 20 access to State Highway 1 isn't, quite deliberately I understand.

A. That's correct.

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

Member Hardie.

**QUESTIONS FROM THE BOARD: MS HARDIE**

- 5 Q. Thank you sir, Mr Clark just with regards to – have you seen the latest drawings the PT and active mode transport routes which are in Ms Linzey’s supplementary evidence 2. And actually just drawings 109, and 110, and perhaps 113?
- A. I have seen these plans yes.
- Q. Okay so they – when you were talking about connection to Eric Armishaw are you referring to the lines which are shown in purple as a shared path on 109?
- 10 A. Yes the purple line to the north of the interchange –
- Q. Yes.
- A. – is how you get from the interchange towards Eric Armishaw Park, and through the interchange you can see there’s several crossings that cross parts of Great North Road.
- 15 Q. Is there actually a crossing across Great North Road where the two orange lines which are upgraded, upgraded pedestrian cycle ways. Is there actually a crossing there?
- A. So which one are we referring to?
- Q. If you look – if you follow ramp 1, if we look at towards the right-hand side you’ve got the chainage 500 to 400 which blends into Great North Road, can you see the orange – the lines there which indicate proposed upgrade, cycleways. Just wondering if the proposal actually includes a connection across Great North Road?
- 20 A. Which point are you looking in, is it that crossing there across Great North Road there?
- Q. Yes is there something there?
- A. I believe that crossing already exists.
- Q. That one exists?
- A. Yes.
- 30 Q. Okay.
- A. Some of these crossings do not exist, for example the crossing of the east bound off ramp. On the purple where you come of the east bound off ramp and almost go straight on, it’s a sort a left turn towards Pt Chev.

Q. Yes.

A. There's currently no crossing at that point because there's no facility to get around towards Eric Armishaw Park at the moment –

Q. And that's your –

5 A. – so that one is, that is new.

Q. – that's the proposed purple shared path?

A. Yes.

Q. Is that the one you're talking about okay.

A. But the path coming down from Pt Chev along Great North Road and  
10 under the motorway that's a current facility.

**THE COURT: JUDGE NEWHOOK**

Q. The orange one?

A. The orange one is a current facility and I believe there is a crossing of Great North Road at the point just south of the motorway.

15 **QUESTIONS FROM THE COURT CONTINUES: MS HARDIE**

Q. Okay, that's great.

A. During the caucusing I did ask whether one could provide a more direct crossing to the west to get to that same crossing, and it does, from onsite inspection look very difficult.

20 Q. So just going back to the shared path, this is the one that NZTA and Auckland Council are talking, I'm assuming –

**MS LINZEY:**

This is the one that the purple line is being provided by the project.

25

**MS HARDIE:**

Is being provided by the project?

**MS LINZEY:**

30 That's correct, yes.

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

Q. Then what's the difference between the red, in terms of proposed three metre pedestrian cycleway and this purple, the shared path with those three metres wide?

5 A. Maybe Ms Linzey can answer that one.

**MS LINZEY:**

So the red lines were indicating where there had been identified and designed fully compliant cycleway. This connection was identified and developed as  
10 part of the caucusing work. The intention is to make it three metres wide, suitable for both cyclists and pedestrians, but the confirmation that it meets all of those finer details in terms of gradients for cycleway the commitment was to provide it regard – provide it at three metres wide for shared use regardless, even if it cannot – some of the gradients might not be fully compliant with the  
15 cycle – with the North Western cycleway, which has been designed in the red areas in the rest of those plans. So does that make sense?

**MS HARDIE:**

So are you saying to me that perhaps the design won't necessarily meet the  
20 general accepted standard for design of cycleways?

**MS LINZEY:**

It was certainly – yeah it may not meet all the criteria that have been adopted for the North Western cycleway throughout, but it will be able to be used for  
25 and be at a three metre width for shared use by cyclists and pedestrians.

**MS HARDIE:**

No that's fine. And so presumably that's a similar case when we look at drawing 110 where again we've got sort of a gap between existing pedestrian  
30 cycleways and proposed upgrade either side of the state highway at Pt Chev. There's a crossing there, or not? On sheet 110.

**MS LINZEY:**

Sheet 110 indicates where the existing cycleway uses the local road network, Sutherland Road. There's a dashed line. It has a crossing, an at grade crossing, of Carrington Road and the dedicated cycleway is you would use the footpath on Carrington Road to access that cycle.

## 5 THE COURT: JUDGE NEWHOOK

Member Dormer?

### MR DORMER:

No thank you sir, although I just want to check something and I may ask your  
10 leave after Mr Dunlop.

## QUESTIONS FROM THE COURT: COMMISSIONER DUNLOP

Q. Mr Clark, just following on from Member Jackson's questions about the  
experience arising out of Manukau and your reference to the design as  
to its sensitivity testing around what if certain widening isn't done on  
15 this part of the motorway network, such as downstream on 16 and  
upstream on 20. Is this a situation where in order to get satisfactory  
operating conditions on the proposed legs of 16 and 20 there should  
be a condition precedent to the effect that the widening you referred to  
or other sections of those two motorways should at least be  
20 committed, if not, in place?

A. I'm aware that modelling is being undertaken for NZTA, partly in  
response to the opening day problems at Manukau and I believe that  
they are – the modelling is showing that the section of motorway, State  
Highway 16 motorway, past Royal Road is expected to be a bottleneck,  
25 I would say on day one. I don't believe the Mt Roskill six-laning is quite  
so urgent. That may be required a few years later. I'm not clear  
whether the Royal Road widening is fully committed. I'm aware it's not  
part of this project and therefore it is unlikely to happen on the day of  
opening of this project. Whether it is acceptable to require a con –  
30 required to have a condition or acceptable to rely on NZTA following its  
commitment to the entire Western Ring Route is probably a matter for  
the Board. I mean I've read the NZTA evidence and its commitment to

the Western Ring Route and it clearly it has to follow packages of work which are manageable, and this is already a very large piece of work so I can imagine there will be concern at being required to commit to extending the piece of work further as far as Hobsonville. But it may be desirable to have some equipment to put some onus on getting that piece of work in place in a timely manner.

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1450

Q. Can you tell us anything more about the status and the nature of the preliminary modelling results that you refer to, it would have the effect you described at Royal Road?

10

A. You will have seen the evidence from NZTA that demonstrate that flows on State Highway 16 are very tidal, so very heavy in the morning peak eastbound, heavy in the evening peak in the westbound direction. In the morning peak you might just say that Royal Road, the two lanes past that will be busy and does it really matter? Because often these days we are not – we don't just try to build our way out of congestion but accept that at various points of the network there will be points of congestion. That could be one such place. That might encourage people to take the western rail line into town for example. In the evening peak there probably is an issue to be concerned about, if the queues extend back from the two-lane section of motorway back towards the tunnel. So I think the main concern would be the westbound evening peak issue.

15

20

Q. Is ramp 2 the one that connects State Highway 20 to 16 westbound?

25

A. I'm not familiar with the ramp numbers sir.

Q. Okay let's set the number aside. Is there sufficient capacity in the westbound ramp from 20 to 16 to preclude traffic backing up in the tunnel?

A. So it is from 20 to 16 west?

30

Q. Yes.

A. I believe that is a two-lane ramp but the problem is not the capacity of the ramp, but the capacity of the two-lane section of motorway going past the Royal Road interchange. So you might argue having two lanes there gives you more space for queuing if a problem emerges before

traffic reaches the tunnel. I don't think you'd want to have a three-lane ramp particularly merging with the wide State Highway 16.

Q. So if queuing were to occur on, let's call it "ramp 2", back into the tunnel, is that a traffic effect that could be managed by a tunnel management plan which I've seen referred to?

A. It's partly the operation of the entire State Highway 16. Ramp signals has been very successful throughout the network and the Manukau example is maybe a crude one, but it's showing how one can queue up one particular approach to favour the others. If it was deemed appropriate you could maybe limit the entry onto State Highway 16 in favour of traffic coming through from the tunnel. So that is beyond the traffic – of the tunnel management plan, and more how one operates the entire state highway network, given that there is a desire to encourage traffic off State Highway 1 and more towards 16 this might assist in that respect.

1455

Q. And finally I think, there's a section in your evidence on potential effects of the proposed work on the St Lukes Interchange, which Mr Parker responded to in his rebuttal, which I'm trying to find here Mr Clark. Now the thrust of that was that the Agency and Auckland Transport had discussed the matter and agreed to jointly progress subsequent stages and investigations at St Lukes. Because an upgrade there would have implications for both the Agency and Auckland Council, and that such an agreement was recorded in his letter of December to yourself and your reply on the 14<sup>th</sup> of January?

A. That's a different Mr Clark actually, that's Keith Clark from Auckland Transport.

Q. Right, that'll teach me. Have you – but the question I'm coming to Mr Clark is your evidence about St Lukes Interchange altered by the exchange of letters and the apparent development that's recorded in Mr Parker's rebuttal, which I've just paraphrased to you?

A. I understand that Auckland Transport is satisfied that the right way to proceed, which is to collaboratively pursue the matter as a separate project.

- Q. Thank you for that and I noticed that it wasn't a matter raised by Mr Lanning in his submissions yesterday but I thought it was worth checking, given that you'd devoted a section of your evidence to it, so thank you for that and I'll make a mental note to check christian names more thoroughly in future.
- 5

**QUESTIONS FROM THE COURT: JUDGE NEWHOOK**

- Q. Mr Clark, a couple of things. Picking up on one of Member Dunlop's questions to you. The references to Royal Road and Royal View Road in Te Atatu, am I right?
- 10 A. No sir, as you go west along the northwestern motorway, beyond Te Atatu Road and the interchange there, then Lincoln Road Interchange there's (inaudible 2:58:05) Royal Road Interchange.
- Q. Significantly to the northwest of the project?
- A. That's correct.
- 15 Q. Out at Massey?
- A. Yes.
- Q. I just wanted to make sure that I was in the right place before I asked my next question, but I think my next question remains quite relevant. Comparing the potential effects at Royal Road, with what occurred at
- 20 Manukau, might not be so pertinent as perhaps comparing the effects at the end of a motorway journey that filters into an existing street system, perhaps more akin to what presently happens at Puhoi. One understands that as NZTA extends the northern motorway northwards it moves the bottleneck northwards, hopefully with some reduction as
- 25 motorists move off the road going northwards. Isn't the Royal Road situation rather more akin to the Puhoi situation than to the Manukau situation where State Highway 20 meets State Highway 1, or is that way over simplifying things?
- A. It's certainly a problem in all motorway and road development problems that you often do move the bottleneck. And you're correct that clearly at
- 30 Puhoi it's – the project has solved some problems but on a busy day it hasn't solved the northbound problem and it's moved the problem up to the hill called Shadoways Hills and to Warkworth. At this location, at



least at this location you still have a motorway, rather than State Highway 1 north of Puhoi is a fairly rural undulating piece of road.

1500

5 Q. But you don't have a major intersection onto what might be the busiest state highway in the land, State Highway 1, at Royal Road?

A. I acknowledge there's a problem out there sir and it needs commitment to that extra piece of work going from Lincoln Road –

Q. Don't get me wrong, it's totally outside the scope of this case –

A. Mmm.

10 Q. For us to direct NZTA to keep pushing north westwards. That's not before us. The question that's before us is whether we might be creating a totally unacceptable and/or unsafe situation. My current understanding of the issues on the totality of the evidence from NZTA and yourself and a few others is that we don't have the creation of  
15 such a situation and we don't even have quite the situation that a couple of us have described rather colourfully as existing at Manukau.

A. It is the case –

Q. And that's why I offer you those two analogies.

A. Mmm.

20 Q. But with the qualification that I made why I simplified the issues, and you may draw analogies with the Manukau situation, I don't know.

A. The comparison is valid because here it's probably – the lesson from Manukau is we need to look at opening day, not just 10 years further. And here Mr Murray has looked at 2016 and 2026, but the core  
25 modelling assumes that that piece of widening is in place, which it probably won't be for, it could be a couple of years. And one can only speculate also the effect of recent events on general investment on roads. Current – we currently have a commitment for the next few years, but whether that will change or not I don't know, given events the  
30 events of the last seven days.

Q. Okay that clarifies a few things for me. Now another question on a different topic. You've looked at Ms Linzey's second supplementary statement of evidence have you, the one dated the 26<sup>th</sup> of February?

A. I have seen the plans I was referred to, I hadn't seen the statement of evidence.

Q. Right. Have you got the evidence in front of you?

A. Yes I do.

5 **WITNESS REFERRED TO MS LINZEY'S EVIDENCE**

Q. Could you turn to page 11 and you'll see there's a section there entitled "Cycleway Bridge Costs." Now before I even invite you to read that and think about it and respond to questions I need to find out whether you are appropriate and qualified. Does it come within your expertise and experience to comment on the costs of infrastructure of the sort described here?

10

A. I am not an engineer and therefore don't normally get involved in cost estimates sir.

Q. Do you have a feel for it or is –

15

A. I have a feel.

Q. – or is it something that you'd prefer not to comment on?

A. If it's a general comment – question sir I can probably answer it. I had heard mention of 10 million for the cycleway facility before, but I certainly wouldn't give an expert opinion on the cost of those three items in 41, one to 41, three.

20

Q. All right, that being the case I think I'll take the matter no further with you.

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

**RE-EXAMINATION: MS HARTLEY – NIL**

25

**MS HARTLEY:**

Just picking up on the matter raised by Member Dunlop, yesterday in Mr Lanning's submissions at, legal submissions at paragraph 2.2 he did indicate that the issue of St Lukes interchange wasn't being pursued and that was on the basis of commitment from the NZTA to a separate process.

30

**THE COURT: COMMISSIONER DUNLOP**

So it is, yes. I thought there'd be some reference to it. I remember looking for it and couldn't find it.

5 **MS HARTLEY:**

It's right at the beginning.

**WITNESS EXCUSED**

1505

**THE COURT: JUDGE NEWHOOK**

Ms Stuteley is going to be next is she?

**MS HARTLEY:**

She is sir.

5

**MS HARTLEY CALLS****MARION CLAIRE STUTELEY (AFFIRMED)**

Q. Ms Stuteley is your full name Marion Claire Stuteley?

A. It is.

10 Q. Have you prepared a statement of evidence dated 16 December 2010?

A. I have.

Q. Can you confirm that you hold the qualifications and experience set out in paragraphs 1.1, to 1.3 of the evidence?

15 A. I do.

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

A. No.

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

A. It is.

20 Q. Thank you could you please answer any questions.

**CROSS-EXAMINATION: MR McCURDY**

Q. You're familiar with Dr Clough's archaeological assessment?

A. I am.

Q. And particularly in the in Waterview, northern Waterview area?

25 A. Yes.

Q. And how would you describe the significance of site R11 2191 the Star Mills and Star Tannery?

A. There have been a few differences in terminology but Dr Clough and I basically it's highly significant.

Q. Thank you. I believe in cross-examination you used the expression right up there, would you concur with that, that followed when you said, regionally highly significant?

A. Yes I guess that would be right.

5 Q. Turning now to the archaeological conditions on page 63 of the 10<sup>th</sup> of February compilation and also to Ms Linzey's second supplementary evidence page 7, which adds a new condition on historic oak trees. These conditions have been developed progressively, and do you regard them now as sufficiently protective of  
10 the volume and potential archaeological remains of the sites RN 2191?

A. I do, but it would also many historic places trust conditions plus ongoing monitoring and dealing with anything that should be forthcoming during works.

Q. Thank you that's going to be next question.

15 A. Okay.

Q. Will you concur that ongoing vigilance by the project archaeologists at the Auckland Council and the Historic Places Trust will be required?

A. Definitely.

Q. Thank you. The preparation of a site for flyovers and other purposes  
20 will require the removal of some heritage trees and other trees, and some of the timber from these trees will have other heritage uses referring particularly to oak for heritage building and furniture, robinia and Pohutakawa for traditional boat building and ship building. Would you consider that the timber from these trees should be allocated to  
25 these heritage purposes?

A. I'm not an expert on what type of trees is used for which heritage purposes but we'll certainly support the re-use of any timber.

Q. Now just heading to the development and interpretation of the site after construction, would you agree that the layout and design of facilities  
30 and access ways should respect what used to be there?

A. Yes.

Q. For example the Miller's Road, the mill race, the Tanners Bridge, building foundations?

A. Definitely yes.

Q. And would it be fair to say that the urban design should not get generic or arbitrary but should particularly relate this particular locality to this particular site?

1510

5 A. I'm not an urban designer so I couldn't really comment specifically on urban design, but from a heritage point of view it is expected that the design of it is to incorporate heritage matters and interpretation.

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

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

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

Q. In his rebuttal evidence on (inaudible 3:10:35), I believe that (inaudible 3:10:40) confirmed that he felt that the stone walls were of some importance. Did you hear his evidence?

A. I did, yes.

15 Q. Do you concur with his comments with regards to the stone walls?

A. Is this in regards to what may be removed on the other side?

Q. Yes.

A. We're never keen on anything being removed, however, I guess it's practical but I personally didn't make comment on that stone wall  
20 because at the time Auckland City Council was charged with protecting significant archaeology and the wall scored up, it didn't score high enough to be regarded as significant or highly significant or iconic, as the term we were using at that time and I felt that issues with the wall would be (inaudible 3:11:44) through the Historic Places Authority.

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

**QUESTIONS FROM THE COURT - NIL**

**RE-EXAMINATION: MS HARTLEY – NIL**

**WITNESS EXCUSED**

**MS HARTLEY CALLS****PETER JAMES ANDERSON (SWORN)**

Q. Is your full name Peter James Anderson?

A. It is.

5 Q. Can you confirm that you've prepared a statement of evidence dated 15 December 2010?

A. I do.

Q. And that you have the qualifications set out in paragraphs 1.1 to 1.5 of your evidence?

10 A. Yes.

Q. Do you have any corrections to your evidence?

A. No I do not.

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

A. It is confirmed.

15 **THE COURT: JUDGE NEWHOOK**

Appears to be no questions from the parties.

**QUESTIONS FROM THE COURT – NIL – COMMISSION DUNLOP****QUESTIONS FROM THE BOARD – NIL – MR DORMER****QUESTIONS FROM THE BOARD: MS HARDIE**

20 Q. Mr Anderson, we heard from Simon Chapman with regards to the lizards and the proposed safeguarding of them I suppose. Just with regards to the condition that's proposed, condition H1(c), where it talks about enhancement at population. Did you hear Mr Chapman's response and if so, do you concur with him in terms of whether or not  
25 this condition covers the protection of all lizards?

A. Yes I did hear some of Mr Chapman's reply in response to that question and I feel it does cover the lizard needs for the restoration areas.

**QUESTIONS FROM THE COURT – NIL – MS JACKSON**



1515

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

**RE-EXAMINATION: MS HARTLEY – NIL**

**WITNESS EXCUSED**

5

**MS HARTLEY CALLS****NEVILL IAN HEGLEY (SWORN)**

Q. Is your full name Nevill Ian Hegley?

A. Yes.

5 Q. Can you confirm that you prepared a statement of evidence dated 17 December 2010?

A. Yes.

Q. And that you have the qualifications set out in paragraph 1.1 of your evidence?

10 A. Yes.

Q. Do you have any corrections to your evidence?

A. There's one line that should be struck out in actual fact on page 2(c) where it says in paragraph 3.2(c) "The practicality allowing transport noise" –

15 **THE COURT: JUDGE NEWHOOK**

Q. Sorry, 3.2? What was that?

A. C.

**EXAMINATION CONTINUES: MS HARTLEY**

20 A. "The practicality to allow transport noise barriers," that was actually removed from my brief and I didn't remove that part of it.

**THE COURT: JUDGE NEWHOOK**

Q. So remove the whole of C from the brief?

A. Yeah, but the rest has gone. There's just that summary point has been – not been removed so that whole line should be removed.

25 **EXAMINATION CONTINUES: MS HARTLEY**

Q. Thank you, with that correction can you confirm that your evidence is true and correct?

A. Yes.

**THE COURT: JUDGE NEWHOOK**

Now once again there appear to be no questions from parties. Starting with Member Hardie.

**5 MS HARDIE:**

Can I just come back, sir can I just have a minute?

**THE COURT: JUDGE NEWHOOK**

Yes, Member Jackson? If you need a moment or two to prepare we'll take the afternoon break.

**10 COURT ADJOURNS: 3.18 PM**

**COURT RESUMES: 3.42 PM****THE COURT: JUDGE NEWHOOK**

Now Mr Hegley we're not going to ask you questions right now, but you're not off the hook completely. What we want to do is this. We have received quite  
5 a lengthy statement from Ms Wilkening, supplementary statement, we want to get our heads round material in that rather more and in our usual way of pre-reading cross-reference back to other materials and so on and so forth, before we put any questions to Mr Hegley.

**THE COURT: JUDGE NEWHOOK**

10 Q. Mr Hegley have you seen her latest statement?

A. Yes sir.

Q. You've got that?

A. Yes.

15 Q. Yes, good so you're ready to go, but we're not quite yet. So our intention is to be doing that tomorrow morning at 9.30. Are you available then Mr Hegley?

A. Yes.

Q. You're down to come tomorrow anyway?

A. Yes sir.

**20 THE COURT: JUDGE NEWHOOK**

We seem to be roaring along like an express train. We're nearly a day ahead of ourselves.

**WITNESS STOOD DOWN****25 THE COURT: JUDGE NEWHOOK**

Looking ahead the EPA is working very hard to rake parties in to come and present the questions, offer their representations and the like and tomorrow after we've heard from Mr Hegley we will hear from the Department of Conservation and Ms Houghton's witnesses and the Unitec team, bar one

who has the mumps, we decided we don't want those and I doubt that any of you do either. And I'm not sure exactly where you've got to after that Kim. Can you give us a little bit of a sketch? Mr Turei I think has indicated he can come?

5

**MS MORGAN:**

Yes, some confirmation from Mr Turei and that's about it for tomorrow.

**THE COURT: JUDGE NEWHOOK**

10 And that's about it for tomorrow. And then on Thursday, what's that looking like?

**MS MORGAN:**

At this stage KiwiRail confirmed. No other parties have (inaudible 15:44:01).

**THE COURT: JUDGE NEWHOOK**

15 Has any party wanted to question KiwiRail?

**MR LANNING:**

We're down for that sir, but I don't think we will at this stage.

**THE COURT: JUDGE NEWHOOK**

20 All right, well can you send all that as early as possible to –

**MR LANNING:**

Well I can say that no we won't.

**THE COURT: JUDGE NEWHOOK**

25 You won't?

**MR LANNING:**

We won't sir.

**THE COURT: JUDGE NEWHOOK**

Any other parties wanted to –

**MS DOCHERTY:**

5 I believe Friends of Oakley Creek will respond sir, but we won't be questioning.

**THE COURT: JUDGE NEWHOOK**

You won't be?

**10 MS DOCHERTY:**

No, don't think so.

**THE COURT: JUDGE NEWHOOK**

All right, well the Board will make the final determinations as to whether we have any questions. I think it's rather unlikely so we'll get the EPA to keep  
15 them posted about whether they need to come from Wellington or not. So Thursday, what else are we likely to be able to bring forward Ms Morgan?

**MS MORGAN:**

Still working on that sir.

**20 THE COURT: JUDGE NEWHOOK**

Nothing else definite. Well we need to be in touch – well no, put it round the other way. Parties will need to keep an eye on the website, that's the best means of communication. It saves quite a lot of telephoning and emailing. Getting people in the door to make their presentation is – I thought, I didn't  
25 think it would be quite as tricky as this, but it's not looking easy. One party to whom I've got the EPA delivering a message about participation is Mr Allan who's been very good at attending and asking a lot of questions, but he's been signalling that on behalf of his clients he wishes to turn up here on the 24<sup>th</sup> of March and the message that I've had the EPA send to him is that we  
30 may not still be sitting here on the 24<sup>th</sup> of March and so he's being asked to bring his team here significantly earlier, like next week. So that seems to be

the developing nature of the hearing. Any other housekeeping before we arise for the day?

**MR LAW:**

5 Yes just one matter sir with respect to KiwiRail that you just mentioned. NZTA and KiwiRail have now finalised the project agreement between themselves, but I'm not proposing to put that into evidence, and neither is KiwiRail, but certainly if the Board wish to see it we'd forward a copy through tonight to give the Board sufficient time to review that prior to questioning KiwiRail. Is – I  
10 don't think there's anything –

**THE COURT: JUDGE NEWHOOK**

All right, what you're saying is it's not embargoed so far as the Board and the parties are concerned.

15 **MR LAW:**

No, and I think it's probably fair to say that it contains no surprises pretty much as set out or as anticipated in evidence of the relevant parties, in particular Mr Neil Buchanan. The one major difference is that KiwiRail has given section 177 approval in advance and we've given it through this project agreement.

20 **THE COURT: JUDGE NEWHOOK**

Yes. It almost sounds to me as though KiwiRail is on the point of withdrawing as a party, if it's given section 177 approval?

**MR LAW:**

25 I think they were still planning to give represent – submissions sir, but I'm not sure. I think they – I'm not wishing to speak for them – but I think they do have concerns about conditions applying to the use of rail land.

**THE COURT: JUDGE NEWHOOK**

All right well while we're talking with our support crew about whether or not  
30 we've got questions for any of their people we'll find out in turn whether they

are still wishing to come in and offer representations. So thanks for helping to clarify that.

**MR LAW:**

- 5 If the Board lets us know we can forward a copy of that agreement through if you're interested. The other one that will also be finished tomorrow is an agreement with Unitec. Again that agreement simply, it agreed the conditions that have now been proposed around Unitec and also essentially –

**THE COURT: JUDGE NEWHOOK**

- 10 We should certainly see that one, and I think in the same spirit we should see, if there's no commercial embargo on it, we should be the agreement with KiwiRail.

**MR LAW:**

- 15 Certainly sir.

**THE COURT: JUDGE NEWHOOK**

And have any detail out of that that might be relevant to us.

**MR DORMER ADDRESSES JUDGE NEWHOOK**

- 20 **THE COURT: JUDGE NEWHOOK**

Mr Law does the agreement with Unitec happen to encompass the future of the student accommodation block?

**MR LAW:**

- 25 I don't think the agreement does sir, but the conditions that are proposed in Ms Linzey's latest set have been expanded to provide essentially whoever is the leaseholder of that building at the time. If relocation is required would not have to suffer relocation during the exam periods, which I think is the condition that that concern was raised in.



**THE COURT: JUDGE NEWHOOK**

That may raise the issue of whether Mr Richardson, for instance, still wishes to come in and address us.

5 **MR LAW:**

I imagine he's not aware of that yet sir so –

**THE COURT: JUDGE NEWHOOK**

I see.

10 **MR DORMER:**

Because if there is no leaseholder.

**MR LAW:**

In that case presumably there was no one in the building but –

15

**MR DORMER:**

No no, no the flats are...

**MR LAW:**20 

Oh I see. Well if there are –

**THE COURT: JUDGE NEWHOOK**

It's let as a block to Unitec so will just supply – no Member Dormer is enquiring as to whether the agreement by Unitec with NZTA encompasses that block on Great North Road.

25

**MR LAW:**

The agreement doesn't sir because if Unitec is not the leaseholder then they won't particularly be concerned about it but the conditions certainly do cover, have been brought in and intended to cover other parties. I just note that  
30 there are 30 odd owners of that property, a number of whom live overseas, so I imagine it's unlikely that they would do anything other than running it through some sort of lease arrangement. I think that would be quite difficult for them.

**THE COURT: JUDGE NEWHOOK**

I think that's as far as we can take matters this afternoon. I think we'll see what's in the agreement with Unitec. The EPA will be finding out whether Mr Richardson and anybody else associated with that accommodation block  
5 will be coming to participate in the hearing and I think we've just go to leave it there for the moment. Any other matters for housekeeping before we rise?

**MS JANISSEN:**

Just to let you know that we will be providing Ms Linzey's third supplementary  
10 evidence in the updated booklet, which will be green, tomorrow morning.

**COURT ADJOURNS: 3.52 PM**

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