

BOARD OF INQUIRY

Northern Corridor  
Improvements Proposal

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## TRANSCRIPT OF PROCEEDINGS

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### BOARD OF INQUIRY

Northern Corridor Improvements proposal

Hearing held at: QBE STADIUM, Stadium Drive, Albany, Auckland

on 19 July 2017

BOARD OF INQUIRY:

Judge Melanie Harland (Chair)

Mr Conway Stewart (Member)

Mr Nigel Mark-Brown (Member)

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~Day 2, 19 July 2017 (9.03 am)

JUDGE HARLAND: Good morning. We left off last night with the submissions from you Mr Bangma and I believe that we're about to start this morning the  
5 submissions from Kiwi? Ms De Groot?

MS DE GROOT: Morning Your Honour.

So you should have a copy of my legal submissions, hopefully. Before I begin I will just introduce to my right, I have Andrew Fraser who is the Director for Kiwi Self Storage and on his right is Howard Trautvetter who is the general  
10 manager.

JUDGE HARLAND: Yes, good morning.

MS DE GROOT: I do have a couple of housekeeping matters, I don't know if you wanted me to address those now or perhaps at the end of my submissions?

JUDGE HARLAND: Let's start with those and then they are out of the way.

15 MS DE GROOT: Last night we filed a revised notice of cross-examination which you may have seen, and Kiwi is only seeking now to cross-examine Ms King and Mr Moore.

JUDGE HARLAND: Yes.

MS DE GROOT: The EPA has also asked us about our availability to cross-examine  
20 Ms King.

JUDGE HARLAND: Yes, now I think we have talked about that, that is the 2nd of August issue is that correct?

MS DE GROOT: Yes, that's correct.

JUDGE HARLAND: There is no difficulty for that and thank you for providing all of the  
25 details as to why you and your colleague are unavailable.

Just for everyone's benefit, and as this is moving along, everyone is working extremely hard behind the scenes, we've talked about the fact that we'll probably run out of some things to do by the end of Tuesday next week, that's fine. I think everybody could use a few days to sit back, reflect and all take a  
30 breath and use those two days to get the planning matters all sorted and whatever else we need. So we have plenty of time people is what I really want to get across and from your perspective, therefore, Ms De Groot it's no issue at all, unless anyone else disagrees with that, that we can deal with what you need to deal with on the 2nd.

35 MS DE GROOT: Thank you Your Honour. Much appreciated.

JUDGE HARLAND: Yes, well everyone is working hard; it's for our benefit that you're doing that, and I think that's just what we'll do.

And on that point we do have the four weeks available. We would prefer obviously to use what time we can for writing; but if it does mean that a little  
5 more time would mean that what you gave us was more useful, we'd prefer that.

All right so thank you Ms De Groot.

~Opening from Ms De Groot (9.07 am)

10 MS DE GROOT: Thank you Your Honour. I just begin with my submissions at paragraph 1.

Kiwi Self Storage is a private, 100% New Zealand owned storage company that provides short and long-term self-storage at Auckland and two in Wellington.

15 Kiwi is the owner of the land at 12 Holder Place Albany at which it operates 785 storage within two purpose built ...(Reads 2 - 7 exactly as submitted)... on part of the busway and shared use path to 5.35%. The Kiwi alternatives propose changes to the vertical alignment of the busway and shared use path for a discrete section of these structures and effectively 'tie  
20 into' the existing alignment, and therefore do not require any other changes outside the area of interest to Kiwi. Kiwi's traffic evidence by Mr Hall confirms that the Kiwi alternative designs will maintain the safety and integrity of the structure and will be consistent with the design of other busways and shared use paths in the network. Kiwi considers that its alternative designs would  
25 result in significant cost savings for NZTA.

For Kiwi, it is a 'no brainer' that these alternatives should be incorporated into the design of the Project. However, NZTA and its expert team have taken a position that they are not willing to assess the Kiwi alternatives ...(Reads 8-10 exactly as submitted)... Kiwi also seeks that appropriate conditions are imposed  
30 to address its concerns.

~Questions from the Board (9.14 am)

JUDGE HARLAND: And you're saying that there's no jurisdictional reasons or reasons why, it's just a design detail related element that would mean we would  
35 be able to modify the proposed design?

MS DE GROOT: Yes, that's correct Your Honour, we're not seeking any changes to the boundaries of the designation, just quite a simple small change to the design of a discrete section of the busway and shared use path next to Kiwi's site.

5 JUDGE HARLAND: So you say that would be sufficient modification to come within the legal test for modify?

MS DE GROOT: Yes, Your Honour.

JUDGE HARLAND: Right, thank you.

10 ~Ms de Groot continues (9.14 am)

MS DE GROOT: For the remainder of these submissions, firstly I will introduce Kiwi's witnesses and outline the evidence produced in support of its submission; describe the relevant legal and planning context; describe the effects of the Project on Kiwi's facility further, and also further describe Kiwi's proposed solution to these impacts.

15

Kiwi has produced five briefs of evidence in support of its submissions on the project ...(Reads 12 a-e exactly as submitted)... and reduced vehicle circulation within the facility on the value of Kiwi's business.

20 ~Questions from the Board (9.15 am)

JUDGE HARLAND: Can I pause you there. So you've just described earlier that there's a side agreement to deal with some construction related effects and circulation issues; so where is that at? Is that -- it's not been resolved yet or there's just discussions occurring?

25 MS DE GROOT: Yes, Your Honour. So, Kiwi has been -- are having discussions with NZTA with the intention to enter into a side agreement which would deal with some of the effects on Kiwi's business; separate to the visibility impact.

JUDGE HARLAND: Yes.

MS DE GROOT: I understand yesterday that you had indicated that you thought that any agreement reached with NZTA should be reflected in the conditions or the designation?

30

JUDGE HARLAND: Well, I don't know that we indicated that, we've had some discussion with counsel, or have asked questions about side agreements. There might be a different approach that could be taken to side agreements where there is one -- there's essentially a private interest that's being protected by that, as opposed to some public interest benefit.

35

MS DE GROOT: Yes.

JUDGE HARLAND: So I don't think it's -- you don't want to draw the inference that we were saying no side agreements at all. It's really the scope of side agreements and what the longer-term implications of those might be for other parties, really.

5 I think you've probably gone as far as you can. There are discussions occurring about a side agreement to deal with those limited effects; I'm not saying the effects are limited, but that limit aspect of your case.

MS DE GROOT: Correct Your Honour.

JUDGE HARLAND: And that may well affect the evidence that Mr Doyle gives, that's  
10 really where I wanted to get to with this.

We'll just take a pause and I'll hear what NZTA have got to say about that.

MS DE GROOT: Yes, Your Honour, so the matters that we've been discussing with NZTA are specific to Kiwi's site, and we do want to continue those discussion  
15 with NZTA and hope to agree on those matters.

JUDGE HARLAND: I see, all right.

MS DE GROOT: And they do affect the matters that we were intending to cross-examine a matter a number of NZTA's experts on, which means we no longer wish to do, if that helps?

20 JUDGE HARLAND: I see, all right. Thank you for that. Now I will hear from you.

MS SHEARD: Sorry, it was just our discussions last night via email, we made it clear that I think the best approach at this point in time, and the most expedient approach, is to incorporate the elements from the side agreement that we can agree, into some suitable conditions.

25 JUDGE HARLAND: I see. All right, well look that's over to you how you do that, but I don't want you to get the impression that side agreements are not okay in all circumstances.

The question is it depends. So that's fine.

30 If we're talking about Mr Doyle's evidence, which is where this question arose from for me, the vehicle circulation issues are likely to not be something that is -- that we need to worry too much about, because you've reached agreement, is that right? Maybe?

MS DE GROOT: Maybe Your Honour, yes so that is a matter that we are in discussions with NZTA about and that is why we wanted to focus today on the  
35 issues that weren't a part of those discussions.

JUDGE HARLAND: I see, all right, well let's go on. Thank you for explaining that.

MS DE GROOT: Thank you Your Honour.

~Ms de Groot continues (9.19 am)

At paragraph 13 I will begin with the legal and planning context.

5           The Project must be considered by the Board under section 171 of the  
RMA. This requires the effects on the environment of allowing the notice of  
requirement to be considered having regard to Part 2 of the RMA and, as you  
will be aware a list of other considerations or matters as I have set out here  
10           from section 171, this includes the relevant planning provisions; whether  
adequate consideration has been given to alternatives; whether the work and  
designation are reasonably necessary and other matters that the Board  
considers reasonable necessary in order to make a recommendation, or in this  
case a decision.

15           When considering a Notice of Requirement ...(Reads 14 - 18 exactly as  
submitted)... As will be described, NZTA has failed to discharge the  
requirement in section 171(1)(b).

~Questions from the Board (9.21 am)

JUDGE HARLAND: Could I just ask you a question there, the section talks about  
20           adequate consideration of alternative sites, routes, or methods; not designs. I  
just want some help with that, where would you say an alternative design fitted  
in with those words? It's not a site.

MS DE GROOT: I would think it would fall, Your Honour, within routes or methods,  
arguably. The method -- the method is the busway and the shared use path,  
25           which is the method that they're using to give effect to the project's intentions.  
Or alternative, the route, the busway and the shared use path are part of the  
route inherently.

JUDGE HARLAND: But there is no alteration to the route, it's more to the design of  
the route, is it not?

30 MS DE GROOT: There is a vertical alteration to the route.

JUDGE HARLAND: Yes, a gradient issue.

MS DE GROOT: Yes.

JUDGE HARLAND: So you would say that's a method of undertaking the work?

MS DE GROOT: It's probably -- it's a change to the route, but it's also a method of  
35           giving effect to the projects and purpose and intentions.

JUDGE HARLAND: All right, thank you.

~Ms de Groot continues (9.26 am)

MS DE GROOT: NZTA has indicated in its legal submissions that an economic impact could be characterised as an effect on the environment in RMA terms...(Reads 19 - 22 (d) exactly as submitted)...and relevantly includes effects on business. And I have set out below the definitions of "effects" and "environment". I don't propose to read those to you.

5

10

It is not yet clear what effects of the Project will be mitigated, if any under the PWA...(Reads 22 (e) exactly as submitted)... This supports the purpose and principles of the RMA.

~Questions from the Board (9.27 am)

JUDGE HARLAND: Just if I could ask you to help me a little bit further here. Under the Public Works Act process, the injurious affection argument would only deal with the small amount of land that was being taken permanently, correct?

15

MS DE GROOT: Under the PWA, compensation is available for the actual taking of any land, which is proposed to be a compulsorily required, but also any in injurious affection which is associated with that land take. So it's not just the value of the land which is taken, but it's also compensation for other impacts of that taking.

20

JUDGE HARLAND: Yes, but if it's a small piece of land, are you foreseeing there could be some difficulties with the extent of the injurious affection that could flow from that?

MS DE GROOT: Potentially.

25 JUDGE HARLAND: Yes.

MS DE GROOT: And this is part of the argument that I mentioned before, which is why this is also a relevant forum for discussion about economic effects.

However, the Project itself does require that taking of land. So under the PWA we would still seek to claim injurious affection as well.

JUDGE HARLAND: So is part of your argument that the PWA process might not provide a more holistic approach to economic effects because you're only dealing with the one, you know, the one metre. So in other words, the only way you're going to get the holistic argument is through this process, is that part of your argument?

30

MS DE GROOT: Yes the RMA does provide a more holistic consideration of effects, which includes economic effects, yes, which the PWA is more focused.

35

It's also relevant to consider economic effects in this forum and I wouldn't see why you wouldn't when that might reduce the level of compensation which is payable under the PWA, potentially. Particularly, if there are cost savings to be had.

5 MR STEWART: If I could just take you back to your paragraph 22 (b) where you talk about adequate consideration, and I put a line under that because the words are "adequate consideration". I think we heard yesterday from NZTA that consideration had been given; there may be an argument about whether it was adequate or not, but let's assume for a moment that it was adequate. The Act  
10 requires that to be done, but the Act can't say what the conclusion would be, can it? So is it your position that even if adequate consideration has been given, the conclusion that has been come to by the Applicant is not the conclusion you would have come to?

MS DE GROOT: Correct. We have a different view to NZTA on whether adequate  
15 consideration has been given to Kiwi's alternatives.

MR STEWART: But do you accept that there may well be a different conclusion to be drawn depending on which side of the fence you're sitting?

MS DE GROOT: Yes, our views are different.

MR STEWART: Thank you.

20

~Ms de Groot continues (9.13 am)

MS DE GROOT: Beginning of 23.

When considering a Notice of Requirement under section 171, the Board may consider any other matters it considers reasonably necessary in order to make  
25 a recommendation on the requirement.

Relevantly to Kiwi's submission on the project, the Draft Urban Design Landscape Framework which forms part of the AEE provides in Part t that the proposal design shall provide visibility to existing commercial and industrial land holdings between the Rosedale Wastewater Treatment Ponds and Albany park  
30 and ride, which are currently seen from the highway (noting commercial benefits), this recognises that the visibility to commercial properties from State Highway 1 is important for these businesses and NZTA has recognised that visibility shall be maintained in the design outcomes that are sought across the Project.

At the urban design ...(Reads 25 - 27 exactly as submitted)... same approach should be taken in respect of its facility, as is taken to the other businesses under the framework.

I will now turn to the effects of the Project on the Kiwi facility.

5 As noted, Kiwi's facility is prominently located along the frontage of State Highway 1 and has high visibility to traffic flows in both directions, particularly south-bound traffic. It was purpose-built at this location and designed to be as visible as possible to passing traffic to market the business and enhance brand awareness. The visibility of the Kiwi Facility when travelling south on State Highway 1 is set out in photographs included in in Mr Land's evidence, and for 10 ease of reference I've attached those pictures in Appendix 1. If I could just take you to those.

These are photographs taken from State Highway 1 driving south looking towards the Kiwi facility.

15 In Photo 1, at this distance, this is not a location which Kiwi is too concerned about, it's more concerned about the viewpoints from photo 2 onwards. I will just give you a minute to look at those quickly.

The primary issue for Kiwi is that the proposed bus lane and shared use path will be situated above the existing height of the buildings on Kiwi's property 20 ...(Reads 29 - 31 (b) exactly as submitted)... due to the lack of any visual presence of the facility from any other street frontage.

~Questions from the Board (9.36 am)

JUDGE HARLAND: Just to pick up on that point, I can't recall if it's in the evidence or 25 not, the assumption there is that that's new business, because there's also some evidence I think from your clients that a large proportion of its business is repeat business.

You can cover that in the evidence if it's not clear from that as it stands.

MS DE GROOT: Your Honour, it's new business.

30 JUDGE HARLAND: Well that would be the logical inference, but you might need to cover that off in evidence.

And again, whether that's -- well that's the last year, the last financial year? We can ask some questions about that.

MS DE GROOT: Okay thank you Your Honour. I understand it is the last financial 35 year, but yes we can check.

~Ms de Groot continues (9.37 am)

I am just at the end of that paragraph there, at 31 (b). Overall, Kiwi has a 45% conversion of drive-by enquiries to sales. This is a very high conversion rate, and makes a significant component of the Kiwi customers.

5           There is no other road exposure to the facility like the one Kiwi enjoys from State Highway 1 ...(Reads 31 (c) - 32 (a) exactly as submitted)... A sign does not create this association unless the facility can also be seen.

10           Kiwi has a billboard located on vacant land at Cawley Street, Ellerslie which backs on to State Highway 1 near the Ellerslie and Panmure off-ramp and has visibility from State Highway 1. The billboard advertises Kiwi's storage facility located along the road at 40 Cawley Street. Statistics gathered by Kiwi show no improvement in enquiries or sales as a result of the billboard.

In Mr Allan's view, billboards create a lot of visual clutter for consumers and will not create the same visual impact that Kiwi's current visibility does.

15           In addition to the economic impacts associated with the blocking effect of the busway and shared use path, the considerable height and close proximity of the retaining wall, busway and SUP to the Kiwi site will also reduce the overall amenity of the Kiwi Facility and customers' experience of the site.

Kiwi's solution.

20           To reduce the visual impact and amenity effects of the Project on the facility, Kiwi's traffic engineer, Mr Hall, has considered and developed alternative designs for the section retaining wall, busway and shared use path adjacent to the Kiwi site that would lower the structure adjacent to the Kiwi Building B by approximately 1.5 metres for Solution 1 or 1.9 metres for Solution  
25           2. The alternative designs consist of, and I have set the different design route elements out there. For the first solution this incorporates lowering the bus lane and the shared use path over the Constellation Drive bridge to provide a clearance of 5.6 metres instead of 6.1.

30           It also involves the gradient of the busway and shared use path being retained at 5%, but the length of the gradient would be able to be reduced from 303 to 228 metres.

This results in a reduction in the height of the retaining wall from 5.2 metres to 3.5 metres on the north-western corner of building B on the Kiwi site.

35           Solution 2 involves lowering the bus lane and shared use path over the Constellation Drive Bridge in the same way, from 6.1 to 5.6 metres, but it also

involves modestly increasing the maximum gradient of that bus lane and shared use path from 5% to 5.34%.

This results in a reduction in the height of the retaining wall from 5.2 to 3.1 on the north-western corner of building B on the Kiwi site.

5 Solution 2 is the preferred solution by Kiwi as the additional 0.4 metres of visibility it affords does provided less obscured views to the buildings. Solution 2 has been depicted in the visual simulations prepared by Mr Land.

And I do come to this in my submissions, but I have actually attached those drawings that are in his evidence, at the last appendix, I think.

10 Aurecon, on behalf of NZTA, has also produced the plan which I've attached as Appendix B which compared the Kiwi alternative design to NZTA's design.

If I just take you to Appendix B.

15 Kiwi's alternative design Solution 2 is shown in red, if you can make that out, it's quite fine.

JUDGE HARLAND: I can't.

MS DE GROOT: It looks like this.

JUDGE HARLAND: Oh I see, I'm looking in the wrong place, thank you, yes, I now have it, yes.

20 MS DE GROOT: So Solution 1 which is proposed by Kiwi, which involves the reduction in the height of the bridge, but does not change the gradient is in blue. NZTA's proposed route is in black. And Kiwi's preferred solution, Solution 2 is in red. You can see also on this plan Kiwi's buildings which you are outlined in yellow, and you can see the height of the various route options  
25 against Kiwi's buildings. There are no horizontal changes to the alignment, just the vertical change.

If you look to the left of Kiwi's storage building B, which is in yellow, there are some indications there about the amount of building that would be visible between the different options. It's quite small. You can see that between the  
30 NZTA option and Kiwi's building B, that provides a sort of a clearance or distance of 0.9 metres compared to --

~Questions from the Board (9.45 am)

MR MARK-BROWN: What is the green one?

35 MS DE GROOT: The green is another comparison that NZTA prepared, but is not proposed by Kiwi. This plan was prepared by Aurecon for NZTA. I'm not

entirely sure why that was put on there. My friends might be able to help you with that one?

JUDGE HARLAND: So you would say that's not relevant?

MS DE GROOT: Not relevant, correct.

5 I have just been informed that the green one is the same slope as the existing motorway.

MR MARK-BROWN: Okay. Thank you.

JUDGE HARLAND: Just to help those of us with not good eyes, is this document provided elsewhere?

10 MS DE GROOT, yes it's appended do Mr Land's evidence.

JUDGE HARLAND: Right, so we can look at it on the iPads and blow it up.

MS DE GROOT: All of the documents that I've appended to my submissions are in evidence except for one, which I will come to, which is just like a diagram to help understand some of these changes. It's just easier to look at rather than  
15 for me to read words sometimes.

~Ms de Groot continues (9.47 am)

MS DE GROOT: If I just go back to my submissions now, at paragraph 37.

The changes which have been proposed by Kiwi have been discussed  
20 with NZTA and were also considered in expert conferencing on transport and traffic issues.

In expert conferencing Mr Moore --

JUDGE HARLAND: Well, just hold on a second, you can't talk about -- you can talk about the outcomes of conferencing, is that what you're talking about.

25 MS DE GROOT: Yes Your Honour I'm referring to the statement.

So the Joint Witness Statement on page 6, Mr Moore and Mr Hall agreed that 5.6 is an appropriate clearance point for the busway and shared use path bridge over Constellation Drive and is consistent with, or higher, than other clearance distances for bridges within the surrounding network. As noted in  
30 Mr Hall's evidence, a bridge height of 5.6 is also above the minimum height for bridge clearance and NZTA's Bridge Manual, which is 4.9 metres.

However, NZTA has been unwilling to confirm if Kiwi's alternative Solution 1 or 2 is acceptable.

It appears that NZTA's primary issue with Solution 2 is one of safety  
35 because the increase in gradient over part of the busway and shared use path will depart from the AUSTRROADS Guide to Road Design Part 6A and the

Busway and Design Manual which both specify maximum gradients of 5%. Deviations from 5% would require approval by Auckland Transport and NZTA. In its opening legal submissions NZTA has stated that an increase in gradient would adversely affect cyclists, pedestrians and buses. It does not support  
5 progressing the Kiwi solution through a safety audit process. And deviations from the applicable safety standards are not justifiable and unlikely to be approved.

...(Reads 40(b) - 42 (a) exactly as submitted) or 34 centimetres over 100 metres. And I have illustrated this change a little further in Appendix C.

10 I may have got my calculations wrong in 42(a) sorry, so perhaps I will come back to you later on that Your Honour?

JUDGE HARLAND: Yes sure.

MS DE GROOT: I did think I was quite good at maths, but maybe not.

So I think this is Appendix C.

15 It can be conceptually difficult to understand what we're talking about when mentioning the change in gradient over a certain distance, and comparing the different Kiwi solutions with the NZTA original design. So we've tried to put that in diagrammatic form just to assist with the understanding. So the black triangle there is the existing design. So this shows the length and the grade  
20 using a 5% gradient over a distance of 303 metres, which is part of NZTA's design. Then we have the Kiwi option 1 and the Kiwi option 2 which is in blue and red.

The blue maintains the 5% grade, but it reduces the length of the grade. So there is no change in the gradient. Kiwi is only changing the height of the  
25 bridge.

The preferred solution, which is in red there, is a bridge reduction but with a 5.34% grade. So although the grade in a certain section of that section of busway and shared use path will increase, it's only for 158 metres. It's a shorter path, the entire section.

30

~Questions from the Board (9.52 am)

MR MARK-BROWN: Can you explain what the numbers in boxes are on the right-hand side?

MS DE GROOT: So because the 5.34% grade will be applied to a distance of 158  
35 metres, that's the vertical elevation. So if you are starting --

MS MUELLER: Vertical elevation of what?

MS DE GROOT: Of a car travelling on the shared use path or the busway. So that's how high you will rise by the time you get to the end of that section of the shared use path and busway.

MR STEWART: So that's clear that under option 2 you would rise to a height of 8.4  
5 above level, and in the plan, the existing design would be 15.1 metres?

MS DE GROOT: Correct.

MR STEWART: And so how does that relate then to the height of the bridge over Constellation Drive, because I think in option 1, I think it was, that was going to be the same height as the design, is that right?

10 MS DE GROOT: So the bridge for Kiwi Solution 1 and 2 will be lowered in both cases.

MR STEWART: Lowered in both cases?

MS DE GROOT: Yes.

MR STEWART: So that's why the 11.43 or the 8.4, I can see where that's been derived, but eventually you get to the bridge over the Constellation Drive and  
15 the height of the design on option 1 or 2 would be lower than the design proposed by NZTA?

MS DE GROOT: Correct. So it will tie in to the rest of the busway at Constellation Drive, it's just that the bridge will be lowered which allows -- which means that there will be some change in the gradient.

20 For Kiwi Solution 2 it's also important that there will be other changes to the gradient.

So, the reason I'm talking about the 5% versus 5.34% part of that section of the busway and shared use path is because the standards specify a 5% grade and NZTA requires a deviation from those standards by 0.34%. So  
25 that's the key issue.

MR STEWART: And the blue and the red triangle, if I can call them that, that is really in the vicinity of the Kiwi storage site?

MS DE GROOT: Yes, it's directly adjacent to the Kiwi storage site.

30 So Kiwi is only proposing a change to a defined section of the busway and shared use path. There will be no other changes at either end, it ties into the existing alignment and design.

JUDGE HARLAND: So is this prepared by Mr Hall, is it?

MS DE GROOT: No, we just prepared it based on the calculations in all of the evidence.

35 JUDGE HARLAND: Right, well --

MS DE GROOT: It's just a way that we graphically put it on paper to help try and explain.

JUDGE HARLAND: Right.

Are you intending to put it to Mr Hall?

5 MS DE GROOT: We're happy to do that.

JUDGE HARLAND: I think that would be wise thank you.

MS DE GROOT: Okay.

JUDGE HARLAND: So I think you were up to, you just talked to us about Appendix C, which we've just been referred to, so page 14, 42 (b.)

10

~ Ms de Groot continues (9.56 am)

MS DE GROOT: Yes, Your Honour, thank you.

The mitigation of the amenity and the visual impacts of the Kiwi -- I'll go back to the start of 42 so that it makes sense. Kiwi is frustrated at NZTA's failure to adequately consider their solutions and we don't consider that they have appreciated or considered critical matters such as the mitigation of the amenity and visual impacts of those solutions on the Kiwi facility.

15

The drawings prepared by Mr Land which I have attached at Appendix D demonstrate the mitigating effect of the alternative design.

20

So in those drawings you can see the existing situation compared to the lodgement design and Kiwi's solution at different viewpoints.

And these relate back to the photos that I showed you earlier. These also form part of -- are also in evidence.

25

So the significance of the impacts can be seen between the existing motorway and the lodgement design not so much in the first drawing, but as you proceed along State Highway 1 adjacent to Kiwi site. And the solution will provide some mitigation to Kiwi, it doesn't entirely preserve the view, but it does reduce the impact.

30

It's solution 2 which is depicted in the drawings on the bottom of the page.

~Questions from the Board (9.58 am)

MR STEWART: So I'm looking at plan AO7 which seems to be quite a useful one, where, as I think I understand that the top drawing, well it's an existing view; the second drawing is the -- that's what's been proposed by NZTA, is that right?

35

MS DE GROOT: Correct.

MR STEWART: And the bottom one is your option 2, is it?

MS DE GROOT: Yes, that's right.

MR STEWART: And that's really quite a critical one, because that's where the flyover,  
if we can call it that, goes over the top and the car is actually on the main north  
5 sort motorway isn't it?

MS DE GROOT: Yes, that's right, heading south.

The flyover actually goes over the top. It's the busway which has the  
blocking effect.

MR STEWART: And if you turn the page to the next one AO8, the top one is the car  
10 on the motorway or is it on the off-ramp?

MS DE GROOT: Off-ramp. It's at the start of the off-ramp.

MR STEWART: Yes I see, it says that anyway, I didn't read it properly.

~Ms de Groot continues (10 am)

15 MS DE GROOT: These drawings demonstrate the mitigating effect of the alternative  
design.

While the alternative design will still restrict views to the facility, as I  
mentioned, it will considerably improve the situation and will allow Kiwi to derive  
some marketing and branding effect from the location on which the facility was  
purpose-built.  
20

This will in turn reduce the business loss impacts on and Kiwi allow it to  
provide for its economic well-being.

The potential for significant savings in taxpayer money associated with  
Kiwi's alternative design, let alone the potential savings in compensation  
25 payable to Kiwi under the PWA for business loss impacts ...(Reads 42 (c) - 42  
(e) exactly as submitted) ... in respect of the shared use path. And that's by  
reference to the Joint Witness Statement.

Mr Hall's evidence is that Solution 1 provides a shorter distance where  
the gradient for the busway and shared use path is at 5%.

30 The proposed modification of the gradients of the proposed busway in  
Solution 2 is suitable and would lead to an equivalent level of service and safety  
to that proposed by NZTA.

The increase in gradient of the busway to 5.34% in Solution 2 will be  
consistent with other parts of ...(Reads 42 (f) (iii) exactly as submitted)... in  
35 Solution 2 the distance at a grade of 5.34% is only for 158 metres, and that's  
compared to the extended distance on other sections of the busway.

The modest increase of the busway allows for shallower grades to be provided north of Kiwi facility to allow for a smooth connection into the vertical curve some 300 metres north.

5 Increasing the grade to 5.34% may allow for a shorter length where the busway is at a 5% or higher grade. The rate of change of the vertical curve between the Constellation Drive station and the busway will also decrease if the grade is made steeper, providing sufficient forward site distances.

10 The increase in gradient to 5.34% will not prevent the busway being converted to light rail in the future, which I understand is a potential option. Allowing for a steeper grade up to 5.34% in the relevant area will not create any significant adverse safety effect compared with NZTA's design.

15 For safety reasons in relation to the provision of facilities for cyclists travelling downhill, the AUSTROADS Guide states that gradients in excess of 5% should not be provided unless it is unavoidable. I just note that in NZTA's submissions they stated that standard applied to the busway, but it actually applied to the shared use path. This is particularly important if there are sharp horizontal curves or fixed objects at the bottom of the slope. However, Kiwi's shared use path design in Solution 2 does not include any sharp turns, intersections, or fixed objects within 200 metres of the bottom of the slope.  
20 Clear sight lines for cyclists are also provided which will allow riders to react to any other users on the path or any other obstacles. In Mr Hall's view, these facts do not prohibit the allowance of a gradient in excess of 5%.

25 There are other shared used path in the Auckland network which deviate considerably more from the AUSTROADS Guide than what the proposed shared use path adjacent to State Highway 16 between Grafton and Parnell. There have been no reported crashes associated with that path since it was opened in September 2014.

~Questions from the Board (10.05 am)

30 MR STEWART: I wonder if you could just go back to the paragraph at the top of the page, when you referred us to the fact that these gradients apply only to the SUP, can you tell us whether AUSTROADS have standards relating to the busway, or does the same figure of 5% apply or is it different?

35 MS DE GROOT: Yes, there is two different standards. So the AUSTROADS Guide states that gradients in excess of 5% should not be provided unless unavoidable, and that applies to the shared use path.

And then the other standard also applies the same standard; I have referred to it, I will just find the name -- I can't remember the standard off the top of my head sorry sir, the Busway and Design Manual.

JUDGE HARLAND: So AUSTRROADS, the key point is AUSTRROADS only relates to  
5 the SUP, not the busway?

MS DE GROOT: Correct, yes Your Honour.

JUDGE HARLAND: And the other guide, for the busway, now because I think we're thinking that it applied to both; now we know it only applies to the SUP, according to you, that there is a similar design or safety concern with the  
10 busway that's outlined?

MS DE GROOT: Yes Your Honour. The 5% grade applies in both standards. This maybe some questions that are a bit better directed at Mr Hall than me, I think.

JUDGE HARLAND: Yes. All right. What was the name of the busway guide?

MS DE GROOT: Busway and Design Manual.

15 JUDGE HARLAND: All right.

MS DE GROOT: It has a longer name than that I'm sure.

JUDGE HARLAND: But they are guides, like a whole heap of other documents we get to look at that are guides?

MS DE GROOT: Yes, correct.

20 JUDGE HARLAND: Not statutory instruments?

MS DE GROOT: Not statutory instruments that I'm aware. Of but they are provided by NZTA and Auckland Transport and discussed quite thoroughly in the traffic and transportation evidence as well.

JUDGE HARLAND: All right thank you.

25

~Ms de Groot continues (10.08 am)

MS DE GROOT: Kiwi has gone to considerable effort and expense to develop...

(Reads 43 - 44 exactly as submitted) ... That visibility of the facility from State Highway 1 is maintained.

30 That is the end of my submissions Your Honour.

~Questions from the Board (10.09 am)

JUDGE HARLAND: We do have some questions if you just bear with us for a moment please?

35 MR MARK-BROWN: I have a question, in the evidence yesterday on behalf of Auckland Transport, it seemed to be that one of their concerns about the

proposed Kiwi options of increasing the gradient was that there would be -- would permanently reduce the efficiency of the operation of the public infrastructure, in other words, the busway, because of the increased gradient.

Now you haven't addressed that in your evidence, and it seems to me it's probably quite a technical area that perhaps Mr Hall would need to address; so would you envisage asking Mr Hall to address that?

MS DE GROOT: Yes, it probably is a more technical matter.

I understand just from reviewing the evidence that the increase by 0.34% is unlikely to have any discernible impact on the buses, but I do agree that this is a technical matter that is probably best a question for the experts. So we can put that to Mr Hall if that would assist?

MR MARK-BROWN: Okay thank you. That's all.

JUDGE HARLAND: All right, thank you Ms De Groot. We don't have any further questions. Thank you very much.

MS DE GROOT: Thank you Your Honour.

JUDGE HARLAND: So that takes us to Waste Management's opening?

~Submissions from Mr Pilkinton (10.12 am)

MR PILKINTON: Good morning. I don't have any written submissions to hand up. I am hoping you have the Joint Memorandum of Counsel that was filed late last night.

JUDGE HARLAND: Yes, we've had a fair bit of paper this morning, so let's just find the bit we need to be concerned about.

So take us through this, because we received this just before we came in. So what I understand from it, is that you've reached full agreement on all issues outstanding?

MR PILKINTON: Yes.

JUDGE HARLAND: And what you want to do is withdraw -- are you withdrawing your submission or withdrawing your evidence?

MR PILKINTON: Seeking to withdraw the evidence Your Honour and be excused for the remainder of the hearing; not the submission. And the reason for that is just is just a safety net really in case something goes strangely wrong with this Project and what the design might come out of it in the process.

JUDGE HARLAND: Well I'm not happy about that and I'll tell you why. Because if you have your submission extant we have to deal with it. And if you have a side agreement or some other way that you've resolved this, we have nothing in

front of us that helps us to figure anything out. So what I suggest is this. That we hold that thought; that you have some time to get whatever you need sorted with NZTA and that we review the position again later on in the week, or perhaps even earlier next week. And then that will give you some time to consider where you want to go with this. If you insist on withdrawing your evidence that's fine; you won't have any evidence to support your submission.

5

MR PILINGTON: The other option might be to potentially change the submission to be in support of the Project, rather than in opposition.

JUDGE HARLAND: I'd have to give some thought to what we can do; Mr Berry I might need some help from you with that. But, in any event, you've settled and you don't want to participate any more in the hearing; we can note that as of today. But how that gets achieved in a manner that's tidy for us as well as for you, and I guess for the agency, we just might need to give a little more thought to. Are you comfortable with that?

10

15 MR PILKINTON: Certainly, yes.

~Submissions from Mr Berry (10.14 am)

MR BERRY: Madam Chair, I am facing precisely this situation today in the other Board of Inquiry hearing.

20 JUDGE HARLAND: Well that's good.

MR BERRY: Yes, it is good. Peace has broken out all over the region. The way we have -- in fact, we've been called and Helen Andrews from my office will be going to that Board at 10.45 this morning, but the way we're proposing to deal with that is to leave my client's submission in. We've filed a joint memorandum of counsel. The proposal is to leave the submission in because the basis for the agreement is a condition that we were seeking to have imposed that's been agreed. So we leave the submission in; leave the evidence in, but only on the basis that the submission will provide the Board's jurisdiction to impose it, and the evidence is -- the scope of the evidence, or at least conceptually, is reduced to what evidence the Board needs to accept that the condition is necessary.

25

30

JUDGE HARDING: I see. All right. So does that -- that is helpful. Because this was precisely why I made the direction early on that everybody thought was quite unusual, which is it's not evidence until it's presented as evidence either by consent or otherwise, because of my experience in other Board of Inquiries where there has been difficulties with this sort of problem. This is not a difficulty, this is a positive outcome.

35

And I'm not sure how you're proposing to resolve this issue, whether you do need the submission to remain in force for reasons such as Mr Berry has advanced, or whether you don't, or whether you want some time to think about it?

5

~Submissions from Mr Pilkinton (10.17 am)

MR PILKINTON: We can certainly go away and think about it. I mean, in terms of the conditions that are being proposed on the designation to address Waste Management's concerns, they are already in the agency's rebuttal evidence. So I think there's already jurisdiction there.

10

JUDGE HARLAND: Right. So it might be that there is a complete withdrawal -- well you're not presenting any evidence is the important point and you are not wanting to present any opening submissions or closing submissions at this point?

15 MR PILKINTON: Correct, yes.

JUDGE HARLAND: Can I just ask for a moment, who is dealing with this for NZTA, is that you Ms Sheard?

~Submissions from Ms Sheard (10.17 am)

20 MS SHEARD: Yes I am.

JUDGE HARLAND: Do you want some time to think about how we deal with it? I'm happy to deal with it by memorandum. You've already filed your memorandum, but I just want to make sure we don't have any extra work as a result of having to cover off things.

25 MS SHEARD: No we're very comfortable with the Settlement Agreement. I guess the condition that we've put forward in rebuttal, Waste Management could leave its submission in on the basis that it wants to ensure that condition remains in at the end of the process, and I suggest that may be the best way of going about it.

30 JUDGE HARLAND: Well again, to just help us with the amount of paper we've got to deal with, could you file a further memorandum recording that? And once that memorandum is received, I'll make a direction in consultation with fellow Board members about that, but it's likely to be exactly what you are seeking.

MS SHEARD: Certainly thank you.

JUDGE HARLAND: So yes, you're tentatively and probably going to be finally excused, thank you very much for the courtesy today and we'll deal with that on the papers.

MR PILKINTON: Thank you.

5 JUDGE HARLAND: That takes us now to the position for Watercare. Mr Bangma?

~Opening from Mr Bangma on behalf of Watercare (10.19 am)

MR BANGMA: I have with me a very brief opening statement from Watercare.

10 You will see, Your Honour, that the opening statement is only one page and it attaches to it a memorandum that was lodged with the EPA on 14 June regarding an agreed position that had been reached regarding changes to the conditions.

15 But turning to the opening, paragraph 2, Watercare's involvement in this Project and the focus of its submission and evidence is limited to the potential effects the Project could have on the operation of the Rosedale Wastewater Treatment Plant, including the two associated wastewater ponds.

Watercare understands that the Board made a site visit to the wastewater treatment plant on 6 June 2017.

20 And Watercare's submission raised a number of potential issues and sort changes to the proposed conditions to ensure that effects on the operation of the wastewater treatment plant, including future plans for expansion, would be properly addressed.

25 Two briefs of evidence have been lodged on behalf of Watercare, a brief of corporate evidence by one of Watercare's managers, Mr Mark Bourne, and we understand that the Board has read Mr Bourne's evidence and confirm they don't have any questions for him. And on that basis he's been excused, I understand, from attending the hearing.

30 The second Brief of Evidence from Watercare is the brief of planning evidence from Mr Mitchell. Mr Mitchell's evidence included suggesting changes to the designation and resource consent conditions to address Watercare's concerns. And there are ongoing discussions I understand between him and the planner for NZTA, and that's what's resulted in this memorandum of counsel, which I've attached. So that resulted in some amendments to the conditions which Watercare was satisfied with, Your Honour.

35 And I understand the current state of play with those conditions as attached, is it's been suggested following the planning conferencing that those

might be looked at again and there be some very small drafting changes; I don't think anyone will call them substantive changes. Those are, I think, fairly close to agreed and just being circulated at present. And presumably might be incorporated along with other changes to the planning conditions when the Board gets a revised set of those.

And perhaps at that point the Board could decide whether it wished to hear evidence from Mr Mitchell or not? But he's not scheduled to attend for some time yet, so there is time for that to be resolved.

So based on those amendments to the conditions, Watercare has no outstanding concerns in relation to the Project.

JUDGE HARLAND: All right, thank you for that Mr Bangma.

I think we'd indicated it was most unlikely that we would require Mr Mitchell, but if we can just reserve that that would be very helpful.

Well that takes us to some evidence.

But I think what we'll do is take the break 15 minutes earlier and come back again nearish to quarter to.

Thank you.

~(Adjourned 10.23 am -10.43 am)

(10.43 am)

~ PAUL MICHAEL GLUCINA (Sworn) (10.43 am)

~Examination in Chief by Ms Sheard (10.43 am)

MS SHEARD: Good morning Mr Glucina. Is your full name Paul Michael Glucina?

MR GLUCINA: It is.

MS SHEARD: And you have -- have you prepared a statement of evidence dated 20 April and a statement of rebuttal evidence dated 15 June 2017?

MR GLUCINA: I have.

MS SHEARD: And do you confirm that you have the qualifications and experience set out in section 1 of your primary statement of evidence?

MR GLUCINA: Yes.

MS SHEARD: And do you confirm that the contents of your statements of evidence is true and correct to the best of your belief and knowledge?

MR GLUCINA: Yes.

MS SHEARD: And have you prepared a summary statement?

MR GLUCINA: Yes, I have.

MS SHEARD: Can you please read that statement now, thank you?

MR GLUCINA: Certainly. This summary statement provides a summary of my Evidence in Chief dated 20 April 2017 and my rebuttal evidence and includes updates to my evidence since my rebuttal evidence was provide on 15 June 2017.

5 First off, my changing role.

On 3 July 2017 ...(Reads 2 - 4 exactly as submitted) ... the principles of the concept plan have now been captured within the designation conditions.

MS SHEARD: Thank you Mr Glucina. Just before you answer any questions, were you present yesterday for the legal submissions?

10 MR GLUCINA: Yes I was.

MS SHEARD: You'll be aware then that the Board asked a question about the funding of local roads?

MR GLUCINA: Yes.

MS SHEARD: Are you able to add anything that would be of assistance to the Board in that respect?

15 MR GLUCINA: Yes, I believe I could.

So, obviously my current role, I'm looking after the development of business cases. I had a previous role at that agency as a planning investment manager. So, part of that role was to work with local authorities on the funding of local works. So, perhaps I could explain at a high level the funding of transport infrastructure in New Zealand.

20

~Questions from the Board (10.48 am)

JUDGE HARLAND: All right, well, I think what I was interested in there was the disconnect or the potential disconnect between planning instruments that might enable decisions to be made about priority projects and what happens if, at the NZTA level, there is a change of national priority and there can't be the degree of alignment because there would appear to be a road block, because funding is not available because of a particular planning process. That's what I was really getting at, and it was specifically in relation to things like the flood works at Greville Road and things like the cycling and walking, and Ms King I think was saying there is just no budget for this kind of thing. And if you've got a ten year plan that says well, it's not going to be available for ten years, how does that help you? So that was the general surround. So you go ahead and tell us what you want, understanding that that's the focus.

35

MR GLUCINA: So that's very useful. So perhaps I might focus on the ability of both the Transport Agency and Auckland Transport to change their investment priorities?

5 So both bodies do need to work within the direction of the Government Policy Statement, so the GPS. That is how the Transport Agency allocates its funding, so the Transport Agency projects themselves are a hundred percent funded through the National Land Transport Fund which is collected from fuel excise duty and road user charges, so basically from motorists. But we also fund local authorities who have projects which meet the GPS outcomes, and in 10 the case of Auckland Transport that will be providing 51% of funding for appropriate projects.

So there is a process which happens every three years to develop the Upper Regional Land Transport Plan, and that is where the agency and the local authorities need to provide their list of investments over the next three 15 years and how they plan to drawdown on the National Land Transport Fund. There is also the ability to modify programmes within that at any time. They're often just subject to a significance test, which in most cases depends on the capital value of the works and whether it has been consulted on in the past. So, I guess in summary, I would say that the ability to put additional investment 20 around this area from Auckland Transport would come down to a prioritisation decision, internally, as opposed to, in my view, a statutory restriction on their ability. So it's just around the same as the Transport Agency where there are priorities for investment at this stage.

JUDGE HARLAND: Right, and so just to help with that, the three year that you're 25 talking about, the three year Regional Land Transport Plan, is that the same across the country? So it's always every -- there's a consistent three year cycle?

MR GLUCINA: Exactly.

JUDGE HARLAND: Yes, and so in terms of this project, this was -- the agency had 30 notified this as a Project that was significant to it?

MR GLUCINA: That's right.

JUDGE HARLAND: Picked up by the Minister. And, so when was the funding for this, for NZTA's part of it made clear? Just remind me?

MR GLUCINA: So we would have had the current planning period we're operating is 35 the 15 to 18 National Land Transport programme, so this Project has been in there, in that programme. Our Board has made a number of funding approvals

over time. So I would make the comment that the National Land Transport Programme identifies projects which can be funded, but the actual decision to make the funding available will either be at our Board level or lower depending on the capital value.

5 JUDGE HARLAND: All right. So in relation to this Project, what I'm trying to get a handle on is how it fitted with the three year plan that you told me about? And how it might have impacted on decisions that Auckland Transport could have made to deal with other things that it now says that NZTA should fund?

MR GLUCINA: So, as I said earlier, it has been in the current three year plan but I  
10 think more importantly, if we put the plan to the side, since the indicative business case phase we have been working in conjunction with Auckland Transport as we developed up this Project, and I guess that's reflected in things such as the wider network plan for the cycle network where we've worked with them to understand what is the long term plan for the Albany network, what can  
15 we provide through this Project and what might we provide in the future to further enhance that.

So that has been underway for a number of years and will continue to be underway going into the future. So they're very much a Project partner with us on this investment.

20 JUDGE HARLAND: So, you're not -- well, how do you view then the requests particularly for cycling, the extra connections? Is that the bridge too far, pardon the pun, for you, or is that something which you say if Auckland Transport had got themselves organised a bit sooner they could have re-looked at their funding aspects? Where do you sit with that, or do you say you don't want to  
25 comment?

MR GLUCINA: I would make one comment, because, I mean this is the nature of the way we operate in Auckland where we need to plan on an integrated network, but, we also need to understand the boundaries between ownership and responsibility between different parties. At a generic level, referring to cycle  
30 infrastructure in particular, the Transport Agency looks to deliver on core parts of the network within our State Highway designation, or land ownership. And that's been mapped out in a number of projects across recent history in Auckland, but we've also worked again with Auckland Transport on local roading connections which connect into our larger projects. Sometimes they  
35 can take a number of years to tie in. So that's obviously not preferable, but

again it comes down to their priority across Auckland Transport cashflows and everything else.

5 So, I guess my view is it's not unusual to have a wider network planned that is not delivered all at once, but the Transport Agency has a good record of putting in the backbone of these networks when we come along with significant projects such as this which can be built on over time.

JUDGE HARLAND: All right. That's helpful. So just to tie that up, when was the last 3 year plan that would have impacted on this Project?

10 MR GLUCINA: So that was the 2015 to 18 RLTP and NLTP, and then we're currently under the planning process for the 18 to 21.

JUDGE HARLAND: Right, and is that when you say you're currently in the planning for that next one?

MR GLUCINA: That's correct.

JUDGE HARLAND: How far along is that?

15 MR GLUCINA: So we've been talking to Auckland Transport around our draft programme; it would be towards the end of this year, I believe, potentially early next year where we'll start consulting on that.

JUDGE HARLAND: All right. Thank you for that.

20 I've interrupted the questions, I'm sorry, but I just thought we needed to clarify what we might be interested in.

MS SHEARD: That was most helpful, thank you. I will now turn Mr Glucina over for questioning.

JUDGE HARLAND: Thank you for that. Now, so we have Kiwi?

25 MS DE GROOT: Your Honour, we do not wish to ask any questions; this is one of the witnesses that we had indicated we no longer wished to.

JUDGE HARLAND: Oh, I see. Sorry, that hadn't hit my schedule yet so I will delete that. Thank you for that. So it is just open for our questions.

30 MR STEWART: I have a question, I'm not sure whether you're the right person to ask, but I'll try. Looking at your Evidence in Chief at paragraph 7.1 (d) where you are talking about the Project objectives, you will be well familiar with those, and it says under (d) to provide safe walk and cycling facilities adjacent to State Highway 1 and State Highway 18 and connections to local transport networks. Now, yesterday we had a bit of discussion about the SUP on the northern side of State Highway 18, and there was also some comment from Auckland  
35 Transport I think it was, or Auckland Council, correct me if I'm wrong, about the underpass and the effect on that of the northern SUP, and, in my mind, I was

questioning how did the northern SUP come to be? Is it because it's just in line with the Project objectives, or was it as a matter of mitigation of some effect? In other words -- were you here yesterday?

MR GLUCINA: Yes, not for the whole day, but I was here for portions of it.

5 MR STEWART: No, well, it was the position from Auckland Council that the construction of the SUP on the northern side would have an adverse effect on the underpass because it would mean it would be used to a greater extent and they could see some problems with that. I'm just trying to work out, what was the driver, if you like, for the SUP on the northern side?

10 MR GLUCINA: So, I'm happy to provide an overview of my understanding of it. In terms of the details, Mr Clark would probably be better in terms of some of the implications of patronage, with the shared use path in place. Coming back to the driver for providing walking and cycling connections, obviously that's a part of the Transport Agency's mandate to provide integrated  
15 transport solutions. So we did look to provide enhancement through our Project. My view is we are doing that with the shared use path on the northern side. I have read the evidence around the option analysis that was undertaken between the different alternatives through there, and I believe that the current Proposal is the optimum one.

20 MR STEWART: Yes, and what would you say to the assertion by Auckland Council that the construction of the SUP will add or will affect adversely the already substandard underpass at Alexandra Creek?

MR GLUCINA: So I guess my view there is that providing the additional opportunity to cross around Paul Matthews is improving accessibility through there and  
25 providing alternative options. Again, this is a situation we've come across in a number of Transport Agency projects in the past where topography, land restrictions, or a number of reasons might provide the -- might limit opportunities for crossing locations for pedestrians. In a number of those situations what we try to ensure is that there are opportunities available for  
30 people that might be uncomfortable using one certain crossing facility; they have another one available. And that's around designing for different customer types. So you've got to understand the different users through these areas and what might be appropriate for someone might not be for others. So providing those opportunities is a way of mitigating that.

35 MR STEWART: Yes, thank you for that.

JUDGE HARLAND: I have a question in relation to recreation and reserves. In your rebuttal evidence, paragraph 5, you might want to have that open in front of you?

MR GLUCINA: Yes.

5 JUDGE HARLAND: Paragraph 5.2, this was dealing I think with the swapping like-for-like for recreation land and open space. And I just needed to be clear because it's lost in the detail where matters have moved on to with this. So I'm looking at 5.2 (b) where you were talking about the option for recreational land exchange land at Brighams Creek Road and then there was some discussion  
10 about Auckland Council saying they'd need three months to have a think about whether that would work for them. And I just wanted you to update me on where that had got to?

MR GLUCINA: So the current status within there is up-to-date as I'm aware of. So it is just a work in progress in terms of that assessment of options.

15 JUDGE HARLAND: Right, so it's still the case, your evidence in rebuttal, 5.2 (a), and (b) remain the same?

MR GLUCINA: That's correct.

JUDGE HARLAND: And likewise (c) and (d)? That's all of paragraph 5 basically, 5.2?

MR GLUCINA: Yes, that's correct; that's my understanding.

20 JUDGE HARLAND: So your understanding is that the preference is still for a land swap rather than compensation in dollar terms?

MR GLUCINA: I believe so.

JUDGE HARLAND: And that's what you're interested in trying to find solutions for as well?

25 MR GLUCINA: Yes. So we're happy to facilitate the outcome that Council is looking for.

JUDGE HARLAND: Do you know, and tell me if you don't, where that's reflected in any conditions, or is that a matter for your planners?

MR GLUCINA: Yes, that would be best referred to them.

30 JUDGE HARLAND: Well, if I could just get that flagged please, for the planners to update us on where that is, and likewise for the Council witnesses to update why it's three months for them to make a decision about those kind of things. Thank you. Any questions arising?

MS SHEARD: No, no further questions, thank you.

35 JUDGE HARLAND: Thank you much Mr Glucina you are free to go if you wish. You are welcome to stay if you like.

~ (The witness withdrew - 11.05 am)

~DAVID GARY MOORE (Sworn) (11.06 am)

~Examination in Chief by Ms McIndoe (11.06 am)

5 MS MCINDOE: Can you please confirm for the Board that your full name is David Gary Moore?

MR MOORE: Yes.

MS MCINDOE: And that you have prepared two statements of evidence the first being a statement of Evidence in Chief dated 20 April and the second being a  
10 rebuttal statement 15 June?

MR MOORE: That's correct, yeah.

MS MCINDOE: And that you have the qualifications and experience set out in section 1 of your statement of Evidence in Chief?

MR MOORE: Yes.

15 MS MCINDOE: Do you have any corrections to make to your evidence?

MR MOORE: No.

MS MCINDOE: Can you please confirm for the Board that the evidence is true and correct to the best of your knowledge?

MR MOORE: Yes.

20 MS MCINDOE: Now you have prepared a summary statement of evidence?

MR MOORE: Yes.

MS MCINDOE: Does the Board have that?

JUDGE HARLAND: Yes.

MS MCINDOE: Could I ask you to read that statement please?

25 MR MOORE: Sure.

This summary statement provides a summary of my Evidence in Chief dated 20 April 2017 and my rebuttal evidence, dated 15 June 2017.

The Project's design and associated construction methodologies have been developed based on ...(Reads 2-4 exactly as submitted)... I took part in  
30 the expert conferencing session in transport and traffic: Site specific impacts on 23 June 2017.

My evidence has not changed due to this.

JUDGE HARLAND: Are you cross-examining for Auckland Council first?

MR BANGMA: Yes, Your Honour, and sorry, by way of update there are no questions  
35 from Auckland Transport for Mr Moore.

JUDGE HARLAND: All right, thank you.

~Cross-Examination by Mr Bangma on behalf of Auckland Council (11.13 am)

MR BANGMA: Good morning Mr Moore. Now I understand you're a senior highway engineer at Aurecon?

5 MR MOORE: That's correct.

MR BANGMA: And your evidence covers project design for this Project and construction methodologies?

MR MOORE: Just design. Construction methodology is Mr Hale.

MR BANGMA: I'd like to ask you some questions in relation to the Rook Reserve  
10 Alexandra Stream Underpass. Were you here for the Council's opening yesterday?

MR MOORE: I was, yes.

MR BANGMA: So you will be aware that upgrade of the underpass is something that the Council is pursuing?

15 MR MOORE: Yes.

MR BANGMA: So first of all, just by way of clarification, so that the Board, and we're all clear, if I could ask you to turn to paragraphs 7.10 and 7.11 of your Evidence in Chief? That's the part of your evidence just where you set out what's proposed as part of this Project currently, in terms of improvements to the  
20 underpass.

MR MOORE: Yep.

MR BANGMA: So at paragraph 7.10, so I understand from that the proposals currently proposed by the agency include changing the alignment of the path from the south to improve visibility?

25 MR MOORE: Correct, yeah.

MR BANGMA: Just a question of clarification, so changing the path in which direction? Would it be closer to the stream on the west or?

MR MOORE: Yeah, so it would be -- the limitations of changing the path alignment is just as far as we can go without encroaching into the stream. The retaining wall  
30 that's currently there which blocks visibility to the portal as part of the design has also been removed, so it's trying to get maximum visibility of the portal without encroaching into the stream.

MR BANGMA: Will that result in significant improvements to the visibility if someone was cycling down on that approach?

35 MR MOORE: So the bigger improvement actually comes from the removal of the retaining wall that's currently there which blocks all visibility of the entrance.

MR BANGMA: But would there still be existing -- you are obviously indicating in your answer that the agency would do all that it could to improve visibility, but there's some constraints there?

MR MOORE: Yep.

5 MR BANGMA: Would there still potentially be a visibility issue if you were coming down on a bicycle on that alignment?

MR MOORE: Yes, the visibility would still be substandard.

MR BANGMA: Would that require a cyclist to slow down and get off their bike? Would that be the cautious thing to do?

10 MR MOORE: At the moment there is a solid line painted on the existing path as well to encourage cyclists to stick to their own side of the path and similar treatment would be here.

MR BANGMA: And I note also that the other change that's proposed is the inclusion of lighting and CCTV facilities?

15 MR MOORE: That's correct.

MR BANGMA: And then, finally I understand, I think this is paragraph 7.11 of your Evidence in Chief, I understand that at one point NZTA was considering trying to increase the width of the connection, and that would effectively be raising the floor level in the tunnel so it was at a point where things were a little bit wider due to the extra concrete?

20

MR MOORE: Yeah, that's correct, yeah.

MR BANGMA: But that option was discounted due to flooding effects?

MR MOORE: So this question is probably better addressed in more detail by Mr Hughes, the stormwater engineer, but generally the effect it had on flooding levels was modelled and found to be unacceptable.

25

MR BANGMA: Now, you indicate in your evidence that you were involved in the alternatives assessment for the upgrade of the underpass?

MR MOORE: Correct.

MR BANGMA: I appreciate there will also be an opportunity to ask questions of Mr Schofield, who is appearing later, but I'd like to also ask you some questions about the alternative assessment. So in terms of that alternatives assessment, that identified three options for upgrading the underpass?

30

MR MOORE: That's correct.

MR BANGMA: The option which the Council favours is option 3, so the 3 metre by 3 metres on a skewed alignment?

35

MR MOORE: Yes.

MR BANGMA: Now as a result of the options assessment, I understand it was concluded that this option is technically feasible, so it could be done?

MR MOORE: Yes.

MR BANGMA: And there is no further land purchases that are required?

5 MR MOORE: No, so the -- all options considered could be done within the currently designation.

MR BANGMA: Within the current designation?

MR MOORE: Mmm.

MR BANGMA: So I want to now ask you some questions at a high level about the  
10 construction methodology for option 3.

MR MOORE: So the construction methodology is best answered by Mr Hale.

MR BANGMA: Well, that's fine. I can ask questions of him if you prefer. They were high level questions; I understand you are familiar with the options assessment?

15 JUDGE HARLAND: Put the question anyway and if you can't answer --

MR BANGMA: If you don't feel comfortable answering that it's appropriate to ask another witness.

Well, anyway, so the key point -- it's probably more just one extra question on the assessment of alternatives -- so as a result of the alternatives, I  
20 mean it was concluded, wasn't it, that option 3 would be preferable from a public safety and user experience perspective due to the better sight lines and visibility, you accept that?

MR MOORE: Yes.

MR BANGMA: And I understand from the options assessment it was concluded  
25 though that NZTA didn't want to pursue this option on the basis of cost benefit. So they acknowledged there would be some extra benefit but considered the extra costs were such that it wasn't worth pursuing is that correct?

MR MOORE: That's correct.

MR BANGMA: And so sticking with the costs, I suppose, my -- on the basis you said  
30 you were involved in the analysis of options, was there a written cost assessment of option 3 done as part of the assessment of alternatives?

MR MOORE: Yes, once option 3 was identified as the preferred option a high level cost was estimated based on that alignment.

MR BANGMA: High level cost. Are you able to tell us what that cost is roughly?

35 MR MOORE: It's in the region of \$5 million.

JUDGE HARLAND: Can I just ask a question around that? When you say 5 million is that everything, i.e. part of it that you've agreed to do and part of you haven't agreed to do?

MR MOORE: Yeah, the full replacement.

5 JUDGE HARLAND: What's was the component of it that you haven't agreed to do? The cost of the component you haven't agreed to do?

MR MOORE: So that is the cost of -- that is the full replacement of the structure and the realignment of the paths that would be needed as a result of that structure.

JUDGE HARLAND: Right, so there is not a partial?

10 MR MOORE: No.

MR BANGMA: So just sticking with costs for a moment, to the extent that you are able to help the Board understand where these costs would roughly come from, so obviously, I'd imagine there would be a large part of that cost would result in replacing the structure?

15 MR MOORE: Yes.

MR BANGMA: And I understand that generally how that would happen is because the underpass would be on a different alignment than what's currently proposed. That would involve cutting the new alignment through State Highway 18, dropping in the new structure and covering over the top; is that correct?

20 MR MOORE: That's correct. One of the significant challenges and contributors to the costs of the underpass is the fact that it will have to bridge over the existing stormwater culvert which will sit underneath the underpass. So that adds significant cost.

MR BANGMA: So that would still sit underneath the underpass, as it does currently in  
25 a sense?

MR MOORE: That's right and the cost does not include any potential replacement of that culvert. So you would leave the existing stormwater pipe where it is, and just replace the underpass above it.

MR BANGMA: I see, and again, so this high level order of cost, that \$5 million figure  
30 which must have come from somewhere, was there I guess a number that was put in relation to the structural component for cutting and putting in the new structure and covering it over?

MR MOORE: There was, but I don't know that number off the top of my head. It's the majority of costs.

35 MR BANGMA: It's the majority of the costs?

MR MOORE: Yeah.

MR BANGMA: But presumably other costs would include costs in relation to traffic management measures for State Highway 18?

MR MOORE: That's correct. So the cost includes traffic management; it includes design fees, contractors' fees; it includes everything. So there would be a significant traffic management component to construct this underpass, and I think that's something that perhaps Mr Hale will touch more on.

MR BANGMA: Would Mr Hale or -- I suppose I can ask him, would he be better placed to answer questions in terms of the relative breakdown in costs for traffic management measures?

10 MR MOORE: No.

MR BANGMA: Mr Schofield perhaps, if it was his alternative?

MR MOORE: So Mr Schofield has knowledge of the full MCA process, yes.

MR BANGMA: Okay, thanks.

Then just one last question, or line of questions, perhaps, as I understand it NZTA's position is that it doesn't consider upgrading the underpass meets cost benefits analysis, but it says this is something which could be pursued by the Council as a separate Project if the Council wishes to?

MR MOORE: Mmm.

MR BANGMA: However, given the construction methodology that you've just outlined, and that if the Council did pursue this as a separate project, that would involve cutting up State Highway 18?

MR MOORE: Yes.

MR BANGMA: It would require traffic management works on that, et cetera. I mean, do you accept that if the Council was to pursue this as a separate Project it requires NZTA's agreement to do this?

MR MOORE: Yes.

MR BANGMA: And is it at least possible that NZTA might decline to give that agreement on the basis of the traffic disruption it would cause to the State Highway?

30 MR MOORE: I can't comment on that.

~Cross-Examination by Ms De Groot (11.24 am)

MS DE GROOT: Mr Moore, I have some questions for you regarding the proposed busway and shared used path adjacent to the Kiwi Self Storage site at 12 Holder Place. Are you familiar with the Kiwi site?

MR MOORE: I am, yes.

MS DE GROOT: Your primary evidence records that you were the design -- managing the highways design lead for the northern corridor improvement Project; is that correct?

MR MOORE: That's correct.

5 MS DE GROOT: So you will be familiar with the design of the busway and shared use path adjacent to Kiwi site?

MR MOORE: I am, yes.

MS DE GROOT: Are you aware that the busway and shared use path will be supported by a retaining wall with a height between 5.5 and 7.2 next to the  
10 buildings on Kiwi's site?

MR MOORE: Yes.

MS DE GROOT: And you are aware that this will mean that the busway and shared use path will be situated above the existing roof level of the buildings on Kiwi's site?

15 MR MOORE: I don't believe it pushes the busway above the existing roof level. I think when you look at the drawing it's slightly below.

MS DE GROOT: And you are aware that Kiwi's concerned about the blocking effect of that structure on the views from vehicles travelling on State Highway 1 including the off-ramp?

20 MR MOORE: I am, yes.

MS DE GROOT: Have you read Mr Hall's evidence for Kiwi, Mr Moore?

MR MOORE: I have yes.

MS DE GROOT: So you have will be familiar with his suggestion of reducing the height of the busway and shared used path adjacent to Kiwi's site to reduce that  
25 blocking impact?

MR MOORE: I am, yes.

MS DE GROOT: And that to reduce the height of the structures Mr Hall has suggest that the clearance height of the structure over Constellation site is reduced coupled with an increase in the gradient of the busway and shared use path to  
30 5.3%?

MR MOORE: Yes.

MS DE GROOT: At paragraph 6.3 and 6.4 of your rebuttal you indicate that an increase in the gradient from 5 to 5.34% --

JUDGE HARLAND: Just wait a moment until he has a look at that please.

35 MR MOORE: Which paragraph?

MS DE GROOT: 6.3 and 6.4 of your rebuttal.

MR MOORE: Okay.

MS DE GROOT: There you indicate that an increase in the gradient from 5 to 5.34% will require a departure from the maximum grade values for a busway and shared used path in the Busway Planning and Design Manual and the  
5 AUSTROADS Guide to Road Design; is that correct?

MR MOORE: That's correct, yes.

MS DE GROOT: NZTA has recorded in its legal submissions that the process for a departure from those standards involves consideration of issues including the magnitude of the change and value to NZTA, if the departure was approved, an  
10 internal review by NZTA, and acceptance by relevant stakeholders including Auckland Transport. Is that correct, Mr Moore?

MR MOORE: That's correct.

MS DE GROOT: So I understand that the process is largely internal, but NZTA may also seek approval from our stakeholders such as Auckland Transport?

15 MR MOORE: Yeah, so departures on the busway and the cycleway would both have to involve relevant teams from Auckland Transport.

MS DE GROOT: And as part of that process there may be some further assessments completed by NZTA staff or consultants, is that correct?

MR MOORE: Yeah, so the consultant who would put together the departure would  
20 have to look at a variety of issues, including the benefits, the disbenefits, the safety risks, the costs involved and make a recommendation to the stakeholders.

MS DE GROOT: Do you agree that that process could be undertaken relatively quickly?

25 MR MOORE: It's a process involving multiple stakeholders, so it would probably take 3 to 4 weeks to fully complete.

JUDGE HARLAND: Sorry, you've talked about multiple stakeholders, but you've talked about NZTA and Auckland Transport, that's two, and perhaps a consultant that's three?

30 MR MOORE: Maybe I should clarify. It would be multiple teams within Auckland Transport, so we have the bus team, the light rail team and the walking and cycling team would all be involved in various aspects of departure request.

MS DE GROOT: But the only entities involved would be NZTA and Auckland Transport and any consultant?

35 MR MOORE: That's correct, yes.

MS DE GROOT: At paragraph 6.5 of your rebuttal, you might want to just go there now, you indicate that lowering the bus ways proposed by Mr Hall would likely provide a reduction in construction costs. Is that correct?

MR MOORE: That's correct yes.

5 MS DE GROOT: Has NZTA estimated what these cost savings might be?

MR MOORE: They have. They've estimated a cost difference between the design that's been lodged and the design put forward by Kiwi and it's in the region of 1 to \$1.5 million.

MS DE GROOT: Thank you, Mr Moore. I have no further questions.

10 JUDGE HARLAND: Is there any re-examination so far or would you rather wait until you have heard the Board questions?

MS MCINDOE: I would prefer to wait until after the Board questions, thank you.

~Questions from the Board (11.30 am)

15 MR MARK-BROWN: Mr Moore, good morning.

MR MOORE: Good morning.

MR MARK-BROWN: You would have heard the submission this morning and the discussion of Kiwi, different options?

MR MOORE: Yes.

20 MR MARK-BROWN: There is a few questions I've got regarding that.

In terms of Kiwi's options and variation to the grade, as you've just indicated, that would need to go through a number of stakeholders, but I guess, I'd just like your overall view on the -- what you think the outcome might be in terms of a small increase in grade? Are you willing to, based on previous  
25 experience, give a view on that, or is it really just too many things to consider and can't be --

MR MOORE: No, I can provide a view on that.

So, during the development of the design that's been lodged, the design standards for the shared used path are based on AUSTRROADS and their  
30 standard figures. The values for the busway are based on the Planning Design Manual, but they've then been through a process with Auckland Transport, bus, and rail teams to ensure that they were satisfied with the standards, because that manual is reasonably generic and has to have certain inputs from local standards to update it.

As I was saying, the design -- the criteria agreed, coincidentally, is the same for both facilities. So both require a maximum gradient of 3% as a desirable maximum, and then as the absolute maximum of 5%.

So there is no current departure on the busway running at 5%.

5 The shared used path and the design for lodgement runs at 5% which is in itself a not a departure; it is at the limit. However, there is a departure in the lodgement design for the length over which that 5% is required. That departure was prepared and discussed with the Auckland Transport walking and cycling team, and was rejected. So on the understanding they were looking for in detail  
10 design they were looking for an improvement over that 5%, both in terms of length and in terms of the actual value of 5%.

So based on those discussions increasing the gradient beyond 5% would likely not be acceptable to them.

MR MARK-BROWN: That's for the --

15 MR MOORE: That's for the shared used path. For the busway we have had some preliminary discussions with AT metro and in the Joint Witness Statement, Mr Maule actually outlined his concerns that the existing gradient north of Sunnynook Station, which Kiwi Storage design looks to replicate, is having adverse effects on the performance of fully laden double decker buses. So it's  
20 not something they would like to see replicated if avoidable. And in this case it is avoidable.

MR MARK-BROWN: Moving on this issue of Kiwi's option of I think the same grade but it would require reduced clearance of the proposed bridge. Certainly when I looking at the Joint Witness Statement, it wasn't clear to me whether the  
25 proposed reduced clearance would be acceptable to you?

MR MOORE: So in the Joint Witness Statement I think all parties and experts agreed that 5.6 would be an acceptable value.

MR MARK-BROWN: It would, so you are saying that the 5.6 clearance?

MR MOORE: Yeah.

30 MR MARK-BROWN: So perhaps, does that mean that perhaps the Kiwi option of not increasing the grade then might be acceptable from a grade point of view?

MR MOORE: Not necessarily, because as I stated, Auckland Transport were looking for us to improve on that 5% gradient lodgement design and one of the ways of doing it would be to lower the head room over Constellation to that 5.6. If you  
35 do that, and keep the wall the same height as currently proposed at Kiwi

storage you end up with around 4.5%, so that's one of the ways in detail design the Alliance may have looked to try and improve in that section.

MR MARK-BROWN: So in terms of the issue of long term public asset and managing the costs of that, would your view be that that it's important to keep that grade as low as you can? So essentially what you are saying is there's a trade-off there, and you've looked at it carefully. I don't want to put words into your mouth but this is my interpretation of what you're saying. You've looked at it carefully and you're saying that what Kiwi's suggesting could possibly be done, but from your point of view you want to keep that grade low from an overall view to do with long term operational buses on that, and minimising the grades that they have to do. So it's not so much a safety issue of a maximum grade, but it's really an overall view. Would that be a reasonable way to say what you're saying?

MR MOORE: Yeah that's correct, there are safety aspects, but it's more to do with the efficiency of the public network that we're constructing, yes.

MR MARK-BROWN: And that would be relevant for buses and also in the future if there was light rail.

MR MOORE: Yeah that's correct, so the design standards that have been applied here with that 5% have light rail or mass transit in mind. It's not a driving factor but it would be a similar issue in the future where an increase in gradient would potentially affect the speed of trains, yes.

MR MARK-BROWN: I would like to now move on to the shared use path on State Highway 18 and it might be quite helpful if -- could EPA perhaps put up the drawing that shows the layout plan, because I have some quite specific questions for the SUP south of the Alexandra underpass, is that possible to do that?

I guess my question relates to -- I'm pretty sure it was in your evidence in response to suggestions from a number of people that why not have the SUP on the southern side. My understanding is that there are pinch points that would make that difficult to do, and then if you do put it on the south side then it precludes widening the motorway.

Are you able to just recap those particular issues, because they are, I guess they're quite technical, and rather than -- yeah, if you perhaps look back at your evidence and perhaps just recap those for us, or for me anyway. That would be useful. Just why you don't -- why it's not practical? My understanding

is you're saying it's really not practical from an overall consideration to put the shared used path on the south side for a number of reasons.

MR MOORE: So as I can -- I was involved in the transportation aspects of that assessment. For an overall view, it may be best addressed by Mr Schofield,  
5 but in terms of the transportation and design issues, the major differences between north and south were, in terms of future proofing or supporting the ability to either widen State Highway 18 at some point in the future, or perhaps add a busway.

10 In that respect the shared used path is better off on the north side, because it's well out of the way of any future widening that would likely occur.

MR MARK-BROWN: Could you just maybe delve into that? Why is that?

MR MOORE: So the likely cost if State Highway 18 was ever widened or more facilities added, based on the property impacts, you would more likely go south. The cost of acquisition of the commercial properties along the northern side  
15 would be a big constraint.

The other design reason or transportation reason was the effects of construction. So, if the path is on the northern side, we have to realign a certain amount of State Highway 18, and pull it slightly further to the south, in order to squeeze the shared used path without significantly impacting the  
20 commercial properties, along the north side. If the path is on the south side, within an attempt to get it within the designation that's proposed, a significantly larger portion of State Highway 18 has to be moved to the north, as soon as it comes out from the Albany interchange. And that's to try and generate space, to get the path in on the south side, to try and minimise the property impacts.

25 That would also involve not just a cost element, but a large increase in temporary traffic management through the construction of this area.

In all the other categories for transportation, both options scored equal.

MR MARK-BROWN: Okay, all right thank you.

MR STEWART: If we go back now to the Kiwi submission and I've heard what you  
30 said about the 5% grade and that sort of thing, but I believe it's true, I think it might have been your evidence it's certainly in somebody's evidence that the grade already on the southern side of Sunset Road is I think about 5.6 is it not?

MR MOORE: So the gradient on the existing busway is 5.34, so it matches what's proposed.

35 MR STEWART: I understand in your responses to Mr Mark-Brown that obviously you would like to retain that as a maximum of 5% because that's better, but given

that there is already a greater grade on the south side, then assuming that buses can get up that grade now, then they presumably wouldn't be any further or more difficulty for them getting up and down the grade if it was the same on the other side is that right?

5 MR MOORE: Sure, so the actual ability of the buses to use the grade is not the issue. The issue is the adverse effect it has on the speed of the buses.

MR STEWART: On the speed?

MR MOORE: Yes. So what happens at present, it's my understanding, and it may be something that Mr Maule is better placed to respond to, so when they have got double decker buses that are fully loaded that gradient is having quite a  
10 significant impact on the speed of the buses. It's not something that Auckland Transport would like to see.

MR STEWART: I accept that, I understand that and -- but we've heard in evidence of course that if the grade was to be increased as Kiwi are asking for, it's a  
15 relatively short distance isn't it?

MR MOORE: So that depends on what happens either side of that grade. So the lengths that were shown there do not include the gradient greater than 5% that's within the vertical curvature of the busway. So the crest that comes over Constellation Drive, the steeper the gradient, there is a section within that  
20 vertical curve that also has a gradient steeper than 5% and the same with the side curve as we go to go across the Watercare pond. So the total length is actually larger than is shown. Generally speaking the steeper you go the shorter the gradient, that is true.

MR STEWART: Perhaps if I can move onto something else, which I don't remember  
25 reading in any of the evidence or any of the reports, and it may be a slight red herring but I'll raise it anyway. You've been talking on the basis that we've been talking about buses and double decker buses and I'm assuming, although it wasn't stated anywhere, I read that these would be diesel, has any consideration been given that we are rapidly moving towards electric vehicles  
30 and possibly electric buses and have you considered that and does that actually make any difference, the performance of an electric engine I believe is different from a diesel engine. Does it make any difference?

MR MOORE: So that's not something that's been considered at this stage.

MR STEWART: All right, do you have any technical ability to answer the question  
35 then as a general principle, because I'm not an engineer but I understand that electric engines have got more torque I think is that the right word? And

Mr Mark-Brown is the right person to answer this, but do you have any information about whether electric engines would make any difference?

MR MOORE: It's not something I could comment on.

JUDGE HARLAND: Well who could, from your team?

5 MR MOORE: Perhaps Mr Maule in his role at Auckland Transport may know the future plans for buses?

JUDGE HARLAND: Well it's not so much it's probably inevitable, it's going to happen it's just a question of when, and we just need to know who is the person who might know about it, you think Mr Maule, no-one at NZTA that's giving evidence  
10 here?

MS MCINDOE: We don't have anyone with expertise in engine performance and if it's the busway that you're interested in, then perhaps it is evidence that's better coming from Auckland Transport?

JUDGE HARLAND: Well I think the NZTA website have some information about  
15 electric vehicles, because I've looked at it myself, but I'm not sure that it relates to buses and it's probably a different department. Perhaps we could stick with asking Mr Maule and see where we get to? We put it on the table. It's an interesting point.

MS MCINDOE: If after asking those questions you still find there is information that  
20 you would like and you don't have then we could reconsider the matter then and provide further information if it's required.

JUDGE HARLAND: Thank you for that.

MR STEWART: Well I accept it may in fact be a red herring, but it's something that occurred to me and it's probably occurred to other people. But thank you.  
25 In your paragraph 7.12 of your Evidence in Chief, you say at the end there, we are talking about the SUP underpass and upgrading Alexandra creek:  
"I expect to be able to provide further information prior to the inquiry."  
Is this what you've actually been talking to us about now?

MR MOORE: Yes, that's correct.

30 MR STEWART: And section 9 of your evidence, you seem to have accepted some of the submitters' detailed suggestions and it appears that your view is that these can be addressed through detailed design, which I understand. And the question I have really is how do we ensure that these concessions are reflected in the final design?

35 MR MOORE: Is this in relation to the shared used path connections?

MR STEWART: Yes, well all the comments you've made in section 9 relate to your response to the submissions.

MR MOORE: Yep. So the -- I think as discussed, or as mentioned yesterday there's been follow-up taken with Council and Auckland Transport on their suggestions for additional shared used path facilities and those are currently being included into a side agreement between those parties, that is my understanding.

MR STEWART: Okay so that's really the answer to my question is it, that the detail will be accommodated in a side agreement, so they won't necessarily be changed in the -- to the plans in the --

MR MOORE: Yeah that's correct, so none of the proposed changes were considered an effect of the Project, but an opportunity to add some additional facilities.

MR STEWART: And then in paragraph 9.38, just a minor one really, but talking about carparking outside the scope of project, and:

"I do not consider extra carparks required to mitigate any Project effects."

I just wondered about that because obviously if you're going to provide more bus stopping facilities then I assume there will be more carparks required and you are saying that's not an effect of the Project?

MR MOORE: That's correct, yes.

MR STEWART: Well then the question is whose responsibility is it, is it Auckland Transport?

MR MOORE: Yes.

JUDGE HARLAND: Mr Moore, just coming back to the point about safety departures and you've explained helpfully that it's not so much the safety departures, that's one aspect of it, but there are the more important design issues from your perspective.

The comment made this morning through the opening address for counsel for Kiwi was that you hadn't supported a safety audit process; I wanted to give you the opportunity to comment upon that and to perhaps explain why that was the case?

MR MOORE: Sure. So a safety audit process is actually slightly different from a departure process. So the difference is the departure process involves the technical experts from the various stakeholders involved assessing and signing off or rejecting that departure. A safety audit process is presenting a complete design to a panel of road safety audit specialists who would look at it, and they only look at it from a safety perspective. So in a road safety audit they do not

consider costs, value for money, residual risks. They will only consider the safety aspect of that departure.

JUDGE HARLAND: So let's just assume that counsel was referring to a departure process with a focus on safety rather than a safety audit, do you want to  
5 comment on the suggestion that it wasn't supported to at least undertake that process before this hearing?

MR MOORE: Sure. So certain amount of discussions were undertaken with Kiwi Storage. The drawing that has been provided was actually produced by Aurecon based on some suggestions of parameters from Kiwi Storage. In  
10 terms of pursuing a departure request at this stage, it's not appropriate to do it at this stage.

JUDGE HARLAND: Why not?

MR MOORE: There is too many other parameters that could be affected by that departure request.

15 JUDGE HARLAND: Such as?

MR MOORE: So through the section we have issues with we have to tie in with the existing Constellation Bus Station. We have to get sufficient clearance over Constellation Drive. We have the gradient. We have the interaction of the busway with the State Highway 1 to 18 ramp and how that interacts levels wise  
20 and clearance wise. The ramp itself may have to be finalised in detailed design in terms of its gradient and it may go up or down and may influence the levels on the busway.

So locking in a gradient now may limit the ability to change these things or optimise them through the detailed design process.

25 So as previously mentioned, Auckland Transport had looked for us to optimise the gradients on both facilities during the detailed design phase. So agreeing or signing off a departure for both headroom and for gradient at this stage would hinder the ability to do that.

JUDGE HARLAND: Right, but looking at it from Kiwi's perspective, they seem to be,  
30 or would probably be saying they're between a rock and a hard place because they put forward an option; the answer is well, we're not going to have a look at it from a departure perspective, and there's all these variables. But from their perspective, there could be some significant mitigation obtained by what they suggest. So, where would you suggest, if at all, that process was properly  
35 undertaken or undertaken in a fulsome, rather than a high level way?

MR MOORE: Sure, so the most appropriate stage of the Project to look at this gradient again is during the detailed design phase.

JUDGE HARLAND: Right. And is there commitment, or is NZTA prepared to look at it again at that point?

5 MR MOORE: Not at this time.

JUDGE HARLAND: Why not?

MR MOORE: Because too many factors are unknown. It can be -- it's something that can be reviewed at the detailed design stage once some of these parameters are better known, but it's not something they can fully commit to without  
10 knowing those parameters.

JUDGE HARLAND: All right, if we found that NZTA was unable to mitigate an adverse visual effect by what it proposed, how significant is this issue in the scheme of things for you?

MR MOORE: In terms of?

15 JUDGE HARLAND: Well if we reached the position where we agreed with Kiwi that there were adverse visual effects by what is proposed currently, and that they were unable to be mitigated by what was proposed by NZTA, what I'm trying to gauge is how seriously or how much you would consider that to be a fatal flaw for you?

20 MR MOORE: I think from my perspective compromising a public facility, and it's an important public facility, and compromising the efficiency of that facility for a private individual is not something I'd like to see done.

JUDGE HARLAND: No, but if we disagreed with you on that, is this a deal breaker, because it might mean that there was a decline for this aspect? And how  
25 significant in the scheme of things would it be for NZTA to then say well we're just not even looking at it?

MR MOORE: So, as I say, if it was a decline of the project, it's something I think NZTA would have to accept.

JUDGE HARLAND: So it's a matter that's important to you. Where is it, is it a deal  
30 breaker for you, or is it just something that you're saying we're not prepared to even look at?

MS MCINDOE: Sorry, Your Honour, I wonder if this is the right witness for these questions simply because Mr Moore isn't able to speak for the Transport Agency really, he is the design engineer, he can comment from a  
35 design perspective, I guess, if that's the nature of your questions about whether from a design perspective this would be a deal breaker? But if your questions

are about whether the Transport Agency as an agency should agree to these matters, then that is something which Mr Glucina is better to answer.

JUDGE HARLAND: Well the problem here is we've got Mr Moore saying that from a design perspective they're not prepared to look at it at all. That's what I'm  
5 hearing. That actually they think it's -- or he thinks, and he's venturing into an area which might not be design, which is this is a private interest. So I'm focusing on the public interest here. He's volunteered that perspective. His evidence so far is that there's no prospect that he would be prepared to look at any change in the design at any stage.

10 MS MCINDOE: His evidence so far is that he has looked at this matter.

JUDGE HARLAND: Yes, but he is not prepared to look at it further at the detailed design stage because he has just told us you have to look at these matters at a detailed design stage because of all these other parameters, but NZTA is not prepared to do that.

15 MS MCINDOE: I actually heard mixed responses.

JUDGE HARLAND: Let's ask him. Would you be prepared to look at it again at a detailed design stage or not?

MR MOORE: So the detailed design stage when the other parameters were looked at, it's something that could be investigated.

20 JUDGE HARLAND: Well "can be" is perhaps, rather than you would be committed to looking towards it?

MS MCINDOE: And again, Your Honour, Mr Moore is not part of the Alliance that will be carrying out detailed design and therefore he is not able to commit either the Alliance or the Transport Agency to look at this.

25 JUDGE HARLAND: Fair enough, so who is?

MS MCINDOE: It would be Mr Glucina.

JUDGE HARLAND: But he won't know anything about the detailed design I presume if we get him back?

MS MCINDOE: No because it hasn't been carried out yet.

30 JUDGE HARLAND: All right, we might need to recall him then. Thank you.

Mr Moore you don't have to be in the hot seat about that particular issue, which is probably a great relief for you.

To recap, your concerns from a design perspective are not so much about -- well safety is an aspect of it, but that's perhaps not so much as  
35 important as the other design elements is that correct?

MR MOORE: I think it's probably, to summarise, I think the safety issue is more on the shared used path and the efficiency concern is more on the busway.

JUDGE HARLAND: On the shared used path, Kiwi's counsel this morning said that Ms King had agreed in principle to the gradient of 5.34%, were you aware of that?  
5

MR MOORE: I'm not aware of that, I wasn't in that session.

JUDGE HARLAND: All right well we'll ask her about that.

The only other matter I wanted to ask you about was in relation to your rebuttal evidence, paragraph 11.2, that was dealing with Mr Fogarty's suggestion concerning the extension of the T2 lane. And again this might be more appropriately addressed to the planners. But, is it intended that that would somehow find its way into the conditions or where does that go from here?  
10

MR MOORE: I think it probably is a question for the planners more than me, but from a technical perspective and design perspective there's no reason why we couldn't do it.  
15

JUDGE HARLAND: Are you expecting that to go somewhere that particular agreement you have, or not?

MR MOORE: I have no objection with it becoming a condition from my perspective.

JUDGE HARLAND: Well it might not need to be, but was it your understanding that that would go somewhere?  
20

MR MOORE: Yes.

JUDGE HARLAND: All right thank you for that. So perhaps if we could pick that up somewhere else?

MR MARK-BROWN: I was just wondering, given the discussion since my previous questions to you, do you have a copy of the Aurecon drawing which was produced by Ms Tree [sic] for Kiwi?  
25

MR MOORE: I don't think I do.

MR MARK-BROWN: 0302B had those different alignments.

Would it be fair to say that you would be familiar with the lodgement design, that black -- the top black line?  
30

MR MOORE: Yes, that's correct.

MR MARK-BROWN: So can you explain to me the -- well my understanding from that is you've got probably two fixed points one at each end, that was, I guess that was my understanding, but your subsequent answering questions are you saying that say at the bottom end it might actually change where you're starting  
35

there? So although you've got a lodgement design that shows 5%; when you responded to my questions you said you're trying to keep the grade lower, so you're saying that during the detailed design it's likely there will be some pressure on the designer to try and get less grade?

5 MR MOORE: That's correct. So looking at the drawing it shows that if you were to reduce the clearance over Constellation Drive for example, but keep the fixed point towards the Watercare underpass yeah you could achieve a gradient more in the range 4.5% and try and improve this section. For the sake of this study there had to be some assumptions around what the fixed points were.  
10 Which is -- so the 5% versus the 3.4 are not using the same fixed parameters. One of them is using the reduction of the headroom over Constellation Drive. So the fairer comparison between those two parameters is about 4.5% on the lodgement versus 5.3 on the Proposal.

JUDGE HARLAND: We've just got an issue we've discussed, which I think it's fair we  
15 put out there.

MR MARK-BROWN: If I go back to the applicants, I guess it raises an issue, your point that he's not part of the Alliance and so when it comes to detailed design it will be up to the Alliance to do that in accordance with conditions and what comes out of any decision that we make.

20 MS MCINDOE: That's correct, that's what our legal submission said.

MR MARK-BROWN: Right. So I'm quite interested in pursuing the conditions, I guess it's probably one of these moving pieces that until we see what -- we don't want to look at all the conditions now because they might change and it's going to be re-worked, but I think it's something to bear in mind that I guess we certainly  
25 need to be clear that in the conditions to really tie this down, in other words, if it is going to be a requirement for the Alliance to minimise that grade, that needs to be there somewhere. I'm not sure that it is?

MS MCINDOE: It's currently not. And I guess this is something that I had anticipated would be discussed. One of the difficulties which the Transport Agency  
30 experiences is the tension between allowing scope for constructors and alliances to innovate and achieve better solutions and the tension between that and providing enough certainty in the conditions that in fact the effects are appropriately addressed. And therefore, the conditions set that we produced and lodged and which has been revised over time, the Transport Agency has  
35 tried to -- I mean, I know those conditions have actually all been in the hands of

the experts rather than the Transport Agency itself, but the agency is keen to ensure that the conditions focus on the effects.

MR MARK-BROWN: On the effects.

MS MCINDOE: And there is, the agency says, no effect here that needs to be

5 mitigated and therefore there is no condition relating to this part of Kiwi Self Storage's case. There are other conditions relating to the Kiwi site, but not this part. And the only conditions which relate to the Project design are the conditions which they're sort of general accordancy conditions RC1 and DC1, which require the Project to be constructed in general accordancy with the  
10 arrangement plans which were lodged. They do not show elevations.

So if the Board did consider that a condition was required, then a special condition would need to be drafted. It's not one which the Transport Agency is currently volunteering.

JUDGE HARLAND: All right well the problem here is this. We're in a Board of Inquiry,  
15 we're not in an interim Environment Court decision phase. And so whatever we approve in the draft report is it. So there is not a chance for people to come back and think about it later. It's kind of an all or nothing process.

And so I guess, you don't need to answer this now, but we need to be very clear about how significant this issue is, because you don't have a backup  
20 position at the moment, your position is there's no effect that needs to be mitigated. If you lose on that, where do you sit? And I think I've made that fairly directly, that point. And it might be just appropriate to hold that thought and for you to have a think about it, and come back, we might need to recall some witnesses on that.

25 MS MCINDOE: Yes fine to do. I do have a couple of questions in re-examination.

JUDGE HARLAND: Yes of course. And the other thing is, normally what I do is ask for re-examination first and then questions from questions arising, simply because from questions arising there might also be some questions from Kiwi. So I think it's probably preferable that we go with Kiwi first and then you have  
30 the final say, because it's your case.

So have you got any questions that have arisen from the questions of the Board Ms de Groot?

MS DE GROOT: No, Your Honour, I don't think I have any further questions.

~Re-Examination by Ms McIndoe (12.06 pm)

MS MCINDOE: Couple of questions, the first one Mr Stewart asked you a question  
about carparking and he asked about the carparking that was to be provided by  
5 the Transport Agency. Can you provide some information about this in relation  
to the busway, are you able to advise whether the busway will have any  
additional stops in relation to the -- as a result of the Project?

MR MOORE: Yes, I believe the section of the submission being responded to is  
Meadowood Community Centre who would like additional parking at  
10 Constellation Station to address an existing problem with bus passengers  
parking at/or near their facility. I think it's some sort of traffic generation and  
parking numbers and bus numbers; I think that's maybe best addressed by  
Mr Clark.

JUDGE HARLAND: The other question I had also related to a question regarding  
15 Mr Fogarty's submission and the extension of the T2 lane. You've agreed that  
that could be looked at during the detailed design.  
Could you advise the Board what effects that -- whether that extension of a T2  
lane would be related to effects and if so, how?

MR MOORE: No I don't believe the. The way that's actually achieved is it is an  
20 existing ramp for the buses into Constellation Bus Station at present and that  
limits the ability to the T2 lane to be extended. As part of the work that ramp is  
being removed and we have a piece of land available to extend that and the  
extension itself is only I think in the region of 20 metres something like that, so  
it's not significant.

25 ~ (The witness withdrew – 12.08 pm)

MS MCINDOE: The next witness is Mr McGregor, Mr McGregor has, as you know,  
has presented evidence on utilities but is here also in matters regarding hockey.  
And to assist with that we have spent the night preparing a short supplementary  
30 statement for him.

And I understand there are some printing issues; I wonder if we could  
take an earlier lunch break to allow us to deal with that?

JUDGE HARLAND: We will take the usual lunch break and let you come back at the  
time that was expected, to give you ample time to have your lunch as well.

35 MS MCINDOE: Thank you.

JUDGE HARLAND: So we will do that and we will be back at 1.30.

~(Adjourned 12.09 pm - 1.34 pm)

MS SHEARD: We now have Mr McGregor. He has provided utilities evidence and he is also now going to speak to us on hockey issues.

5 ~CAMPBELL JAMES MCGREGOR (Sworn) (1.34 pm)

~Examination in Chief by Ms Sheard

MS SHEARD: Good afternoon Mr McGregor.

MR MCGREGOR: Good afternoon.

MS SHEARD: Do you confirm that your full name is Campbell James McGregor?

10 MR MCGREGOR: I do.

MS SHEARD: Do you confirm you prepared a statement of evidence dated 20 April 2017?

MR MCGREGOR: Yes.

MS SHEARD: And do you confirm that to the best of your knowledge and belief that  
15 that is true and correct?

MR MCGREGOR: Yes, it is. However, I would just note that obviously, there have been some further discussions between Transpower and also Watercare, but any change is effectively addressed in the proposed conditions that will be presented by Mr Burns and Mr McGahan.

20 MS SHEARD: Thank you. And can you confirm that you've prepared a statement dated 19 July 2017?

MR MCGREGOR: I can.

MS SHEARD: And could you please read that statement?

MR MCGREGOR: Yes.

25 So, my full name is Campbell James McGregor. ...(Reads 1.2 - 5.6 exactly as submitted)... landowner approvals will be sought as part of the same local Board paper.

MS SHEARD: Thank you Mr McGregor; could you please answer any questions?

MR MCGREGOR: Yes, that's fine.

30 JUDGE HARLAND: All right. I just need to open it up to see whether you have any questions now, Mr Bangma. You didn't originally, but this is updated information and you may well have questions. I'm not inviting you to unnecessarily, but if you think you might?

MR BANGMA: Your Honour, I don't have any questions in relation to Mr McGregor's  
35 supplementary statement. I recall you'd suggested that Ms Barrett might possibly also comment on relocation matters. I mean one course of action

might be when she gives evidence I could ask her to see whether there is anything she wanted to add to what Mr McGregor said, or anything she thought as inaccurate, but I don't anticipate anything.

JUDGE HARLAND: All right. Thank you.

5

~Questions from the Board (1.43 pm)

MR MARK-BROWN: Mr McGregor, I see that -- so the detailed design and building consents have been lodged, prior -- well, I guess prior to the appeal period of the consent. So, are you fairly confident that the -- from what you have seen in  
10 the consent decision, and what you know, that the consent's likely to not be appealed, or you may not want to venture any opinion on that?

MR MCGREGOR: Yes, and I guess the appeal period will run its course and we'll see what that brings. I guess, just in terms of giving confidence to the groups, in terms of the procedure and progressing the documentation, we were keen to  
15 obviously progress with the building consent.

MR MARK-BROWN: Took a bit of a punt in terms of --

MR MCGREGOR: Yeah, I mean, I think -- to be fair, I think it is fairly common practice in the industry to have things kind of running concurrently.

MR MARK-BROWN: It can come unstuck too.

20 MR MCGREGOR: It can, yep. No, there is always risks, I guess. But yeah, I think we were -- we were comfortable, I guess, in terms of where we'd got to with the process, that -- you know, we had confidence that the facility was the right option, I guess.

MR MARK-BROWN: So in terms of the consent conditions, I have read through the  
25 decision, there are some -- what might be perhaps seen as fairly onerous consent conditions regarding number of events per year, and parking, do you know whether they're likely to be acceptable to the Applicant?

MR MCGREGOR: Yes, so I think -- I think in terms of the general resource consent, I think the Applicant was generally happy with it. I think there are some items,  
30 primarily around operational matters in terms of the number of events and things -- it wasn't quite what we were asking for in the original consent. So, I think -- yeah, as I say, Ms Williamson can probably talk to that more directly.

MR STEWART: Yes, I just have a very small minor question. It's really just a question of fact. You've mentioned Wainoni Park, is that in Greenhithe?

35 MR MCGREGOR: It is yes.

MR STEWART: So that's where the pony club would go, with all the other clubs? It's an existing facility I take it?

MR MCGREGOR: Yes, it is. So, basically, working with Council, effectively they are -- I mean, the Council can maybe talk to this as well, but there was a strategic opportunity, I guess, that was identified, in that there is a number of pony clubs throughout the North Harbour area, and that obviously, as time moves forward, land is becoming a more scarce resource, and that potentially there was an opportunity here to -- obviously with the NZTA being part of the required move -- to relocate hockey. There was some -- obviously some funding available that could support that relocation, which wouldn't necessarily be available in a normal process, I guess, in terms of a lease running out and then a party being asked to move on or a lease being terminated. So that was -- so obviously there's actually a package of works that will happen at Wainoni that will improve the facilities for equestrian purposes.

MR STEWART: And the pony club, Rosedale Pony Club, is quite happy with that are they?

MR MCGREGOR: I mean, I think that there's obviously -- change is never an easy thing to take on. And I would say -- I think that's -- it's fair to say that's an ongoing kind of process in terms of getting the final agreement, in terms of the detail, but, I think in terms of the facilities that have been offered and the package that's been put together it is generally supported by the equestrian kind of community. Although, albeit, I think it's fair to say if they could stay where they were and not be affected, I think that would probably be the option they would take.

JUDGE HARLAND: All right. And you say please, in answer to my questions, if you feel these are better addressed by other people, but in relation to the hockey, do you know what the current arrangement is here with the number of international games they are allowed to have? So you have applied for 14 and you got 6?

MR MCGREGOR: Yes. Yes, so I think there is -- I mean, Ms Williamson I think is probably better placed to answer that. To be honest, I think yeah, anything I probably say I will maybe get the details wrong. So I think maybe leave that one for her?

JUDGE HARLAND: Right, all right. And likewise the number of players have been restricted to 192, that could use the turf at the same time?

MR MCGREGOR: Yeah.

JUDGE HARLAND: That's best to ask her too?

MR MCGREGOR: Well, I mean I can comment to that. I've got a better understanding of that I suppose. So that effectively is the maximum number of players they have on the site, currently. They have junior hockey night, which is their busiest night. The restrictions are really there around a 2 to 3 hour period, on that night, in terms of restricting to that number of players. So it's something that they're, I guess, comfortable with, and it is only for the duration of the facts when NCI isn't actually in operation.

MS SHEARD: Perhaps if I could assist here? In relation to the 192 players, that was agreed to by the Applicant during the hearing process. So that condition was already on the table.

JUDGE HARLAND: Oh no, that is helpful to know that. So there's no issue about that?

MS SHEARD: No. There's no issue whatsoever.

JUDGE HARLAND: All right, so it's really -- so just to establish the issues that might arise from the decision from the Applicant's perspective, could be to do with the number of international games?

MR MCGREGOR: Yes. Correct, I think. Yeah, as I say, Ms Williamson is probably best to speak to that, but yes.

JUDGE HARLAND: Is that the only aspect of the decision the Applicant might be unhappy with?

MR MCGREGOR: Again, I think --

JUDGE HARLAND: Ask Ms Williamson?

MR MCGREGOR: Sorry, I think it's better to hear it from her, than secondhand.

JUDGE HARLAND: No that's fine. And -- were you at the hearing?

MR MCGREGOR: I was, yes.

JUDGE HARLAND: All right. So there were a fair few objections, or submissions in opposition, I should say, and has there been any indication given to you or others that you know of indicating a concern about the decision as it stands which might encourage them to appeal?

MR MCGREGOR: We haven't been made aware of any ideas in terms of appealing. That's all I can say. There's nothing that I have been made aware of; that's fine.

JUDGE HARLAND: All right. And so, in relation to the BMX people, are they -- I mean, obviously not happy at the idea of being moved, but are they accepting,

and are there any issues you can outline that might be road blocks to that occurring?

MR MCGREGOR: Yeah, well I think they -- obviously the biggest roadblock for all of this, I guess, would be the lease notification process, which obviously is a  
5 process that still needs to run, and then ultimately that -- whatever decision that may be made, whether it goes to hearing or not, if that then -- going back to local Board again, making their own decision. But in terms of BMX I think since we've been engaging with them since September last year, I think they've been more than amicable about the idea of moving. I think they see some real  
10 benefits in terms of the location that we're looking to put them into. And obviously getting some newer facilities than they've currently got, in terms of replacement on what they have.

JUDGE HARLAND: I probably should have been clearer. So, there's one thing for the club to be accepting and supportive of the idea of a relocation, and whatever  
15 benefits might be included in that package, are another thing. Another aspect of it is how others might feel about that, and that's evident from the hockey decision where there are neighbours who weren't happy. Can you foresee, for the pony club and the BMX club, that there's any likelihood that similar concerns from locals could arise?

20 MR MCGREGOR: Yeah. Well, they are slightly different applications. I guess they're both -- have been put in anyway. We're still awaiting Council's confirmation, but both are currently proposed as non-notified consents. So are in accordance with what the underlying planning rules allow for.  
In terms of the BMX site, I think it is in keeping with the surrounding area in  
25 terms of, its alongside the tennis club; you've got a skate park on the other side of the carpark. So I can't -- I mean, it's obviously right opposite this facility here. So it is kind of in broad keeping with the surrounding area.

In terms of Wainoni, obviously, all we're looking to do there is basically, potentially, slightly intensify a use. It's obviously already used primarily for  
30 equestrian purposes. We have however had some discussions with the Greenhithe Local Owners and Residents Association, just in terms of letting them know what's going on, in the park, and I think they were generally happy with what was proposed and that was kind of in keeping with what is -- what is currently -- you know, the park is currently used for.

JUDGE HARLAND: And, so, the lease process, can you just remind me, if you're aware, of the timeframe for people to register some kind of interest or opposition?

MR MCGREGOR: Yeah, my Council colleagues might be better in terms of the detail,  
5 but I believe the notification runs for 20 days.

JUDGE HARLAND: That's working days is it?

MR MCGREGOR: 20 working days and then obviously there's an evaluation period  
and then if there are submissions that wish to be heard then obviously a  
hearing date gets set down and I believe there will be a panel of  
10 Commissioners that will be appointed to hear that, if there is a notification.

JUDGE HARLAND: All right. And is that proposed, that there would be three  
separate potential hearings arising from that, or is it one?

MR MCGREGOR: No, it's all being done as one process, I think, because they all  
were kind of interrelated. One doesn't really work without the others. So, yeah,  
15 it's -- I think from Council's point of view they have obviously said it's a bit of a  
one-off. They've never really done something quite like this.

JUDGE HARLAND: So, again, on that -- all of that issue, what's the timeline that  
you've been working towards for that?

MR MCGREGOR: Yes, I think that's -- as I've said in my statement there, I think  
20 October/November is when we're looking to try and have a decision from the  
hearing back to the local Board. So, effectively the panel will make a decision,  
and then basically a local Board paper will be put forward, based on that  
decision, and the local Board will be asked to make a decision, or  
recommendation, on that decision.

25 JUDGE HARLAND: All right. So it's a recommendation decision; the local Board is  
the decision maker?

MR MCGREGOR: Correct. That's my understanding.

JUDGE HARLAND: And there's a right of appeal from that?

MR MCGREGOR: I'm not clear on that to be honest.

30 JUDGE HARLAND: Well, that is a legal issue. Somebody can cover that; one of the  
lawyers please, probably you Mr Bangma?

And so, in terms of again timing, the hockey have the international  
tournament happening in November, this year, the women's tournament?

MR MCGREGOR: That is correct, yes.

JUDGE HARLAND: And so if you're looking at these other things not having -- or going to the Board later this year, that might mean further delay for the hockey, in terms of their planning?

MR MCGREGOR: Yes. Yeah, so I think there is -- there's obviously temporary works  
5 that have been undertaken as part of a separate agreement, between NZTA and hockey for some works at their existing facility, to allow the tournament to be carried out, later this year.

So that -- I think it was recognised that that was always potentially going to be an issue for this tournament, but I guess the longer they have uncertainty  
10 then yes; it does then potentially become an issue for them, but again, Ms Williamson might be able to talk to that more.

JUDGE HARLAND: So, I guess what I'm getting at here is that it might well be beyond November that the uncertainty remains, and I wonder whether you are in a position to comment on that, because along with that we've got a proposed  
15 construction timeline that we need to get a feel for how realistic that is?

MR MCGREGOR: Yes, so I think, to my mind, the local Board notification process is probably the last process. Yes, there is some uncertainty in terms of whether that decision is made around October/November. Especially if it's a negative decision, I guess, then that obviously changes things quite considerably.  
20 But I guess on the basis of a positive outcome, then I think the programme, as we've outlined, it is workable in terms of when the access is required and things to the existing hockey site.

JUDGE HARLAND: So we need to deal with the worst case scenario, understanding the positive and recognising, acknowledging all of that, but we need to also  
25 build into the equation the worst case scenario, and if there were to be delays, it would follow that construction in the area proposed by the hockey, on State Highway 1, would have to be delayed? Is that a fair assumption?

MR MCGREGOR: In part. So I think there is some flexibility around when access is granted to that site and what hockey require. So again, Ms Williamson, again, it  
30 may be she can shed some light on that, but they obviously do have lease over a larger area than they -- so they've got a fourth grass pitch that they don't necessarily use currently, which is actually the one that's obviously directly affected by the NCI Project. We also obviously do other -- obviously also affect the artificial turf of number 3, which is the bigger concern. So I think  
35 we're -- yeah, we're doing what we can I suppose, in terms of trying to mitigate the timing, but there is, I guess, there is flexibility in the NCI programme from

what I understand, in terms of when access is required to that site, and I think Mr Hale, potentially, can talk to some of that in terms of some of the construction aspects for the Project.

5 JUDGE HARLAND: All right that's helpful. Have there been any conditions or thought given to how the uncertainty might be dealt with in conditions? Where are you proposing to deal with this worst case scenario? Is this a case of well, we'll deal with it if and when it comes up? Or is this something that you've specifically planned for and it's reflected somehow in conditions?

10 MR MCGREGOR: So I think currently the condition is worded -- it does obviously provide some flexibility to have some agreement with hockey in terms of getting earlier access, so not necessarily having the full facility established at the new site. So we've deliberately worded it in a way that says we are going to provide all the facilities that have been agreed, however there is flexibility with subsequent agreement that we can work with them to accommodate the likes of  
15 things I was talking about in terms of maybe getting early access to part of the site or the like.

But in terms of I guess the ultimate, I guess, the longer it obviously goes on, it does basically effectively have a direct knock-on effect at some point in time, to the overall Project, and beyond, obviously working through the  
20 processes and getting -- and mitigating the risks as we go through, I can't really -- from my understanding of the process, we can't really do more than we are in terms of mitigation.

JUDGE HARLAND: So what about -- so is it contemplated that there could be a split facility issue? In other words, there's a partial new -- depending on, I suppose,  
25 the lease determines it all really, doesn't it, because nothing can happen until that's all been sorted?

MR MCGREGOR: Yes it does, yes. So, I mean, effectively we need the notification of the leases to allow the release of the other parties to then allow the move to happen, but there is opportunity, I think, for a period of time, and I think that's a  
30 fairly reduced period of time, so we're not talking years, we're talking probably months, in terms of operating partially out of both sites, if required. So you kind of -- so you could have some of the facility started at the new site, but they'd still be operating out of the old site as well.

JUDGE HARLAND: Right, but that would be after the lease issue had been sorted?

35 MR MCGREGOR: Correct, yeah. So it's all still subject to the lease process.

JUDGE HARLAND: So I saw that the condition precedent had been removed from the conditions, were you -- I don't want you to go into what was discussed at conferencing. You can't do that, but I'm --

MS MCINDOE: Just to clarify, Mr McGregor wasn't in conferencing so he's not able to  
5 comment in any event.

JUDGE HARLAND: Oh, right. So do you know anything about the condition precedent, in other words, that there shouldn't be parts -- the construction of certain areas shouldn't occur until certain things have occurred?

MR MCGREGOR: Well, I have obviously read the conditions, so I guess I have to say  
10 I have done that. So, I think in terms of my view on the condition, I wasn't -- although the precedent has been removed, I wasn't too concerned either way, I guess in my view, in that we actually had built in flexibility to the condition in saying "unless otherwise agreed". And, in my view, we won't be doing anything on that site unless we've agreed it. We've been working with  
15 hockey for two and a half years; we're not really looking to potentially turn around now and change how we've been co-operating and operating until now.

JUDGE HARLAND: Thank you, very much that's been helpful.

Does anyone have any other questions that are arising from our questions?

20 MS SHEARD: No thank you; no further questions.

MR BANGMA: This is not just a question for Mr McGregor, but just a very minor point of clarification, I believe Mr McGregor was asked about the closing date for submissions on the lease notification issue? I indicated orally when I gave the Council's opening I understand that closing date is 24 August. That was all,  
25 Your Honour.

JUDGE HARLAND: Yes, you did, but we would like to hear from the Council, I suppose, about the notification issue in relation to the other applications that are before it at the moment that have just been filed.

MR BANGMA: The resource consent applications for the other sites?

30 JUDGE HARLAND: Yes, because this witness has just said that he thinks they could well be non-notified, of course he can't make that call, but he's indicated that he understands that might be the case, so it would be helpful if Council could follow that up.

MR BANGMA: And provide some indication to the Board on the likelihood of public  
35 notification?

JUDGE HARLAND: Well, I suppose just if that issue has been dealt with or is being dealt with within the framework of this hearing it would be good to know what the outcome is.

MR BANGMA: Okay. Yes, I understand Your Honour, thank you.

5 ~ (The witness withdrew - 2.04 pm)

ANDREW WILLIAM HALE (Affirmed) (2.05 pm)

~Examination in Chief by Ms McIndoe (2.05 pm)

MS MCINDOE: Mr Hale, can you please confirm for the Board that your full name is  
10 Andrew William Hale?

MR HALE: Yes.

MS MCINDOE: And that you have prepared two statements of evidence for this Board, being a statement of Evidence in Chief dated 20 April 2017 and also a rebuttal statement of evidence dated 15 June 2017?

15 MR HALE: Yes I have.

MS MCINDOE: And can you please confirm that you have the qualifications and experience set out in section 1 of your statement of Evidence in Chief?

MR HALE: Yes, I do.

MS MCINDOE: Do you have any corrections to make to your evidence?

20 MR HALE: No.

MS MCINDOE: Can you please confirm to the Board that your evidence is true and correct to the best of your knowledge?

MR HALE: Yes, it is.

MS MCINDOE: Now, I understand that you have prepared a summary statement?

25 MR HALE: Yes I have.

MS MCINDOE: Could you please read that for the Board?

MR HALE: This summary statement provides a summary of my Evidence in Chief, dated 20 April 2017, and my rebuttal evidence, dated 15 June 2017.

30 Summary of Evidence in Chief...(Reads 2.1 - 4.2 exactly as submitted)...my evidence has not changed due to this.

MS MCINDOE: I just have one supplementary question. Were you in the inquiry yesterday when the opening submissions were presented and presented for Auckland Transport?

MR HALE: Yes I was.

35 MS MCINDOE: And as part of those submissions, Mr Bangma referred to access points for construction -- for a construction site and he referred to those access

points being off Cowley Place and Arrenway Drive. Do you recall that as being part of his presentation?

MR HALE: Yes, I do.

MS MCINDOE: And do you also recall that at that point -- I can't recall exactly who it  
5 was, but one of the Members of the Board had a question about those access points and their relation to one or more construction service areas. Are you able to explain for the Board how those access sites relate to the construction service area, and perhaps it might be useful if you know of any plans?

MR HALE: I have got some plans, they'll be the G8 ones.

10 MS MCINDOE: Our assistant can put them up to help your explanation. (Documents put on screen).

MR HALE: So Cowley Place and?

MS MCINDOE: Cowley Place and Arrenway Drive are the two locations referred to in the submissions for Auckland Transport.

15 MR HALE: So it's the pink area on the plan on the screen. That's construction support area 5; now in Arrenway Drive.

JUDGE HARLAND: CSA5?

MR HALE: CSA5, yes, that's correct.

JUDGE HARLAND: And is that CSA5 out of 6?

20 MR HALE: Out of six, correct. I just need to double check where the Cowley Place one is.

MS MCINDOE: My understanding is that is it just north -- yes, we're in the right location now, just north of Pond 1, and Pond 2, does that help? Off Rosedale Road.

25 MR HALE: Cowley Place, so that's on the western side of State Highway 1, but I don't think there's a construction support area there?

MS MCINDOE: But do you agree that it's an access point, or it could be?

MR HALE: It could potentially be an access point when the contractor has determined how he's going to access the construction site. Yes.

30

~Cross-Examination by Mr Bangma on behalf of Auckland Council (2.11 pm)

MR BANGMA: Good afternoon sir. I've got first just some questions on behalf of Auckland Council, and then some questions on behalf of Auckland Transport. So I'll start with the questions for Auckland Council first, and the first question is  
35 reasonably narrow and relates to the closure of the Rook Reserve Alexandra

Stream Underpass during construction, which I understand will need to take place to widen the highway in that location.

Now, as part of the construction expert conferencing on 22 June, recorded in the conferencing statement as a concern, I believe from Mr Barrett and Mr Tindall, about the impact that closing that underpass could have on pedestrians and cyclists who live on Unsworth Heights and obviously might, if the underpass wasn't closed, use it to cross to the other side.

And broadly speaking their concern relates to how these people will be affected if the proposed bridge at Paul Matthews Drive, the upgraded intersection of Paul Matthews Drive, is not in fact completed first.

So as I understand it, there will be two points where pedestrians or cyclists from Unsworth Heights could cross State Highway 18. One is the underpass; the other is at Paul Matthews Drive. If Paul Matthews Drive isn't completed first and Rook Reserve is closed, then I understand the concern is there would be no access points.

Now in relation to that -- or perhaps to address that concern, I understand there's been an amendment to the Construction Traffic Management Plan conditions. For the record, I believe that's set out on page 56 of the Joint Witness Statement planning statement, 30 June to 3-6 July and that requires -- sorry, I'll just go to the first part of the condition:

"That the CTEMP shall describe the methods for avoiding, remedying or mitigating effects and will address the following matters"

And there is a long list of matters, and this particular one is:

"Maintaining pedestrian connectivity across SH18 should the Alexandra Stream Underpass be closed during construction".

So just focusing on the wording there, so there is the requirement to include measures that will maintain pedestrian connectivity, essentially.

Can you explain what sort of measures that might include? That seems quite broad to me, "measures to maintain pedestrian connectivity"?

MR HALE: So maybe I'll just take a few steps back.

So the reason for the closure of Alexandra Stream Underpass is to enable a traffic management switch to the southern side of the existing State Highway 18. So we've got to shift four lanes or three lanes of traffic further south on 18 and you can only do this by extending the existing underpass to create that extra room. I think it's going to be widened by approximately 2 metres. That enables the contractor to then come in and start excavating the

area of State Highway 18 around Paul Matthews Road there, that intersection, because the alignment needs to change due to safety, which Mr Moore should really talk to. So, this part of this stage of the works is really early on in the programme, and therefore, the bridge at Paul Matthews Road that's intended to be there, will not be built by that time. Therefore, the way that we would then manage the -- let's say the lack of connectivity from Unsworth Heights going north, would be to take them on a diversion along Barbados Drive and Caribbean Drive, Barbados Road, and into that existing intersection where a pedestrian facility will be built as part of the early works, and then a footway would then go along State Highway 18, along the Highway to connect with Paul Matthews. It would be a longer connection than the direct. Yeah, but I believe that the closure of Alexandra Stream Underpass would be in the region of two to three months.

MR BANGMA: So just to clarify what you envisage is that pedestrians and cyclists would travel down Barbados Drive and use the existing crossing?

MR HALE: There is not an existing crossing there at the moment. A crossing would need to be built by the Alliance.

MR BANGMA: Because I understand the essence of the Council's concern, to cut to the chase, around this wording that's in the construction management plan, and essentially whether that is adequate or not from their perspective, perhaps the Board's perspective, is whether or not the crossing which will be providing across State Highway 18 would be a controlled crossing?

MR HALE: Yes.

MR BANGMA: So some sort of signalisation which I think would obviously be necessary for public safety?

MR HALE: I would imagine that it would be a set of signalised pedestrian crossing. There is a set of signals there; it's just a case of allowing for that pedestrianisation within that intersection.

MR BANGMA: So if that is fairly certain, to address that concern from the Council, would you have any objection to that wording being amended to include reference to "maintaining pedestrian connectivity across State Highway 18 through a controlled intersection"?

MR HALE: I have no objection to that.

MR BANGMA: I think that would address the concerns of the Council's experts on that point, just in case that wasn't clearly understood.

All right. So then, shifting gears slightly then, and coming back to this Rook Reserve and Alexandra Stream Underpass, so were you here earlier this morning when I asked Mr Moore some questions about the upgrade of the --

MR HALE: Yes, I was, yep.

5 MR BANGMA: And so in option 3, which is the Council's preferred option, broadly speaking, the proposition that the Council set out in its opening is that it would be a more efficient use of resources under section 7 of the RMA, but anyway, putting aside the RMA. It would be more efficient to basically undertake this upgrade of the underpass, option 3 now, as part of this Project rather than later.

10 So it's the two separate projects and that's just what I want to explore with you.

MR HALE: Yeah.

MR BANGMA: So, for example, a basic proposition, but if this underpass was upgraded now, as part of this Project rather than as two separate projects, I mean would it be able to, for instance, use the existing construction yards and  
15 site office and other general facilities that are proposed by this Project.

MR HALE: Yes, it will.

MR BANGMA: And turning to how the option 3 upgrade would be constructed, I understand that that would require a cut to be made in State Highway 18 and drop in the new underpass and seal it up?

20 MR HALE: Yes.

MR BANGMA: Now obviously if the underpass was upgraded now as part of this project, compared to if it was upgraded in the future, that would obviously avoid the need to have to cut open at that stage a potentially upgraded State Highway  
18?

25 MR HALE: Yes, it would be more efficient and cost effective to construct a new underpass now.

MR BANGMA: And, just the last aspect that I wanted to explore was in relation to the traffic management measures that might be required.

The alternatives assessment for the different underpass options, that  
30 Mr Schofield's done, refers to the significant traffic management matters which would be required as part of the upgrade of the underpass, given we're cutting open State Highway 18, and gives that as one reason why that particular option 3 was not chosen, as I understand it; we can ask him that.

But what I wanted to explore with you is I understand there's -- I mean  
35 there's already traffic management that will have to take place as part of this project as it's currently proposed is that correct?

MR HALE: Yes, in that location, correct.

MR BANGMA: In that location?

And that would obviously involve widening and resurfacing of the road in that location?

5 MR HALE: Not as such. So where the lodged design has the cut is just east of the existing underpass. So -- however, saying that, you could use the traffic management staging and switches to construct an underpass without too much extra work.

MR BANGMA: Thank you, I think that was the point I was working towards. And as  
10 the traffic management is part of this project, would that involve lane closures on State Highway 18 to one lane in each direction?

MR HALE: I haven't looked at it in detail, but from what I understand of the traffic management staging to construct the lodge design, I don't believe it would require lane closures. You would still keep open the same number of lanes on  
15 State Highway 18 as you currently have at the moment. And I think there's one going west and there's two going east. So there are three lanes in that cross-section.

MR BANGMA: I don't have any further questions on that aspect. So that just leaves one last set of questions.

20

~Cross-Examination by Mr Bangma on behalf of Auckland Transport (2.22 pm)

MR BANGMA: Last set of questions, this is with my Auckland Transport hat on now and that just relates to the effects of construction traffic on local roads.

As we indicated in the opening for Auckland Transport there is a very  
25 high level of agreement generally between Auckland Transport and the agency. I think one of the last issues which hasn't been agreed as of yet is damage to the local roads caused by construction traffic as part of the Project; so I just want to ask you a couple of questions about the potential effects of that.

MR HALE: Yep.

30 MR BANGMA: I understand the likely construction period for the Project is three and a half years?

MR HALE: Yes.

MR BANGMA: And have you -- are you in a position to advise on how many heavy vehicles, so vehicles which might be needed for earthworks, aggregates, or  
35 super structures would roughly be needed during that period?

MR HALE: Not -- I haven't looked at that in detail. I've taken a sort of a rough estimate and it depends on where the works are happening and what accesses they've got and what they're going to be using.

5 I would consider that overall construction vehicles using accesses would be between a 100 to potentially 400 vehicles in a day. However, that's not heavy vehicles, that's just legal road vehicles, heavy vehicles are one of those. I would imagine that there would only be a small percentage of those which would actually be quantified as heavy vehicles. So maybe 10% of them. Most vehicles that will be used for haulage will be actually within the  
10 construction areas on the site and there will be haul routes along -- adjacent to the State Highway 1 motorway.

MR BANGMA: Coming back to your answer before and, look, accepting it's early days and you're only providing a rough estimate to the Court, you mentioned 100 to 400 vehicles per day total and then suggested that perhaps 10% of those might  
15 be heavy vehicles.

So would that be somewhere between 10 and 40 per day, does that sound right?

MR HALE: Yep.

MR BANGMA: And has there been any confirmation yet as to what local roads will be  
20 used for site access, or is it too early to tell?

MR HALE: There's been some general discussions recently around the scope and extent of where potential local road damage could occur. That is, as you suggested, that is quite early days to come to a landing. It's probably too much detail at this stage. And I'm working with Mr Peake around the wording of the  
25 condition to come to a landing on what the -- the scope and extent.

MR BANGMA: All right, well, just last couple of questions, if we accept that the number of heavy trucks could be as many as 40 per day, perhaps, going to a particular access point down a local road, hasn't been confirmed yet, but that would be the idea?

30 MR HALE: Yeah.

MR BANGMA: Do you accept that 40 or so heavy trucks with, you know, earthworks, aggregates, or super structures, would that be -- is that something you'd normally expect to find on a local road if it wasn't for a project like this?

MR HALE: Not necessarily. However, I would say that pavements are designed for a  
35 certain number of heavy axles, depends on what the nature of what that road's going to be used. And I must say that I'm not a pavement expert. However,

there's a life of a pavement and that is related to the number of heavy axles. In my opinion it's quite hard to distinguish what would be from construction traffic from Northern Corridor and what would be traffic from other just general traffic.

MR BANGMA: But if we were to look at a small cul-de-sac like Cowley Place I think it was, I mean it would be reasonably unusual outside the context of a big  
5 construction project like this to see 40 heavy trucks on that wouldn't it?

MR HALE: Yeah, I accept that there would be damage, but the extent of that damage and the condition of the existing pavement, that would need to be assessed prior, and monitored during construction.

10 MR BANGMA: And I understand broadly that's what's been proposed in the conditions. And you're involved in the Joint Witness Session for construction traffic, and I understand that you agreed as part of that conferencing that it would be appropriate to have a condition which remedied any damage which does occur, which is a factual matter which could be assessed through a  
15 condition?

MR HALE: Yep, I agree to that.

~Questions from the Board (2.27 pm)

MR MARK-BROWN: I'd like to ask you some questions about the possible -- this  
20 issue about doing the underpass upgrading now versus in the future. It might be I'm asking the same questions that Mr Bangma asked, but so be it.

The main question that I have is what would be the overall benefit in terms of avoiding disruption to traffic during construction of doing it now rather than doing it later? Can you sort of quantify that in some way?

25 MR HALE: Yes, during the lunch break I got the cost estimate and from that I could ascertain that when you look at the traffic management effects that could be required in the future, if it's widened, and an underpass is constructed at the time, it would be in the region of around about a million dollars.

MR MARK-BROWN: So just to be clear, you're saying it would be an extra million  
30 dollars?

MR HALE: You would save a million dollars, because you would have already constructed -- if it was in the Project now you would --

MS MUELLER: If it's in the Project now you would save a million dollars?

MR HALE: In the future.

35 MR MARK-BROWN: Compared with doing in the future?

MR HALE: Yeah.

MR MARK-BROWN: Associated with traffic management during construction?

MR HALE: Yes. It's roughly around about 20% of the overall estimate.

MR MARK-BROWN: And following on from that, if it was done as part of this project,  
would you see any impact on your overall programme that you've got here, this  
5 one that was in the construction report?

MR HALE: No.

MR MARK-BROWN: Is that sort of broad enough to take into account?

MR HALE: With the traffic management stage on State Highway 18, because it's done  
in stages due to the construction of Paul Matthews Bridge, because we need to  
10 excavate and also build the bridge above, you could actually probably extend  
the traffic management to cover the new underpass and construct that within  
the same staging. So it would probably be constructed in probably three or four  
stages.

JUDGE HARLAND: Can I just follow on, so are you saying there would be no  
15 additional impact on your staging programme were the underpass to be  
required to be replaced?

MR HALE: From what I currently understand, I don't think so.

MR MARK-BROWN: And just clarifying I think the questions Mr Bangma put to you,  
so the existing underpass needs to be extended by 4 metres or so would you  
20 say?

MR HALE: It's 2 metres from the existing. However, during construction we need to  
tie into the existing structure so it may be another 2 metres, so it may be 4 to 5  
metres, it looks like it's being extended, but it's actually only 2 metres from the  
existing.

25 MR MARK-BROWN: And that needs to be done early on so that you can do that extra  
lane through there?

MR HALE: Yeah, so we can shift the traffic to the south to provide space to the north  
to start doing those works.

MR MARK-BROWN: I'd like to move on now to the Project schedule that's here in that  
30 report, and talking about the State Highway 18 to State Highway 1 motorway to  
motorway connection which goes from mid-2018 through, and we have -- you  
were here before when we were talking to Mr McGregor about this issue to do  
with the hockey and the staging there?

MR HALE: Yep.

35 MR MARK-BROWN: What's your view from what you know about the uncertainty  
regarding the hockey having to be removed and the uncertainty about where it's

going to go? From your point of view about the construction, do you have any concerns, or do you think there's enough flexibility given all the different works that you're doing that you can work around that?

MR HALE: So from Mr Campbell's recent work, he has updated the programme and  
5 he has given me a best case and a worst case, which probably takes into account the lease notification process and the potential for an appeal. With the worst case dates, which I believe access to the hockey pitches would be around November 2019, that would still enable the works to be completed by September 2021.

10 I believe that there is still float within the programme to still achieve the September 2021 opening date.

However it's just monitoring that programme; as Mr Campbell referred to earlier, there's a lot of moving parts, quite complex. It's just a case of monitoring that programme and then seeing what the knock-on effects to the 18  
15 works are.

MR MARK-BROWN: And on the programming work that you've done, and that's presumably based on your experience with other projects and would be based on your expectation of being able to obtain contractors with sufficient expertise and plant to be able to do that, can you provide a comment on whether you  
20 think that is realistic now in the current environment we have in Auckland with quite a bit going on? I know fairly well advanced with the Alliance side of it.

MR HALE: I came up with that programme using my experience on Southern Corridor and also the Waterview Connection and the Northwestern Motorway widening which is in a brownfield environment, so very similar to this environment.

25 The Transport Agency has selected a preferred proponent for the works. They are currently under an interim Project Alliance Agreement. That will then turn into a Project Alliance Agreement either by the end of the year or early next year dependent upon the outcome of certain processes, this being one. The other being the potential hockey pitch issues.

30 MR MARK-BROWN: So as far as you know, this is looking doable?

MR HALE: Very much so.

MR STEWART: I just have a very brief one really. It seems to me that, and I'm not an engineer, that these works are going to occur at different times and in different places there's going to be work going on all over the place. And I'm assuming  
35 that how that's done is largely going to be left to the Contractors Alliance. But to what extent is guidance or instructions going to be given through the -- by the

Transport Agency to how and when it's done? And what I'm really getting at is, is it going to be done in some sort of systemic way designed to minimise disruption? And I'm really coming to that question through reading Ms Strogen's evidence who's talked about social impacts and other impacts and, as I say, I understand that it would be basically the Alliance that sorts it out, but how much instruction is going to be given in order for you to make sure there is the least disruption possible?

5

MR HALE: As part of the first procurement process to select a preferred proponent they had to submit a construction programme and their staging and construction methodology. Which falls in line with what we have provided in our submission.

10

The agency are a part of the Alliance and they will be able to direct the Alliance as and when necessary.

MR STEWART: So you will, through that process, maintain some sort of -- well, I don't know about whether it's control, or overview anyway of the stage of construction?

15

MR HALE: Yes there will be what they call an Owners Interface Manager who is employed by NZTA, and Aurecon and myself would be kept on to assist the Owners Interface Manager to ensure that the Alliance are complying with the requirements of the contract and also the consent conditions and designation conditions.

20

MR STEWART: And I suppose following on from that, and you'll have to excuse me -- I don't think I've seen it anywhere in the evidence, if there is any concern, let's say by any member of the public or any organisation about the effects of construction, is there a process where they, through the management plans for instance or some other process, where they can have those concerns aired?

25

MR HALE: So I think the Construction Environmental Management Plan and the Stakeholders Communication Plan go hand-in-hand. So it's all about pre-warning the local community and the customers around what activities are being progressed where on the construction site. It's just really giving them that heads up. Particularly for the people that are going to be effected when it comes to the likes of construction noise and vibration.

30

JUDGE HARLAND: Just carrying on with that theme. You've been involved in most of the large projects for NZTA obviously around Auckland over the last short while. Has your role in those projects or any of those projects been reasonably similar to that which you've done for this one?

35

MR HALE: Pretty much exactly the same for the last eight years.

JUDGE HARLAND: Great. So in terms of the management role undertaken on behalf of NZTA overseeing the Alliance, or ensuring that everything's followed through, that's been the role that you've had in these other projects?

5 MR HALE: Not on the previous project. So on Waterview Connection that role was undertaken by somebody within my company. So that role would be new to myself.

JUDGE HARLAND: Anywhere else? In the southern project, were you involved in that kind of role?

10 MR HALE: Yes that is now being managed by our construction management team which is a separate one to the one that I'm in. NZTA usually with alliancing, they usually leave the Alliance to do what they need to do.

However, on Waterview Connection they came up with this Owners Interface Manger role and Owners Verifier and they saw it as a success. They  
15 decided to use it on this contract as well.

JUDGE HARLAND: That was my next question, was how successful had it been in the past to provide another layer of certainty, and your understanding is that it was a good thing and it did provide that necessary assurance?

MR HALE: It's making sure that NZTA get the outcomes that they desire from the  
20 outset of the Project.

JUDGE HARLAND: And so from a complaints perspective, and I understand that might not be the kind of day-to-day role that you would be undertaking, but do you expect that that's something that you would be at least advised of if there were complaints?

25 MR HALE: I would assume using my knowledge, that would be kept, and managed within the Alliance. And Aimee, Ms Brock would be the person leading that stakeholding communications team.

JUDGE HARLAND: So in terms of feedback where there needed to be change because of areas of complaint, who would be responsible for making sure that  
30 was done?

MR HALE: It would be the Alliance and Ms Brock, I would assume.

JUDGE HARLAND: Right so there would be no oversight, that wouldn't be part of the role that you would fulfill?

MR HALE: No. However, Ms Brock is an employee of the Transport Agency.

JUDGE HARLAND: So I've heard in answer to questions from Mr Mark-Brown that you believe the timeframe that's been proposed for this Project is realistic regardless of the hockey reserves issues that might still be outstanding?

5 MR HALE: Constellation Reserve is quite a big reserve and it also includes hockey, if the contractor can get that early access to the remainder of Constellation Reserve it's only really a small portion that needs to be completed to enable the Project and it's just gaining access to those two fields, and I believe, and I think one of the conditions sets out the construction of the new North Harbour hockey facility may be undertaken in a staged manner.

10 JUDGE HARLAND: So the overall 3.5 years you think is realistic?

MR HALE: Yes.

JUDGE HARLAND: There's quite a bit of fat built in that just in case for contingencies?

MR HALE: Yes.

15 JUDGE HARLAND: So that's highly relevant to the noise matter that we're obviously going to come on to later.

MR HALE: Yes.

JUDGE HARLAND: So your evidence is it's going to be no more than 3.5 years.

20 MR HALE: The biggest constraint on the Project is the property acquisition. And something different -- so all the projects I've worked on in the past, on this Project we've done something different, which is bring forward the acquisition process. So the acquisition is currently ongoing at the moment. NZTA have acquired a certain number of properties already and they're already engaging in the PWA process.

25 JUDGE HARLAND: That was going to be my next question, so it's helpful that you've come to that, because looking at table 2 in the AEE report where you'd outlined Project constrains, that was the other major one, it seemed to me, that would hold things up apart from the hockey, which was also identified.

MR HALE: Yes.

30 JUDGE HARLAND: So are you able to advise how much of that property acquisition in terms of a percentage of total has already been -- is underway?

MR HALE: Rough sort of percentage you would say it would be between maybe 10 or 20%. But the majority of section 18s have been issued to the interested parties. And the negotiations are still ongoing.

35 JUDGE HARLAND: Are you part of that process?

MR HALE: I oversee that process, I don't know it in sufficient detail on every property.

JUDGE HARLAND: But in terms of your oversight role do you anticipate difficulties?

MR HALE: Potentially in a couple of areas. And that is really down, I believe to the commercial, when you start looking at property interests on land parcels it can get quite complex where you have many interested parties and you're trying to resolve those interested parties to get access to that land.

JUDGE HARLAND: Are you able to give us an indication of the areas where that might be problematic?

MR HALE: [ORDER PROHIBITING PUBLICATION OF EVIDENCE IN PUBLICALLY AVAILABLE DOCUMENTS UNDER BOARD MINUTE AND DIRECTION 10]

~Submissions from Ms McIndoe (2.43 pm)

MS MCINDOE: Sorry, can I just interrupt at this point, I'm keen for the Board to have the information they require, but I'm also conscious that these are negotiations that are going on with land owners at the moment and this is going to go on the transcript and those --

JUDGE HARLAND: We can make some orders in relation to that if you want?

MS MCINDOE: I think that would be useful if you are able to make an order that these matters in relation to land acquisition be kept confidential under section 36 and 37, or whatever it is, of the RMA then that would be useful. It would allow you to have the information, but without us unnecessarily worrying land owners or perhaps prompting them to take actions that they might otherwise not think necessary.

~Board makes non-publication order (2.45 pm)

JUDGE HARLAND: I don't have any difficulty making that order and I will do right now. We will confirm the actual wording of that, but it will be the standard order which there is to be no publication without prior consent of the Board in relation to any matters concerning property acquisition that are included in the transcript, for commercial sensitivity reasons.

~Questions from the Board (2.45 pm)

JUDGE HARLAND: So, we don't need to know the specific names of the parties necessarily, what I'm more interested in was, just so that you can answer that in perhaps a different way is the areas where it might impact on construction and how that might impact on duration and timeframe and potentially any neighbours that might be effected by noise and vibration? So that's where I'm

coming from on it. And if there are areas that aren't going to be a concern for those reasons we might not be too troubled about them.

MR HALE: Trying to be general, the areas that are quite early on in the construction programme and the land parcels associated with those areas, they are -- they have been fast tracked and they are going -- they probably started negotiations over a year ago, so they are still ongoing. Some of those properties have been acquired. Some of them are quite complex due to the nature of the commercial arrangements and the interests. But we believe that those would be -- those land parcels will be made available to the contractor, the constructor, the Alliance, as per the original programme, the one that was lodged.

JUDGE HARLAND: So answering the second part of what I think we might be interested in, which is whether those particular areas that could be delayed, how that might impact on third parties for noise and vibration reasons. Are there any particular areas that we need to be appraised of?

MR HALE: Not from what -- my knowledge at the moment.

JUDGE HARLAND: So they're more other areas within the Project and there wouldn't, you don't think, be any impact on those sorts of issues?

MR HALE: I don't believe so.

JUDGE HARLAND: So I'd now like to ask you some questions about the Project management plan structure. This was figure 50 in the AEE, volume 2. And it really just sets out all the different plans, this is the diagram -- very helpful diagram I might say, setting out all the different plans that fall under the Construction Environmental Management Plan.

So we'll make sure you've got a copy of that, can you see that up there?

MR HALE: It probably needs to be zoomed in I think, I don't think my eyes are that good.

JUDGE HARLAND: Can you see that? Otherwise -- can you read that? Maybe what we could do is provide the copy that you've got there?

MR HALE: I can sort of read it now. There we go.

JUDGE HARLAND: Let's make sure you can read it properly.

I wanted to check whether that's changed or not and if it has I was going to ask you or somebody to please update it for us, so that we can see visually how it's all going to work together.

Because you've talked about the Construction Environmental Management Plan being hand-in-hand-with the Stakeholder and Communication Plan, which we see there as an equivalent.

MR HALE: Yep.

JUDGE HARLAND: And perhaps also in relation to the landfill -- well the landfill for that particular point, obviously, and stormwater as well.

5 And just looking at the Construction Environmental Management Plan there's a number of different plans underneath that. Can you confirm whether that's the entirety of them or there might be some more in there now?

MR HALE: I believe there are now some sub plans, potentially to the -- the one that sort of sticks out at the moment, but this probably needs to be confirmed by the planners is the Construction Traffic Management Plan, I think there is going to be a sub plan to that which is the Public Transport Traffic Management Plan  
10 During Construction. So this table will probably need to be amended to reflect that.

JUDGE HARLAND: So is that something you're likely to be able to assist us with, or somebody else?

15 MS MCINDOE: It might be appropriate for the planning witnesses. We will certainly -- I think it's a good suggestion to amend that table, and we could put that in the supplementary or summary statement for the planners.

JUDGE HARLAND: All right thank you for that.

20 So, just following on from this, in your role that you would be undertaking as part of the oversight of this project, would you be one of the people who would be overseeing, in the big picture, all of these different plans?

MR HALE: I don't believe so. I believe those plans will be generated by the Alliance and they will be sent to Auckland Council for approval.

JUDGE HARLAND: So where is the NZTA oversight then of any of these plans?

25 MR HALE: They are part of the Alliance. So the Alliance includes NZTA.

JUDGE HARLAND: I understand that, but I had thought you'd explained to us that this would be a specific role you would play overseeing as a separate layer of certainty, if I can call it that, is that not to be carried through in relation to the implementation of the plans? Because the enforcement aspect of this is quite  
30 important.

MR HALE: Yep.

JUDGE HARLAND: I need to understand whether that's going to all be left to the Auckland Council or whether there is nonetheless going to be some oversight by the agency's team?

35 MR HALE: We would be at the beck and call of the Owners Interface Manager. He would then decide what -- if he is not comfortable with something that's being

produced, whether he wants that to be reviewed by a third party whether it be Aurecon or somebody else.

JUDGE HARLAND: So coming back to the AEE, in chapter 6 there was the duration which also included some discussion about staging and that was reflected in  
5 part in the diagram that had been prepared. But it was also outlined in terms of the month at paragraph 6.2. If we could perhaps just get that up so that you can have a look at it? It is under the chapter construction duration and that's not the right one -- it's Construction Duration and Staging tab 15A volume 3, part 3, Technical Assessment Reports.

10 MR HALE: Ah is it the design and construction report? I've got a copy of that. So 6.2 of?

JUDGE HARLAND: I believe volume 3, part 3. The Design and Constructability Report of December 2016.

MR HALE: What page?

15 JUDGE HARLAND: I just copied paragraph 6 or chapter 6 called Construction Duration and Staging.

MR HALE: Yes.

JUDGE HARLAND: You've got it?

MR HALE: That's correct.

20 JUDGE HARLAND: Have other people got it? Let's get it up, so it's clear to everybody.

So again, what I just want to understand is whether this indicative staging, which includes what might be done where and the timeframe over which that is to occur, has been carried through into The Alliance  
25 documentation and is something we can rely on still?

MR HALE: Yes it's very similar.

JUDGE HARLAND: And that's including substance and time is it?

MR HALE: Yes, yep.

JUDGE HARLAND: And again, because I just haven't had the ability yet to pick this  
30 up, is that staging linked in anywhere? Obviously there will be construction or CSAs that relate to each of that, is there anything visual to indicate how that might look, which CSAs will be associated with which parts of that?

MR HALE: I don't believe there's anything visual, I've not seen anything myself. Probably with one clarification, is the zoning and staging that we've come up  
35 with -- I've come up with, is an indication. The zoning and how the contractor decides to break up the job is down to them.

The zones are similar, however how they've broken up the Project is slightly different, but it's the same programme and staging of traffic management, because that's really how -- you build the job around where you can fit the traffic, because then that frees up the land. That's all the same. The way that they've broken -- the way that the preferred proponent has broken up the job is in a different zone, that's all.

JUDGE HARLAND: You might need to help me with that a little bit?

MR HALE: It is complex.

JUDGE HARLAND: What we're interested in is the effects that might arise from that and how they might differ from the paperwork that we've seen?

MR HALE: It would be very much the same, yeah.

JUDGE HARLAND: Right. So again, because I quite like percentages, how much?

MR HALE: 90 to 95%.

JUDGE HARLAND: All right. Very good thank you.

Just want to talk to you a little bit about the -- and this might be more an area for the planners; so you say if it is, but to understand where you got to with the working hours. So generally it has been outlined that construction will occur during daylight hours, but on occasion there may need to be work done at night. And it was I think in the same report at 7.2, you might want to flick over the page, a list of where and when night works might need to occur?

MR HALE: Yeah.

JUDGE HARLAND: So just looking at that list, is that still accurate?

MR HALE: It's accurate, however I would probably say that it would probably be less.

JUDGE HARLAND: Yes.

MR HALE: Yep.

JUDGE HARLAND: In which areas will it be less?

MR HALE: Potentially Rosedale Road lowering. The lowering will still take place, but it may take place during the day -- but it may take place during the night.

JUDGE HARLAND: Anywhere else?

MR HALE: That's about it.

JUDGE HARLAND: So apart from the Rosedale Road lowering where there might not need to be as much of it done at night, the rest of those places are places where night works might need to be done?

MR HALE: Yes and it's generally in locations where there's bridge structures.

JUDGE HARLAND: Right. And the way that's being managed is through the conditions to do with potentially adverse effects, mainly noise et cetera, vibration?

MR HALE: Yes, that's correct.

5 JUDGE HARLAND: Is there any indication of duration of night works in those particular areas anywhere that might be required?

MR HALE: That was captured under the JWS.

JUDGE HARLAND: Right, so that it's all done through that particular vehicle?

MR HALE: Yes.

10 JUDGE HARLAND: I see thank you.

That's all my questions thank you. Anything arising?

MS MCINDOE: No thank you Your Honour.

~(The witness withdrew - 2.57 pm)

JUDGE HARLAND: We might take a break now for 15 minutes and thereafter I think  
15 we've just got the one witness Mr Rama, is that right?

MS MCINDOE: Yes, although we do have Ms Stroger ready to go if you did want to keep going today? So we've got her in reserve.

JUDGE HARLAND: Thank you for that.

20 ~ (Adjourned 2.58 pm – 3.16 pm)

~DEEPAK RAMA (Affirmed)

~Examination in Chief by Ms Sheard

MS SHEARD: Do you confirm that your full name is Deepak Rama?

25 MR RAMA: Yes.

MS SHEARD: And do you confirm that you've prepared a statement of evidence dated 20 April 2017?

MR RAMA: Yes.

MS SHEARD: And do you confirm that the contents of that statement is true and  
30 correct to the best of your belief and knowledge?

MR RAMA: Yes.

MS SHEARD: And do you confirm that you have the qualifications set out in section 1 of that evidence?

MR RAMA: Yes.

35 MS SHEARD: Mr Rama hasn't prepared a summary statement because nothing has changed. Would you like him to read his executive summary?

MR MARK-BROWN: The original evidence summary?

MS SHEARD: Correct.

JUDGE HARLAND: Well, perhaps that might enable him to be settled a little before some questions are answered.

5 MS SHEARD: Yes, thank you.

JUDGE HARLAND: And there's not that many questions, there's just a couple, so you're not to be concerned.

MR RAMA: So, starting at 4.1:

10 "Consultation with Mana Whenua has primarily occurred through the Central-Northern Iwi Integration Group ('IIG'). This consultation commenced in August 2015 and has involved updating the IIG on the Project at monthly hui and receiving feedback through that forum.

15 Since July 2016, Project specific hui have been held on a monthly basis with a working group from the IIG. A broad range of matters have been discussed at those hui including:

- A Input into the urban design for the Project;
- B Earthworks methodologies;
- C Stormwater treatment (including the Rook Reserve and Bluebird Reserve options);
- 20 D Vegetation removal, replanting and effects on bird and lizards;
- E Potential impacts on biodiversity.

25 A Cultural Values Assessments was also prepared by Ngati Te Akitai Waiohua and Ngai Tai Ki Tamaki, and a Cultural Impact Assessment from Ngati Manuhiri in June 2016.<sup>1</sup> These documents were used extensively in the preparation of the draft Urban Design and Landscape Framework. In addition, they were used, along with feedback at Project hui, to inform the Project design.

Key changes made to the Project (and the draft conditions) in response to Mana Whenua concerns relate to the following areas:

- A Avoidance of effects on Lucas Creek;
- 30 B Use of organic flocculants where practicable;
- C Iwi input into the Urban Design and Landscape Plans and Construction Environmental Management Plans prior to submission to the Council; and
- 35 D The inclusion of an additional structural stormwater treatment device for the Rook Reserve stormwater management pond option.

I am satisfied that consultation undertaken with Mana Whenua has provided an effective forum for feedback and that feedback received has assisted in shaping the design and ongoing engagement through the construction phase of the Project.

~Questions from the Board

MR MARK-BROWN: Mr Rama, in 6.11 of your evidence to do with the Mana Whenua seeking the use of organic materials and treatment of suspended solids, there is a condition which requires the use of flocculants where practicable, provided that the most effective flocculant in terms of sediment removal will be used. So it sort of almost seems like perhaps a Claytons -- possibly a Claytons one, but we'll use it if we can, but if it's not the most effective we won't. So my question is have you discussed this with relevant iwi groups and are they happy with that condition?

MR RAMA: Yes, we've had considerable engagement with the iwi in relation to the conditions and the issues at hand and they've been quite happy with the inclusion of that specific condition.

MR MARK-BROWN: Okay, thank you.

In your section 6.6, you talked about Mana Whenua requested treatment of stormwater and construction water to higher standards than those provided for in TP10 and TP90, and then you say:

"As set out in Mr Hughes' and Mr Ridley's evidence, treatment of the stormwater and construction water is in accordance with TP10 and TP90 and treating to a higher standard is not practicable in this constrained urban environment".

I had a look through Mr Ridley's evidence and I couldn't find in that reference that you are referring to. So I'm wondering, can you -- might be a bit much to ask you now, but could you perhaps have look at let us know, or if you need to, come back through the Council to answer that question?

MR RAMA: In relation to Mr Ridley's, yes, I'd like to come back to that.

MR MARK-BROWN: So I haven't actually looked through Mr Hughes', but perhaps if you could do both for completeness and cross-refer to those particular parts of your evidence for that?

JUDGE HARLAND: I just wanted to ask you about the, in your executive summary the reference to the CIIG, is how it's referred to?

MR RAMA: IIG.

JUDGE HARLAND: IIG. So tell me a little bit about that?

MR RAMA: So the IIG has been an initiative that's been developed by, I guess, the  
5 Transport Agency to have sort of more continued engagement with iwi on an  
ongoing basis. It was developed on the basis of the amount of projects that are  
currently undertaken by NZTA in the Auckland area. And it was because of the  
sheer number of them. To have them in one sort of forum, was seen as an  
easier way to continue to engage with iwi. But also just to ensure that we had  
an element of consistency from project to project.

10 JUDGE HARLAND: And so it's been going for some time, and I'm suggesting, I  
guess, that there's some good relationships that have developed?

MR RAMA: Yes, I believe there's been sort of a high level of trust and confidence  
between the agency and iwi in relation to engagement and sort of good faith in  
terms of sort of delivering on some of their expectations around projects.

15 JUDGE HARLAND: And so you've been involved in that group, have you?

MR RAMA: Yes, yes. I've been involved in that group on a number of projects.

JUDGE HARLAND: And so how organised, is it? Is it an NZTA person who's  
assigned to a project that gets involved for that project with what group, or is  
there sort of an -- a liaison person from the agency that's consistent throughout  
20 regardless of the project?

MR RAMA: Well in terms of the forum itself we do have a liaison person that  
facilitates the entire day because there are a number of projects on the agenda,  
but at the next level down it is on a -- it's on a project by project basis, and  
depending on who the NZTA representative is for that project, they will be  
25 the -- like, I guess the conduit in terms of engagement with iwi.

JUDGE HARLAND: And so, from here on in, this particular group is mentioned in  
some of the conditions about, as you've told us, about wanting to be consulted,  
will your involvement as part of that consultation continue?

MR RAMA: It will continue to a degree. And what will happen is I become involved in  
30 projects through to consenting. And then it's handed on to in terms of  
procurement to the next phase, which is usually the contractor. But there is that  
interim period and that overlap which I will be heavily involved in in terms of  
introducing iwi to the contractor and ensuring that the expectations of iwi have  
been considered by the contractor and that the contractor knows his sort of  
35 obligations with respect to, I guess compliance with conditions and the  
relationship that we have established over time with iwi.

JUDGE HARLAND: Right.

So if there's ever an issue, how would that work? Would that go to the contractor -- talking about during the contract phase, would that go to the contractor and then where?

5 MR RAMA: Generally comes back to me as the initiator of a lot of these conditions or been involved in in terms of agreeing these conditions with iwi.

JUDGE HARLAND: Right.

And that would even continue operationally during the operation of construction, if I put it that way?

10 MR RAMA: Yes. Yeah, it is -- and it has happened a number of times where I've had to get back involved.

JUDGE HARLAND: Thank you for that.

MS SHEARD: No questions arising.

~(The witness withdrew - 3.26 pm)

15

~Timetabling matters discussed (3.27 pm)

JUDGE HARLAND: So I have heard via Ms Robertson that Ms Strogen might appreciate an overnight opportunity to review her case, and that that's fine, there is no problem with that.

20 MS MCINDOE: Thank you very much.

JUDGE HARLAND: So that finishes today's work I think. So let's just talk about tomorrow's schedule.

We've obviously got Mr Berry. Then we've got Ms Strogen; Ms Barnett. I'll just might need to confirm whether we need Mr Dee, I think initially we thought we mightn't? No, we don't need Mr Dee, unless there is an Executive Summary that need noted.

25

MS MCINDOE: No, Mr Dee hasn't taken part in any conferencing or anything, so there is no update to provide.

JUDGE HARLAND: Mr Seyb is the same, we don't need him now. I beg your pardon, we haven't had a chance to relay that. We do need Mr Ridley here and Mr Schofield and I think we were having some discussion about Mr Clark or Mr Church might be either or. But Mr Clark is the more senior person is he not? And Mr Church.

30

MS MCINDOE: That's correct. Mr Clark is the more senior and his evidence, if you like, covers a wider breadth. Mr Church's evidence is more focused. So if you wanted to choose, then I would suggest Mr Clark. Mr Church is ready to

35

appear and I've told him that he should be ready to go on tomorrow, because we're running a little bit ahead of schedule. So he will be here and he did take part in conferencing, so I would appreciate if he could just quickly update his evidence in that respect.

5 JUDGE HARLAND: For sure. Is he from out of town?

MS MCINDOE: No, he's from Auckland.

JUDGE HARLAND: All right. We can update that, but if he's just got something he wishes to present to us from conferencing I think that would be a good idea. You didn't have any questions I don't think, or did you?

10 MR BANGMA: No, sorry; not about that Your Honour. But I wanted Your Honour, at the risk of crystal ball gazing too far into the future, if we were to look past tomorrow, or even look as far as late tomorrow afternoon.

JUDGE HARLAND: We are going to do that, so let's have an updated schedule, because I've only got with me the day 2, my other one is with all of them, and  
15 then we can talk about it with some --

MR BANBMA: Yes, I have an updated version which has been helpful left on my desk which I wish to discuss.

JUDGE HARLAND: So moving on to Friday, yes?

MR BANGMA: My question simply was, Your Honour -- I mean, Mr Tindall has  
20 indicated that there is no issue with him being available tomorrow afternoon in case things did move quicker than expected. He would be the first of the transport witnesses for the council or Auckland Transport.

But with respect to the other witnesses, Mr Peake, Mr Cross, Mr Maule, and Ms King, would I be reasonably safe in indicating to them at this stage that  
25 they should be available from Friday morning? I just don't want to inconvenience the Board but wanted to give notice to those witnesses.

JUDGE HARLAND: That's very helpful that you've raised it.

The only thing with Mr Tindall being brought forward is Mr Willmott is cross-examining. So we would need to double check that he could be here in  
30 the afternoon tomorrow. We have indicated on the website that people have to be flexible but we probably would need to check that.

MR BANGMA: To clarify, Mr Tindall could do either. I'm not requesting we move, it's just if we ran out of witnesses essentially.

JUDGE HARLAND: Well, it would be helpful to probably start him anyway, although I  
35 imagine Mr Willmott will want to -- well you want to follow Mr Willmott don't you?

MS MCINDOE: Yes, I would be grateful to do that.

JUDGE HARLAND: Ms Robertson, we need to just check with Mr Willmott. I think whilst we're trying to be accommodating, we're not necessarily inviting a "no". If we can put that diplomatically that would be good.

And then it's a question of whether you would need the others?

5 MS MCINDOE: I should indicate at this point that it's possible. I've put in a notice of cross-examination in relation to Mr Peake, but as I consider that further I do wonder whether there is much outstanding between Mr Peake and the Transport Agency. I had intended to advise in the morning whether I still needed to cross-examine Mr Peake.

10 JUDGE HARLAND: Well, look, let's take a brief break and we'll have a talk about what we do. We don't want people to be in a state of concern because they've been brought forward too quickly and therefore not prepared because we've got lots of time.

But I suppose on the other hand it would be quite good to get quite a bit done if we can this week. We would like to do another site visit which we haven't talked about when we might do it, but I suppose we were -- well, I was, I'll take it on my own shoulders, I was thinking we might want to do that on Friday, but we might not. And certainly I imagine people would like to have a bit of a break if that could be organised, so that you could get away earlier on  
15  
20 Friday.

MS MCINDOE: Or work on conditions which I expect will come out of the planners conferencing today.

JUDGE HARLAND: If you recall that -- should we be finished -- we'll go and talk and see how far. I think that's the best thing to do. We will take a break and talk. If  
25 you don't mind remaining and then we can give you a view.

~(Adjourned 3.33 pm - 3.43 pm)

JUDGE HARLAND: I think where we've got to is we would like to, if at all possible,  
30 have everybody down to Mr Cross tomorrow. And we think that's achievable. And that's only subject to Mr Willmott not being available tomorrow for cross-examination.

And if that was a problem for Mr Tindall, I mean, another option there is to hold over Mr Tindall for his cross-examination with Mr Willmott later, but I  
35 imagine that Mr Willmott will want to hear everybody else's cross-examination of that witness.

So, to summarise, we would want everybody here until down to Mr Cross, and then on Friday, where he would deal with Mr Maule and Ms King. That's probably not likely to take us past lunchtime, which is fine, and we can have the afternoon where everybody goes and does whatever other work they need to get done.

And then we resume again on Monday with Mr Willmott and the programme as it's going to be rejigged and available tomorrow. Was there any difficulty with that from anyone's perspective? Probably more you, Mr Bangma, because it's your witnesses that we're asking to bring forward. It's Mr Peake, Mr Cross and Mr Tindall.

MR BANGMA: Yes, I understand that Mr Tindall has told me he would certainly be available from lunchtime tomorrow, I think that was the basis upon which we left it. So given there's Mr Berry and all of the other witnesses, I suspect that's reasonably safe. But, look, I would just need to urgently confirm that Mr Peake and Mr Cross are available late tomorrow afternoon. They are both based in Auckland. I've got no reason to think otherwise, but it's obviously a bit of a jump on what they were anticipating.

JUDGE HARLAND: And, look, there's no stress associated with it if it doesn't work, because that will just mean an early finish tomorrow when you can get on and do some more work and we can adjourn and catch up with a few things too.

So is everyone happy with that?

The way things are tracking I think we will be finishing earlier than we had anticipated.

But, as I say, if there is an issue with the planners that requires more time or there's an issue with the closings that requires a little bit more time, we'll be flexible about that.

MS MCINDOE: The other thing which may require some time is the response to the section 92 request.

JUDGE HARLAND: Yes, of course.

MS MCINDOE: So, thank you for your clarification which we received via the EPA yesterday and we're still sort of getting our head around what would be required to pull that information together. And so we're still -- we should be able to update you tomorrow on that.

JUDGE HARLAND: Well, look, we want it to be practical. It's a practical, easy understanding in a visual way, so do not please have a disproportionate

response to that. If it looks like it's too hard or it looks like the resource is not worth it, you should tell us --

MS MCINDOE: Thank you, that's useful.

JUDGE HARLAND: -- because we don't want to create unnecessary work for people  
5 at this stage.

MS MCINDOE: Thank you very much.

JUDGE HARLAND: All right, so anything further? No. All right, thank you very much.  
We will adjourn for the day.

10 ~ (The hearing adjourned at 3.46 pm)