

Independent Hearings Panel

Christchurch Replacement District Plan

Te paepae motuhake o te mahere whakahou a rohe o Ōtautahi

Christchurch Replacement District Plan

CHAPTER 21: SPECIFIC PURPOSES ZONE (RUAPUNA MOTORSPORT)

TRANSCRIPT OF PROCEEDINGS

Heard at: Christchurch Plan Independent Hearing Venue
348 Manchester Street, Christchurch

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Hearing Panel: Sir John Hansen
Judge John Hassan
Mr Stephen Daysh

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EXHIBITS

DAY 1 – 23 May 2016

[10.03 am]

5 SJH: Yes, good morning. Now, Mr Conway, you are for the Council?

MR CONWAY: Yes, sir.

SJH: Ms Dewar, you are for the Canterbury Car Club?

10

MS DEWAR: Yes, I am appearing with Ms Reese.

SJH: And, Ms Harnett, you are for Quieter Please (Templeton)?

15

MS DEWAR: Yes.

SJH: Okay, Mr Conway?

20

MR CONWAY: Thank you, sir, good morning Panel members. Now, on Friday we filed some brief written opening submissions.

SJH: Yes, we have those, thank you.

25

MR CONWAY: You have those. Now, they are brief and I don't propose to take you through them but I do want to just correct one date in a footnote just for the avoidance of doubt. On the second page of those submissions we have footnote 2, it says there in the second line that the Environment Court's first interim decision was notified or this proposal was notified on 25 July 2016, it should be 15. It should be hopefully

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obvious but just in case there is any doubt.

SJH: All right, thank you.

35

MR CONWAY: Now, what I do want to take you through very briefly is the attachment to those opening legal submissions which is the clean version of the revised proposal that was filed on Friday. As has often been the case the colourful versions get quite colourful and we thought it might be useful to have an as clean as possible version so that you can see the way the rules will work in a particular - - -

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[10.05 am]

SJH: Well, it is clean, it is non-colourful subject to the green?

45

MR CONWAY: Yes, it is cleaner, sir.

SJH: Right.

MR CONWAY: So what you will see in that document is that there is grey text. So if we turn to page 2 we have the grey objective that is the plan
5 change 52 objective which is alongside these provisions in this proposed - - -

SJH: So the grey text is the Environment Court text, is it?

10 MR CONWAY: Yes, sir, and the black text is the text that is part of this proposal, either as notified or as brought in through the Car Club's submission.

15 So on that first page you will see there is the first objective which is not up for grabs but then objectives 2 and 3 are the ones that have been added in reliance on the Car Club's submission. Then below that we have two policies, which were part of the Environment Court's decision, and then the third one which has been added as part of this proposal. We have an addition to the how to use the rules table on
20 page 3 and then a few pages of text that is also part of the Environment Court's decision. And all these grey matters, sir, are matters relating to noise management, those were the focus of the Environment Court's enquiry.

25 And once we get over to the activity status tables on page 7, again we have the first eight rules which are in grey. Now, a correction to this version, sir, is that P9 and P10 on page 8 should be shown in black text. They were accidentally greyed out but they have been added through the - - -

30 SJH: That is driver training and road safety testing?

MR CONWAY: Yes, sir, so they should be black text. And then from P12
35 onwards we see the new permitted activities that have been added in reliance on the Car Club's submission.

40 And then turning over we have restricted discretionary activity rule which is the one that deals with any activities that cannot comply with the built form standards that attach to those new permitted activity rules.

45 And then on the bottom of page 11 you will see a table, over the page there is tables 2, 3 and 4 as well. These are the tables that the Environment Court has approved and they are the ones that manage noise. Now, the activities on the racetrack are dealt with under table 1,

table 2 deals with the speedway, table 3 the remote controlled vehicle track.

5 SJH: Well, sorry – oh, it is all right, carry on.

MR CONWAY: And then table 4 is - - -

10 SJH: So table 3, for example, the heading is in black, that is still Environment Court though?

MR CONWAY: Yes, I think it is slightly darker grey. Table 4 has a black heading so it may be that there are more shades - - -

15 SJH: It is a blacker black.

MR CONWAY: - - - than there need to be, sir.

SJH: All right.

20 MR CONWAY: But in terms of today, sir, the - - -

SJH: Just a comment from the right “as opposed to a lighter shade of pale”. He is of a certain vintage.

25 MR CONWAY: Table 4 is the set of standards that apply to all other activities within the Ruapuna Motorsport zone. So anything that is not happening on the track or the tracks I should say, is subject to these standards and you will be aware, from reading Mr Camp’s evidence, that these standards essentially mirror the rural noise standards except
30 that there is the addition of a maximum of, I think it is the 75 dBA daytime limit which is not in the Rural zone provisions.

[10.10 am]

35 So these are the provisions – although they are not part of this proposal before you in terms of what you can approve or otherwise, they are the ones that the Council says deal with the noise concerns and provide the envelope for activities that occur under the new permitted activity rules that have been inserted.

40 Now those limits applied as table 4 says to any activities not listed in those other tables, that is the existing situation under the plan change and in terms of this Proposal, those are also the noise limits that apply to the more fine grained listing of activities that has been added in the
45 permitted activity table.

But as I say, noise is not the focus of the Inquiry in terms of this Proposal.

5 On page 13, down the bottom there, you will see the built form standards that did comprise the originally notified Proposal, so it was a very brief Proposal, and it essentially comprised those built form standards. Now that has been fleshed out with the addition of the rules, the two objectives, a policy and also the controlled and restricted discretionary matters.

10

And, sir, I think that is probably all I need to take you through in terms of those, but I thought it might be useful just to orientate the Panel- - -

SJH: Yes, thank you.

15

MR CONWAY: - - - towards those provisions.

SJH: I will just see if there is any questions there, Mr Conway. Mr Daysh.

20 MR DAYSH: Yes, thank you Mr Conway. Just two questions, is your grey and black version essentially Mr Thomson's rebuttal version, is there any changes to that because that is the last- - -

25 MR CONWAY: It is that version, sir, it is based on that and it has just been, I guess, simplified in terms of the colouring.

30 MR DAYSH: Yes. And I would appreciate your help with this, what I have read from the evidence is that we have been told we cannot actually tinker with the Environment Court's wording at all, even in an additive sense. Is that the Council's position, could we add to some of the wording that the Environment Court has provided us?

35 MR CONWAY: The essential position is those provisions get carried over in their operative form from the plan change into this Proposal, so there have been minor corrections made through that process, and there is not any other provision for things to be added to those provisions. I suppose the way I would look at it, is if there is a matter that arises out of the Proposal itself, then just as two objectives have been added to provide the support for the built form standards in the rules - - -

40

SJH: But what you are saying is we cannot add or subtract as the case may be, to any of the noise provisions?

MR CONWAY: Correct, sir.

45

SJH: So that is beyond our Inquiry, is what you are saying?

MR CONWAY: Yes.

JUDGE HASSAN: Just in terms of that, so if we think about what we are
5 dealing with which is additional material to what the Environment
Court decided, and if we look at, for instance, how that might be best
framed in expression terms, and go back to the objectives for a point of
reference on that, I suppose my question would be whether that is a
10 question of substance and form, in other words, in substance we cannot
tinker with what the Environment Court has done for the matters that it
heard and determined, but does that restrain us in form terms in regard
to how we might express, say, objectives for the new material.

15 Take for example the choice of form between having a separately
expressed B and C or a singular objective that keeps faith with the
Environment Court's decision in substance, but nevertheless, deals with
the additional matters.

20 Do you think that is a problem? Can we tackle it in a different form
way without interfering with the substance of the decision?

[10.15 am]

25 MR CONWAY: I think there would be a difficulty if that was to be done, I
think the process that has been gone through for those Environment
Court approved provisions is a separate one to this one and I think that
that is the reason why these objectives have carefully been framed as
new objectives rather than any sort of modification to that one - - -

30 SJH: I understand that, I think the point of the question was could we
combine them into one, for example, for instance, a matter of clarity in
terms of the OIC, could we combine 10.2, and 10.3 into one objective,
redraft it in other words, how would that offend against the
Environment Court?

35 MR CONWAY: Well I am not aware of any power to do so because they are
outside the scope of this Proposal – it might be a matter I need to come
back to you on because - - -

40 JUDGE HASSAN: Yes.

SJH: The black objectives are what you are putting to us - - -

45 MR CONWAY: Yes.

SJH: - - - for determination, why do we not have power if we think it is better in terms of clarity and drafting, and I am not sure that it is, but we can look at it, why have we not got the power to combine them into one objective?

5

MR CONWAY: Ms Dewar is indicating she thinks that there is a power and I am not familiar with any particular power that gives you that ability now, but if I can come back to you in closing on that.

10 SJH: Well, it would be the same in any chapter – we could not combine objectives if we thought it was appropriate, is that what you are saying, Mr Conway, it seems an extraordinary proposition?

15 MR CONWAY: These are operative provisions. The first objective is an operative provision - - -

SJH: No, no, the other two we are talking – your one - - -

MR CONWAY: Sorry, if you simply want to combine them two and three?

20

SJH: Your one, that is why I have said, this has been put to you three times now.

MR CONWAY: I am sorry, sir.

25

SJH: The dark black, your objectives that we are concerned with if we think it is appropriate for clarity and other reasons to combine them into one – and I am not saying we would do that – we surely have the power to do that.

30

MR CONWAY: Sorry, sir, I misunderstood the question. I understood you were referring to all three - - -

SJH: No, no, no.

35

MR CONWAY: In terms of two and three, that is correct, sir, you can combine those if you wished.

SJH: Thank you.

40

JUDGE HASSAN: Leaving aside that one, just one other matter. Noise management plans and community liaising committee, both products of the Environment Court decision, is the Council's understanding that those processes apply to the additional activities that the Council now proposes?

45

MR CONWAY: They would in the sense, sir, that the additional activities that are being proposed were already covered under the table 4 rule, in other words, that rule allowed all other activities.

5 JUDGE HASSAN: So if I for instance, just cut to the chase, I have read Mr Thomson's evidence and it refers to the noise issues, for instance, being managed through the noise standards and so forth, would the noise management plan and the community liaising committee also have a function in regard to the additional activities or not?

10

MR CONWAY: It would be my understanding they could, sir.

JUDGE HASSAN: So in other words, if that drafting is not clear, we can test it with Mr Thomson to make sure it is covered?

15

MR CONWAY: Yes.

JUDGE HASSAN: Thank you.

20 SJH: Mr Daysh?

MR DAYSH: I have no further questions.

25 SJH: All right, thank you, Mr Conway, if you just go ahead with your first witness.

MR CONWAY: Thank you, I call Mr Thomson.

<IVAN THOMSON, affirmed

[10.18 am]

<EXAMINATION BY MR CONWAY

[10.18 am]

MR CONWAY: Good morning Mr Thomson. Would you please confirm your full name is Ivan Thomson?

5

MR THOMSON: Yes.

MR CONWAY: And you have prepared two statements of evidence, 28 April and 13 May 2016?

10

MR THOMSON: I have.

MR CONWAY: And the first of those, or they both refer back to your qualifications and experience set out in your 9 June 2015 evidence?

15

MR THOMSON: That is correct.

MR CONWAY: Do you have any corrections to make to your evidence?

20

MR THOMSON: No.

MR CONWAY: Do you therefore confirm it is true and correct?

MR THOMSON: Yes.

25

MR CONWAY: Could you please read out to the Panel your highlights package and then remain to answer any questions.

MR THOMSON: The key resource management issue affecting the specific purpose Ruapuna Motorsport Zone is the noise levels generated by motor racing activities.

30

This matter was a subject of Plan Change 52 and has now been dealt with by the Environment Court. The Council has resolved to make Plan Change 52 operative, and the provisions will be deemed to be part of the Replacement District Plan from the time the Council gives public notice of the Council's resolution.

35

[10.20 am]

40

My evidence is confined to those matters that Plan Change 52 did not cover. These are the built form standards that were notified in proposal 21.10 and matters relating to objectives, policies, rules including additional activities that were the subject of submissions. In evaluating these submissions within the statutory framework I have had

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particular regard to section 7B and section C of the Act and the Council's obligation to give effect to the Regional Policy Statement.

5 I should say I also had particular regard to the Statement of Expectations.

10 My evidence accepts the main thrust of the Car Club's submissions that proposal 21.10 as notified did not go far enough in supplementing plan change 52 provisions. I therefore conclude that it is appropriate to add a number of new activities, most of which already exist onsite, where I provided for in the operative plan in my opinion should remain.

15 Activity standards have been put in place to ensure these activities remain ancillary to the predominant use of the zone, motor racing, and are of a scale that is consistent with the size, function, intensity and character typical of activities in rural areas. I am also recommending including two new objectives and a policy the intent of which are to complete the overall direction for the use of the zone.

20 Evidence submitted by Quieter Please raises concerns about potential adverse effects that these additional activities could generate especially noise and traffic. Based partly on the rebuttal evidence of Mr Milne and Mr Camp I consider that the rules in the zone will ensure that residents in the vicinity of Ruapuna will not experience adverse effects from these additional activities. Overall I am satisfied that with the new provisions proposal 21.10 presents a balanced, coherent and integrated package of measures that promotes the purpose of the Resource Management Act.

30 SJH: Thank you. Mr Daysh?

35 MR DAYSH: Yes, thank you, Mr Thomson. Really just following on from the questions of Mr Conway, and I am looking at the Specific Purpose zone as being something that can be new going forward for the next 10 years and I think, as you said, this has been quite an unusual process for this chapter.

40 But my question really is in your opinion are the grey words in the provisions absolutely sacrosanct, we couldn't add to those and make a more coherent, easier to understand readable chapter or do we have to leave those exactly as they are and then be additive in terms of any new provisions, that is your evidence I think?

45 MR THOMSON: Yes, my understanding that is the case that those provisions are essentially ring fenced. And the reason I say that as well is because we have another plan change going through exactly the same process,

which won't come before the Hearings Panel, but it is plan change 84, the Specific Purpose Airport zone.

5 Now, that plan change did not go through the same process as this one so there were no opportunities to use, for example, section 293 to amend the format of plan change 84. So when you see that plan change incorporated into the replacement plan it has got explanations and reasons, it has got reasons for rules and it is a completely different format. We had no – I don't believe the Council had powers to amend
10 that plan change and my understanding of the Order in Council is that the Panel unfortunately probably can't as well. So I think the same situation applies here.

15 And there is an issue here in that P11, you will see that we have made a slight amendment to that in the clean version and I am no sure about that as whether we can do that. That is a result of the Car Club's submission, and Ms Dewar may want to comment on that, but I think there is an issue around P11 where it made a slight change to what was P9 in the operative plan. So it is a very tricky situation.

20 There are one or two areas in the operative plan where we will be changing under clause 16 of the first schedule. For example, in the noise management plan it refers to a title called "City Planning Unit Manager" which doesn't exist so we will be changing that under
25 clause 16, there are one or two other changes. So the Council has powers under clause 16 and that is delegated to myself or to officers to make those changes. That may be an alternative but those changes of course have to be extremely minor.

30 [10.25 am]

MR DAYSH: Can we just have a look at that rule you are talking about that you have made a change, P11, as in our version?

35 MR THOMSON: Yes.

MR DAYSH: Is it the term "motorised sports facility", has it changed or something?

40 MR THOMSON: It is all other activities. So P11 has been amended, "Activities associated with a motorised sports facility at Ruapuna". Now, that is a change from what was the equivalent provision in the operative provisions and you will see when you look at P9 "All other
45 activities not listed above". So P9 obviously refers only to those activities from P1 to P8. What we were trying to capture here are the

other activities that have been added to make sure they are also subject to table 4.

5 And so there is a slight difficulty around that and I think it is a matter of perhaps legal submission, if I may say so, whether in fact what we have done with P11 is a breach of the Order in Council or whether we need a completely separate rule to cover that off.

10 MR DAYSH: Just to be clear – I am looking at P11 in the version that Mr Conway has given me, so what exactly – and it is in grey so that is at the Environment Court, I understand that is their final provisions?

15 MR THOMSON: I am looking at the revised proposal headed “20 May 2016”, I hope I have got the right copy here. But it has got green “motorised sports facility”.

20 MR DAYSH: Could you just read out the introductory words to the – I think you are trying to make a point about a change that has been made to the Environment Court’s - - -

SJH: Well, I am not sure, is the green a change or is it simply to identify it is a defined term?

25 MR THOMSON: The green is a change from the wording from P9.

MR DAYSH: Yes, that used to be P9?

MR THOMSON: Yes.

30 MR DAYSH: And it is a change from the wording that the Environment Court had in their decision?

MR THOMSON: Yes.

35 MR DAYSH: And the change is exactly what?

MR THOMSON: The copy I have got in front of me is “motorised sports facility”.

40 MR DAYSH: So you have changed that, which is a defined term in the plan?

MR THOMSON: Yes.

45 MR DAYSH: In the replacement plan, isn’t it?

MR THOMSON: Yes.

MR DAYSH: So you have made that change?

5 MR THOMSON: Yes. Somehow the additional activities need to link back to table 4.

MR DAYSH: Okay.

10 MR THOMSON: And that is the difficulty I think that we have and I am not sure whether we have arrived at the solution.

MR CONWAY: Sir, if it would assist I have got copies here of plan change 52, in terms of the provisions there in case that would assist to compare the wording?

15 SJH: Well, I think annexed to Mr Thomson's evidence it previously read "All other activities associated with a motorsport complex at Ruapuna" and now reads "Activities associated with a motorised sports facility at Ruapuna".

20 MR CONWAY: Yes, and that is essentially the change.

SJH: So the change is to include a defined term, is that correct?

25 MR CONWAY: Yes, and - - -

SJH: You told us that green is a defined term.

30 MR CONWAY: That is right and the initial wording "All other activities" I think that is a slight change as well when you compare those two - - -

SJH: That is right, it starts with "Activities" so "all other" drops out?

35 MR CONWAY: Yes, that is correct.

SJH: Right.

40 MR DAYSH: So really what I was driving with this question is that we have been told we can't make any - we can't tinker with these Environment Court provisions but you have and - - -

45 MR THOMSON: At some risk I think and that is what I am not clear about is how we will accommodate those provisions and whether there is a material change, if you understand what I mean, whether it is one of substance or one of clarity but even as one of clarity I am not sure whether we can even change it.

MR DAYSH: All right. So putting aside that legal question about whether the change can be made or not, could I take you back to the objectives, we now have three objectives as proposed by the Council. Would you agree that this is a small, very focused specific purposes zone covering a small area of land?

[10.30 am]

MR THOMSON: I would say it is a focused zone which – it covers a substantial area of land, but yes, I take your point, it is a very specific - -

MR DAYSH: It is a spot zone in a way, isn't it?

MR THOMSON: Yes, yes

MR DAYSH: And with a zone like this in a plan, ordinarily you should not, as a planner, be able to frame a concise objective and one objective would be the ideal to base the zone around?

MR THOMSON: Yes, possibly, but in here I am trying to link each objective to a particular issue which links to a policy which then links to the rules, so I have tried to maintain that linkage and as I set out in my rebuttal evidence, I think the other specific purpose zones also have those objectives set out in that way so they have 21 point 1, 2 and 3, so I have tried to be consistent.

MR DAYSH: They have a number of objectives - - -

MR THOMSON: Yes.

MR DAYSH: - - - so having a very clear straightforward objective, there are other specific purpose zones have more than one objective?

MR THOMSON: Yes, some of them do.

MR DAYSH: Yes.

MR THOMSON: And as I said, I think in this case I have tried to make it explicit how the issue is linked to an objective and then to a policy and to a rule.

MR DAYSH: Okay, thank you, for that. I was looking at your evidence in chief 6.8 on your page 10 and two questions on that. Towards the end of that paragraph the community and cultural uses, so I understand the

community uses but the cultural uses, what are you covering really there in the zone?

5 MR THOMSON: Yes, now my understanding is, and this is something which Mr Cowan may want to elaborate on, is that the car club want to put a small museum on site. Again, my understanding is that they want to have an exhibition of, sorry, cars, racing vehicles, motor bikes, that kind of thing and in my view I think that is appropriate.

10 Originally, we thought it would be just listed as a museum but museums are part of a cultural activity therefore cultural facility's definition, so we used that term. And it does broaden out the potential range of uses because of that, but looking at the range, I think that the likelihood of anything else going in there apart from a museum was
15 fairly unlikely, so I have used that term rather than a specific museum.

MR DAYSH: Thank you, and I think you talk about that in your rebuttal or somewhere I have read about that specific proposal so I will ask about that later.

20

6.11 of your evidence talks about the new policy you are proposing which is now 21.10.1.1.3 in the Revised Proposal.

MR THOMSON: Yes.

25

MR DAYSH: I just want to ask you a question about – it is a drafting question quite specific. Number 2 there, you use a term ancillary, common accessory, or complementary. Why do we need all those words in this policy?

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MR THOMSON: Because at the moment – I am not sure whether the Panel has settled on those terms, it may have, the words ancillary, accessory and complementary, but I certainly wanted to ensure that those activities are all of those things to put it beyond doubt that we do not
35 want activities out there which open or available to other than something to do with motor racing.

MR DAYSH: I see.

40 MR THOMSON: So it is a belt and braces really, if the Panel feels that – you could take one of those terms out, that is fine, but the intent there is fairly clear.

MR DAYSH: I have not looked at the definitions of ancillary, accessory - - -
45

SJH: Well ancillary, we have simply given the dictionary meaning to it, which is a perfectly common, acceptable and understood word, and I do wonder why we need any others, but we will hear no doubt in closing.

5 MR DAYSH: All right, thank you. Look I do have another drafting question about – sorry, 6.18 when you are talking about the definition of motorsport facility, and we have touched on the defined term which is motorised sports facility, I think that definition has been discussed and debated in the Open Space Hearing and other hearings as well?

10

MR THOMSON: Yes.

[10.35 am]

15 MR DAYSH: And in your – as far as the Council is concerned, we now have a – I think a map hearing which has not been decided, we have not made a decision yet, and the Council might think that definition is now settled because it has moved around a bit hasn't it?

20 MR THOMSON: It has moved around, I think the last one I saw may have been closing submissions, but it was relatively recent and that is the one that I assume will – well, whatever the Panel determines – but I do not think my interpretation of definitions is going to be affected by the final outcome based on the last version I saw.

25

MR DAYSH: And you support that last version?

MR THOMSON: Yes, yes.

30 MR DAYSH: Yes. All right, one other drafting issue and it troubles me a bit because we have got different forms for different chapters in terms of consistency and an example of this is in the provisions that Mr Conway has given us, I think on page 14, we have built form standards, so page 13 and 14 have a series of built form standards and then over the page 35 we have controlled and restricted discretionary matters and those link together, don't they, they cover the same issues. Each built form standard as a controlled and restricted discretionary matter?

MR THOMSON: Yes, that is correct.

40

MR DAYSH: Yes, and those are link back to the restricted discretionary activity rule which is 21.10.2.3.3, page 10?

MR THOMSON: Yes.

45

MR DAYSH: When you look at that RD1, the discretion is limited to the matters as relevant to the built form standard is the way the linkage happens, and then when you go to the built form standards and the matters of discretion, in other chapters I have seen, I was looking at the draft rule and for example, those actually come in the table and there is a clear linkage.

So are you at the Council thinking about the consistency and integration because, you know, each chapter, not each chapter, but there is several versions of how the linkage between the built form standards and matters of discretion actually are drafted, and this seems to be more the operative plan version where there is a different version applied to some of the other later chapters that come before the Panel.

MR THOMSON: I am very happy to have a look at that view to see if we can get some consistency around that.

MR DAYSH: I think if you can, because once it comes together there is going to be a real problem with just the same type of outcome being looked at but quite differently as per the drafting.

MR THOMSON: Yes, I understand.

MR DAYSH: That is all the questions I have, thank you, Mr Thomson.

SJH: Thank you Mr Daysh, Judge?

JUDGE HASSAN: Thank you, sir, Mr Thomson, just a couple of other matters and the first questions I have are coming back to the objective and the discussion I had with Mr Conway on that, it will be subject obviously to what parties will submit on but I just, at this stage, want to test you on the essential elements of substance.

So as I understand it, in regard to A which is the Environment Court substantive decision, there are two components, one is to talk about the facility itself, it is importance for its various purposes and that is expressed from Ruapuna Motor Park through to activities.

And then the second component is about noise management, is that right?

MR THOMSON: Yes.

JUDGE HASSAN: Right, and then if we look at C, as I understand it, the frame of reference for these other activities in regard to effects, is deliberately broader, it is noise plus other effects.

MR THOMSON: Sorry, your Honour, the objective C, well it is 3 in the updated version, - - -

5 JUDGE HASSAN: Yes.

MR THOMSON: - - - is that the adverse effects are related to things other than noise, so the objective A, if you like, or 1, really relates only to noise effects of Ruapuna, whereas C or 3, deal with the other effects.

10

JUDGE HASSAN: Okay. So there is a question of elegance and drafting I think in whether that idea is properly expressed, but we will come back to that.

15

[10.40 am]

And then another component is to describe a range of ancillary activities, getting the words right on that, but essentially ancillary activities and to express the intent of that being regarding park viability and contribution to wellbeing?

20

MR THOMSON: Yes.

JUDGE HASSAN: So at least in theory, if one was to hold to the substance of that, at least in theory that could be expressed in a way that preserved that substantive purpose of the Environment Court decision and added to it other matters of substance without doing violence to the decision itself?

25

30 MR THOMSON: Well, yes, it is a matter of clarity, isn't it, and - - -

JUDGE HASSAN: Yes. We will leave the drafting of that until later because I think we could go on forever about that but I just want to get the elements of what is intended and what is additional from you at this stage.

35

Now, just one other matter, if you could just confirm to me on Noise Management Plans and the Community Liaison Committee, I thought Mr Conway answered to me that effectively those constructs of the management plan and the committee are intended by the Council to extend to the other activities that have been added by what is now proposed?

40

MR THOMSON: Only as far as those activities relate to table 4 I think. I think – yes.

45

JUDGE HASSAN: So now it gets more complicated.

MR THOMSON: Well – yes.

5 JUDGE HASSAN: So if we take a matter, and it is just important to understand this, so Table 4, PA and other vehicle parking and those things. So what you are saying is “Well, actually the Council’s position is slightly tighter than what Mr Conway described it to be”?

10 MR THOMSON: My understanding would be this that the Noise Management Plan evolved out of plan - - -

JUDGE HASSAN: Just answer as clearly as you can because I don’t want to take any longer than it needs to be.

15 MR THOMSON: No, sure but I think the Noise Management Plan evolved out of PC52 which was confined to noise and I think that - - -

20 JUDGE HASSAN: But noise could be a topic that – sorry, just to cut in, if you don’t mind - but there could be noise related ancillary activities, could there not?

MR THOMSON: Yes, of course.

25 JUDGE HASSAN: Take a noisy event involving the museum, for instance.

MR THOMSON: Yes.

30 JUDGE HASSAN: So bearing that in mind is your answer still the same that Noise Management Plans and the liaison committee don’t have any business dealing with noise unless it relates to table 4 or the other matters that the Environment Court decided?

MR THOMSON: Yes, I think - - -

35 JUDGE HASSAN: Is that right?

40 MR THOMSON: Yes, that would be my view – well, as far as this hearing goes but of course table 1, 2 and 3 are its core functions but I think it could still deal with the extra activities which are being promoted here.

45 JUDGE HASSAN: So am I hearing you differently, are you saying in your last answer that actually the Noise Management Plan and the committee could deal with those other matters if they related to noise issues?

MR THOMSON: The extra activities?

JUDGE HASSAN: Yes.

5 MR THOMSON: Yes, I believe they could.

JUDGE HASSAN: Okay, so coming back through that then, does
paragraph A of the Noise Management Plan provisions in your
evidence – sorry, I have got that version in front of me for the moment
10 if that is convenient for you. It refers to “the operation of the
speedway” and “the operation of the raceway”, do you think those
words need to be just clarified a little to ensure that they encompass all
relevant activities? Not just those that were in contemplation by the
Environment Court when that provision was drafted?

15

MR THOMSON: Yes, because the operation of the raceway only – yes, it is
to the track I would imagine so - - -

JUDGE HASSAN: It might be worth looking at then?

20

MR THOMSON: Yes.

JUDGE HASSAN: Okay, I will leave it at that for the moment, thank you.

25 SJH: Thank you. Mr Conway, anything arising or re-examination?

MR CONWAY: No, thank you, sir.

SJH: Thank you, Mr Thomson, you may stand down.

30

MR THOMSON: Thank you.

<THE WITNESS WITHDREW

[10.44 am]

35 SJH: Yes, Mr Conway.

MR CONWAY: Thank you. I call Mr Milne.

<ANDREW FARQUHARSON MILNE, affirmed

[10.44 am]

<EXAMINATION BY MR CONWAY

[10.44 am]

MR CONWAY: Good morning, Mr Milne.

5 MR MILNE: Good morning, sir.

MR CONWAY: Could you please confirm for the Panel your full name is Andrew Farquharson Milne?

10 MR MILNE: Yes, it is.

[10.45 am]

15 MR CONWAY: And you have prepared a statement of evidence dated 13 May 2016 which sets out your qualifications and experience?

MR MILNE: Correct, yes.

20 MR CONWAY: Do you have any corrections to make to that evidence?

MR MILNE: Just a minor correction in terms of the wording, I have used on paragraph 2.1 and 3.1 where I refer to “racecourse” when I guess it should be a “racetrack”. That is in the second to last line of paragraph 2.1 and the first line of paragraph 3.1.

25

MR CONWAY: Thank you, and with that correction do you confirm your evidence is true and correct?

MR MILNE: Yes, I do.

30

MR CONWAY: Now could you please present a brief summary of your evidence for the Panel and then remain to answer any questions.

35 MR MILNE: My evidence considers the traffic impacts of the Council’s district plan proposal to enable an ancillary conference function facility at Ruapuna Racetrack.

40 In my assessment I find that the surrounding road network has sufficient capacity to safely accommodate the modest increases in traffic associated with the ancillary conference function facility. I find the vehicle trip generation associated with the conference function activity is likely to be of a low nature and may be indistinguishable from Ruapuna event traffic.

And thirdly that the estimated increase in traffic volumes along the subject roads of Barters Road and Hasketts Road are unlikely to be readily noticeable to the surrounding community.

5 SJH: Thank you. Mr Daysh?

MR DAYSH: Just one question and it is really your last statement, Mr Milne, the term “unlikely to be readily noticeable” seems sort of quite vague. What you are saying is that you couldn’t differentiate or it would be difficult to differentiate this traffic from traffic coming and going around the area, is that what you are saying?
10

MR MILNE: Well, my point is when it comes to amenity it really is a perception issue and some people may consider a level of traffic is tolerable where another person may not consider that level of traffic to be tolerable. So it is really a perception thing.
15

Well, what I have done I have been guided by AUSTROADS guidance that gives me some feel for what volumes of traffic would be considered to be noticeable in the context of the volumes of traffic that are currently occurring on that section of road.
20

MR DAYSH: And so your conclusion is that it is unlikely to be noticeable, that is what I have taken from your last statement?
25

MR MILNE: Yes, so some people might notice that difference and others may not.

MR DAYSH: It is just the adjective “readily noticeable”, if you took the word “readily” that is - - -
30

MR MILNE: That is the term – okay, that is the term used in the actual AUSTROADS guidance so I have taken that term, yes.

35 MR DAYSH: All right, yes, that is helpful. Thank you, sir.

SJH: Thank you. Judge?

JUDGE HASSAN: No, thank you, sir, very clear to me.
40

SJH: Anything arising?

MR CONWAY: No, thank you, sir.

45 SJH: Thank you, Mr Milne, you may stand down.

<THE WITNESS WITHDREW

[10.48 am]

MR CONWAY: I call Mr Camp.

5

<STUART CAMP, sworn

[10.49 am]

<EXAMINATION BY MR CONWAY

[10.49 am]

MR CONWAY: Good morning, Mr Camp.

5 MR CAMP: Good morning.

MR CONWAY: Could you please confirm your full name is Stuart Camp?

MR CAMP: Yes, it is.

10

MR CONWAY: And you have prepared a statement of evidence 13 May 2016?

MR CAMP: Yes, I have.

15

MR CONWAY: And that sets out your qualifications and experience?

MR CAMP: Yes, it does.

20

MR CONWAY: Do you have any corrections to make to your evidence?

MR CAMP: No, I don't.

MR CONWAY: Do you therefore confirm that it is true and correct?

25

MR CAMP: Yes, I do.

MR CONWAY: Could you please present for the Panel a brief summary of your evidence and then remain to answer any questions.

30

MR CAMP: Thank you. In essence with respect to noise the ancillary activities that are being proposed are all covered by table 4 which has been discussed which is the all other activities rule as I determine, which are the same as for any other rural or residential activity and therefore I don't consider them to be an issue, I think they are well controlled.

35

[11.50 am]

40

The noise sources which historically are cause for concern at Ruapuna are the motor racing ones which are permitted at a much higher level of noise and these are not in that category. That sums it up.

45

SJH: Thank you Mr Camp. Mr Daysh?

MR DAYSH: Yes, thank you, Mr Camp, in other hearings you have explained to us why the L_{\max} has come out of the other provisions.

MR CAMP: Yes.

5

MR DAYSH: Why, given this zone now has this table 4 and the activities that are anticipated, why do we need the L_{\max} in these provisions?

MR CAMP: One could argue that we don't. This was in before the other one came out, that is PC52 pre-dated the decision to take it out of the other rules. So if we were progressing them in parallel this one might have dropped out as well. But having said that, because of the nature of things that might happen in a motorsport park, if anybody deserves an L_{\max} control as an extra rule, belts and braces this probably does so I don't have a problem with it being there.

10
15

MR DAYSH: So you can rationalise the difference again from a consistency point of view between the other chapters in the plan?

MR CAMP: Yes, there is an argument that says it could come out but again it has sort of gone through the Environment Court process and so I have just stood back and - - -

20

MR DAYSH: But just putting that aside - - -

25

MR CAMP: Putting that aside - - -

MR DAYSH: - - - logic - - -

MR CAMP: I am relaxed either way. Yes, there is some benefits in being there because if you think about motor vehicle repair and maintenance type activities, that is something that could have some impulsive type noise that would benefit by being controlled by an L_{\max} but to limited value.

30
35

MR DAYSH: So why would that be different to another noise somewhere else that was loud as a one-off that might affect birds that we have heard evidence about?

MR CAMP: Yes, it is not particularly different. So, as I say, I think if this was being drafted in parallel with the other we probably would have taken it out.

40

MR DAYSH: All right, thank you.

45

SJH: Judge?

JUDGE HASSAN: Mr Camp, I will give you the opportunity to make any comments in regard to the discussion I had with Mr Thomson. Now, I think what your earlier summary made me understand was that functions are covered by table 4 and I think Mr Thomson's answer was if it is in table 4 then the intention is the Noise Management Plan and Community Liaison Committee process applies. Any comments in that area you would like to make?

MR CAMP: I don't see any reason why it shouldn't apply. It is unlikely that that is ever going to be there, the noise problems that the Community Liaison Committee deals with but if they do deal with it so what. The point of the Community Liaison Committee is to address issues that are of concern to the community so whatever they come up with in my view could be covered. The Noise Management Plan in the way it is drafted would certainly allow you to cover those sorts of activities so by all means, I don't think that they should be excluded.

JUDGE HASSAN: Okay, thank you.

20

SJH: Anything arising, Mr Conway?

<RE-EXAMINATION BY MR CONWAY

[10.53 am]

MR CONWAY: No, well, I just wonder if it might be useful, through Mr Camp, to take the Panel to some of those parts of the Noise Management Plan provisions. Mr Camp, have you got a copy of the latest revised proposal in front of you?

MR CAMP: No, I don't.

MR CONWAY: There is a spare copy of the clean version here. Now, Mr Camp, are you familiar with the Noise Management Plan provisions?

35

MR CAMP: Yes, I am.

MR CONWAY: And is that because you were involved in the plan change 52 process?

40

MR CAMP: Yes.

MR CONWAY: If you can just quickly skim through those provisions which start on the bottom of page 4 and they go through to the top of page 7. Are you able to assist the Panel with any indications that might be

45

present in those provisions about the table 4 activities and how they might be covered?

[10.55 am]

5

MR CAMP: No, as far as I can see in there the items that are listed as the noise – I can see is the respective Noise Management Plans shall each address and include a whole list of things and they essentially relate to motorsport related activities. They don't specifically relate to ancillary activities.

10

SJH: I think we might be talking past each other again, Mr Conway, with the Panel. My understanding of what the questions are about and it occurs to me as equally sensible, that regardless of what occurs under table 4, whether it is noise or other activity, given the community interest and community concerns why wouldn't you have the liaison committee involved in it? I think that is the point of the questioning from the Panel.

15

20 MR CAMP: And that is exactly my view, sir, yes.

SJH: And you made the point that you could see no reason why not?

MR CAMP: Mm.

25

MR CONWAY: Thank you, sir, nothing further.

SJH: Does that make it clear where we are coming from?

30 MR CONWAY: Yes, I think it does, sir.

SJH: All right, thank you. Thank you, Mr Camp.

MR CAMP: Thank you.

35

<THE WITNESS WITHDREW

[10.56 am]

SJH: Ms Dewar?

40 MS DEWAR: Sir, good morning. We too filed legal submissions on behalf.

SJH: Yes, we have that, thank you.

45 MS DEWAR: So I won't go through those other than to just say that obviously the Car Club is now facing to have a zone of its own for the first time and it really wants to make sure that on this occasion that it

can operate the facility with clear rules in a way that benefits both it and also the surrounding community.

5 If I could just clarify why there is the painful expression “ancillary and accessory”. I did read the Panel’s, I can’t remember whether it was a decision or a minute, which talked about those two phrases. Some of the activities at the Car Club at Ruapuna are ancillary to a motorsport activity but there are other activities that actually have nothing to do with motorsport such as kids on trikes, and mountain bikes and so we
10 then had to have the other word.

So the Car Club really doesn’t have any preference for either one but what it does have to encompass is that they have to be either related to a motorsport activity or are very ancillary in relation to another activity
15 that might not be related to motorsport if that makes sense.

SJH: So you are seeking to broaden it?

20 MS DEWAR: Yes, just to make sure that they can do the noisy things that they have been able to do by the Environment Court and they now have this bucket of noise and also that, in those times where they have to have more quiet days, that they can have those more community orientated functions such as cycle races and trike races and school triathlons and what have you that was already out there now. So that is
25 the method in that madness.

I can quite clearly say that the Car Club has no difficulty in dealing with any effect from its facility in terms of the Noise Management Plan, obviously the provision as drafted has a focus of noise. To be fair
30 there is not many other effects that can probably emanate from the facility that is not related to noise, they sort of tend to - - -

SJH: Understanding that but would you, on behalf of the Car Club, accept the sense of the liaison committee looking across the board?
35

MS DEWAR: Absolutely, and I think they would be the first one to say that.

SJH: Right, thank you.

40 MS DEWAR: And I will have a think about how that might be done with the contortion of the statutory framework that you are faced with.

SJH: So it just simply extends to the whole of table 4?

45 MS DEWAR: Yes.

SJH: I am not saying the drafting is simple but that is the concept?

5 MS DEWAR: Yes, I think it is clear that the table 4 does apply, certainly to noise as the provisions are drafted, but to take it to other effects that potential other effects, whatever they might be, and that is where I struggle to think what they might be because they tend to go right back down to noise again.

10 SJH: We are never able to foresee everything.

MS DEWAR: That is right so we will have a think about that and just see what we can put in place and I suspect - - -

15 SJH: But as a matter of principle you - - -

MS DEWAR: Don't have any difficulty at all.

SJH: Thank you.

20 [11.00 am]

25 MS DEWAR: And just in terms of terminology, as you will see in the evidence of Mr Cowan, when the raceway term is used, that refers to the entire lease area so the race track is just the track if you like, and the bits and pieces that go with that and the raceway is everything in that lease area and the speedway in the same way is the entire speedway lease area which includes the little electronic car one as well on the road frontage.

30 So hopefully that makes that clearer, so other than that unless you have any questions for me about my submissions I call Mr Cowan.

SJH: I will just check, Mr Daysh.

35 MR DAYSH: I do have one question, it is really an interpretation question around the wording which you might be able to help me with.

40 You were looking at the noise management plan and what it covers, page 5 of the provisions that Mr Conway has given us, under C number 3, you use those terms, "a comprehensive description of the range of activities conducted at the raceway or speedway". So in your interpretation is that just the - - -

45 MS DEWAR: That is the entire, that is the park.

MR DAYSH: Is that the whole park?

MS DEWAR: Yes.

5 MR DAYSH: So it would include what else is going on in buildings and - - -

MS DEWAR: No, because it is an annual calendar of race dates so you have to read the whole sentence to get the gist of it.

10 MR DAYSH: So if that wanted to be inclusive of everything going on - - -

MS DEWAR: It would be a pretty busy calendar.

15 MR DAYSH: It would be called the Ruapuna Motorsport Park with activities, you would use a broader term, would you not?

MS DEWAR: If you wanted to go broader, yes.

MR DAYSH: Yes.

20 MS DEWAR: You would probably get activities that would not be of interest to anyone - - -

MR DAYSH: Yes.

25 MS DEWAR: - - - but certainly that would be the way to do it.

MR DAYSH: All right, that is all I have, thank you.

30 SJH: Thank you, Judge.

JUDGE HASSAN: Very helpful submissions Ms Dewar, perhaps just one question for you, the same one I already put to Mr Conway and these are matters we can obviously have further dialogue on as we go through closing submissions.

35 But in terms of the principle of not doing violence and adhering to the substance of the Environment Court's decision in the fullest sense, what is your view about whether we still might have capacity in a form sense to restructure objectives but on a basis that did not do violence in any sense to the Environment Court's decision?

40 MS DEWAR: I certainly do not have any difficulty with restructuring the new ones, obviously that is up for grabs, but in the context of the scope of the submissions that are in front of you which is only the car club which is obviously seeking to have better objectives rather than being a sort of – it is more of a sword rather than a shield if you like, and then

with the submission, the relatively narrow submission filed by Quieter Please.

5 So other than with those two provisos, I think you can make the alterations that you think fit, as long as they do not make any substantive changes.

SJH: The difficulty is this though, the Order in Council in clause 4, sub clauses 3 and 4 deals with this - - -

10 MS DEWAR: Yes.

SJH: - - - and it gives the Christchurch City Council power to make minor changes, but on its face, it does not, somewhat strangely perhaps, does not give us power to make minor changes.

MS DEWAR: No, and in the RMA obviously there is the provision that says that the Court sits and the seat of the Council as the decision maker and so, you know, the Court there gets to do what it likes.

20 SJH: So we would have to rely on those provisions to make any minor changes to the grey text?

MS DEWAR: Yes, and in your schedules, it is schedule 2 or 3, I have just lost it, I had it floating around - - -

SJH: No, you can cover it off in closing - - -

MS DEWARD: So you can make minor amendments to a proposal, the difficulty is that the PC 52 is not the Proposal - - -

SJH: Not the Proposal.

MS DEWAR: So it is really, really tricky.

35 SJH: On a literal sense, only the Council could make minor changes.

MS DEWAR: Yes. So I think it probably gets down to what scope do you have to make changes taking into account the submission by the car club which is quite wide, and it certainly does not have any difficulty with making changes based on its submission if it is going to make the zone easier to use, because they are a bunch of volunteers - - -

40 SJH: I think both you and Mr Conway need to cover off in your closing what powers you do say we have under the Order in Council to the grey text, the Environment Court matters.

MS DEWAR: Yes.

5 SJH: Because on its face literally, we cannot, only the Council can, and if you think the RMA would give us power sitting in the decision making seat for the Council, then you can refer us to that in closing.

MS DEWAR: Sure, thank you. So I now call Mr Cowan please.

10

<KEITH JOHN COWAN, sworn

[11.05 am]

<EXAMINATION BY MS DEWAR

[11.05 am]

MS DEWAR: Mr Cowan, can you confirm that your full name is Keith John Cowan?

5

MR COWAN: Yes.

MS DEWAR: And that you have prepared two statements, one dated 9 May and one dated 13 May?

10

MR COWAN: Correct.

MS DEWAR: And can you confirm the qualifications and your position in the car club is set out in your evidence-in-chief?

15

MR COWAN: Correct.

MS DEWAR: Do you have any corrections to make?

20

MR COWAN: No corrections.

MS DEWAR: And can you confirm that they are true and correct to the best of your knowledge?

25

MR COWAN: I can.

MS DEWAR: Could you now please read out your summary of your evidence please.

30

MR COWAN: Motorsport activity in Christchurch was condensed onto the motorsport park in 1961. The raceway and the speedway have operated in the same location for over 54 years.

35

The car club manages the raceway as a significant sporting venue for the city of Christchurch and beyond available for use by competitors and residents from Christchurch to enjoy and experience motorsport in all forms.

40

It also attracts people from all over the world.

45

At the raceway, the Canterbury Car Club provides a facility for over 55 different forms of motorsport and other non-motorsport and community activities including driver safety training, race engineering services, vehicle crash barrier testing and driver licensing as well as running and cycling races.

The raceway generates significant economic benefit to Christchurch City and operates in a safe and professional manner. However, not including the Car Club's own PC52 expense of over \$465,000, it now costs just over \$750,000 each year to run the raceway facility.

5

The raceway facility operation is currently entirely self-funded relying on hiring of the racetrack, rent from motorsport related businesses at the raceway and sponsorship.

10

We are proud of what we have achieved at the raceway, but are aware of our surroundings as a result of the PC 52 process and understand the need to have controls in place to provide for residents while also allowing the raceway to function.

15

For the past 10 years, the car club has been focused on getting through PC 52 and retaining flexibility for the future. The time this has taken has been extremely disappointing as race circuits in other parts of New Zealand have continue to innovate and develop.

20

As a result of the lengthy and expensive PC 52 process, and as a consequence of the delays in the club's lease renewal, the car club's plans for the future of the raceway have, of necessity, been put on hold. These plans will need to be reinvigorated once a new lease is in place.

25

However, it is clear that PC 52 will have an impact on the car club's operation, in particular by reducing the number of motor racing activities that contribute to the running of the raceway.

30

The car club needs a workable zone that reflects the wide range of activities that currently use the facility and enables the car club to explore opportunities for non-noisy activities to ensure the viability of the raceway for the future. Thank you.

35

MS DEWAR: Please answer any questions. I just wonder, sir, whether it would be a good idea to have the appendix to Mr Cowan's rebuttal evidence up on the screen.

SJH: Yes. It is annexure 1 so it does not need to be formally produced.

40

MS DEWAR: No, sir, it is there as annexure 1.

SJH: So bring that up on the screen and then we will go to questions. Right, Mr Daysh.

45

MR DAYSH: Yes. So this plan is dated 11 May 2015, it has the inner noise boundary and the outer noise boundary, are those still relevant?

MR COWAN: Yes, correct.

MR DAYSH: They are?

5

MR COWAN: Yes.

MR DAYSH: And they have not been changed by the Environment Court process?

10

MR COWAN: No.

MR DAYSH: No, all right. Now I just have a question about the blue area, this is an area in the plan that has been purchased by the Council - - -

15

SJH: Can we reduce it just a little bit so we get both of the noise limit lines on it. Thank you.

[11.10 am]

20

MR DAYSH: The blue, light blue/dark blue, those have been properties acquired by the City Council and Housing New Zealand. Were they acquired because of the noise issues or what is the background there?

25

MR COWAN: I cannot tell you, I think the Council would know why they acquired them but my understanding is that they were acquired because of the noise issue.

30

MR DAYSH: From the motorsport park or the quarry or the combination of - -

MR COWAN: No, by the Council.

35

MR DAYSH: By the Council?

MR COWAN: Yes.

40

MS DEWAR: Sir, perhaps if I can assist. The Housing Corp New Zealand property has always been owned by it or another entity and it is still used by Housing Corp for people with disabilities.

MR DAYSH: Okay, thank you. That is all, your evidence is clear so that is all I have.

45

SJH: Thank you. Judge.

JUDGE HASSAN: And I also find his evidence clear, thank you, sir.

SJH: Thank you, anything arising Ms Dewar?

5 MS DEWAR: No, sir.

SJH: Thank you, Mr Cowan, you can stand down.

<THE WITNESS WITHDREW [11.11 am]

10

SJH: Ms Harnett, have you got any opening submissions before you give your evidence?

15

MS HARNETT: How do you mean an opening submission - - -

SJH: The same way that Mr Conway and Ms Dewar made opening submissions.

20

MS HARNETT: Not particularly, but to clarify that question that Mr Daysh asked about the map - - -

SJH: You can do that as part of your evidence, all right.

25

MS HARNETT: Okay.

SJH: So you just go in the witness box and we will have you sworn or affirmed.

<SARA JANE HARNETT, affirmed

[11.12 am]

SJH: Just take a seat. Ms Harnett, there is one or two formal matters I need to go through with you. Your full name is?

MS HARNETT: Sara Jane Harnett.

5

SJH: Thank you, and you are authorised by Quiet Please Templeton Incorporated to give evidence on their behalf?

MS HARNETT: Yes, I am.

10

SJH: And do you hold a role in that organisation?

MS HARNETT: I am the chair of Quieter Please.

15 SJH: Thank you. How many financial members does that organisation have?

MS HARNETT: Quite Please has about 15 members but that represents about 80 other people in the wider community.

20 SJH: And what area does your bailiwick extend over?

MS HARNETT: Well, I suppose, in Plan Change 52, there were 44 submissions, 41 submissions were against Plan Change 52 - - -

25 SJH: No, no, no, just the general geographic area covered.

MS HARNETT: So I think a lot of them came from the Templeton Township but also Yaldhurst as well as Islington.

30 SJH: Okay, thank you. All right, well if you go ahead, given the length of your evidence, it is quite short, you might just like to read your evidence to us.

MS HARNETT: Well I have just got a - - -

35

SJH: And you might like to answer the question that you were referring to.

MS HARNETT: Yes. So the map that was on the screen showed a blue area there, that blue area were the houses that were bought out because of the noise from Ruapuna Motorsport Park and that is when the Council made their resolution in 2009 to do that as well as initiate a plan change and look at other things.

40

SJH: Thank you.

45

MS HARNETT: Specific Purpose Ruapuna Motorsport Zone. Quieter Please on proposal 21, Specific Purpose, seeks to uphold the rulings of the Environment Court in the matter of Plan Change 52.

5 Plan Change 52 has been a lengthy process beginning at Council resolution in 2009 through to the Court's final ruling, March 2016.

10 Considerable costs have been incurred by all parties and there have been thousands of unpaid hours of effort by local residents. All parties to Plan Change 52 have had a stake in the lawful process of shaping the provisions and findings of the Environment Courts.

[11.15 am]

15 Quieter Please believes now adding to the permitted activities the Environment Court has sanctioned for Ruapuna would be stepping over the Environment Court's authority.

20 The intent of Plan Change 52 as stated at Council Resolution of the meeting 25 June 2009, was to initiate a plan change to restrict the noise levels and frequency of events and track usage to limit the use of Ruapuna Reserve to the current levels.

25 Quieter Please believes the final outcome of Plan Change 52 allows for more use than was occurring in 2009.

30 Evidence heard during the Environment Court, confirmed the Car Club has four paid staff working at Ruapuna. In 2009, there was only a track manager on site. That activities at Ruapuna can now support a staff of four, demonstrates a growth in business since 2009. This is consistent with Quieter Please's belief that compromise was not part of the Car Club's agenda.

35 Quieter Please had the privilege of a QC for legal counsel - - -

MS DEWAR: Excuse me, sir. I hate to interrupt, but this is not the witness's evidence that has been filed.

40 SJH: No, and it is not a highlights package, it is completely new.

MS HARNETT: If I can I just move on as to why this is the case.

45 SJH: You have been before and you know what is required. I will let you continue, I am not going to cut you off, but it does go to the weight we can give to your evidence because people are entitled to know and prepare on the basis of what your evidence is going to be.

MS HARNETT: Right, well I was going to say that Quieter Please had the privilege of a QC for legal counsel during Plan Change 52 Environment Court activity. We respected and followed her directions including acknowledging Court protocol on rebuttal.

Our instructions on rebuttal were clear and simple. Rebuttal is not an opportunity to expand your statement. It is not an opportunity to repeat your statement, and - - -

SJH: This is not evidence, it is a legal submission, so please confine yourself to evidence, Ms Harnett.

MS HARNETT: All right. I was just going to go on to say the car club in Council's rebuttal appear to be a combination of all of these things.

The justification for new permitted activities and in some cases, an expansion of existing activities appears to be firstly because of PC 52's cost of the car club.

It is our understanding that costs are not part of the RMA, and in turn, there appears to be little consideration on the impact of noise to the community.

The second justification, are the new rules imposed by Plan Change 52's decision. This amounts to 10 weekend free days during the summer and a handful of statutory holidays that most of the population take for granted.

The shutdown over Christmas happens every year. Ruapuna Park is still one of the busiest tracks in Australasia. The Car Club has never done a cost benefit analysis and the amount they pay for the lease is less than will be paid for rates. We believe for the use of public reserve land, the Car Club are very favourably disposed.

We note there is no mention of costs going out to the (**INDISTINCT 3.42**) rental terms, where the payment to Council of five per cent of all gate takings. Deed of Lease term 3.1.

The arguments used for commercial businesses on site are the same kind of arguments that any sporting code that leases a park from the Council could use. If this was to occur, public reserves would turn into a collection of buildings catering for retail, commercial and social activities. The local garage would be placed in the unfair position of having to pay market rates for his premises.

What Quieter Please is asking for is consistency in the built form for public reserves.

5 The contention that commercial activities would have to comply with noise levels for activities 3 and 4, is flawed. How does the noise logger differentiate between engine testing and noise from the track. Quieter Please know all too well that respite from activities at Ruapuna is vital. The permissive rules that led to Plan Change 52 ultimately removed the gaps between activities.

10

[11.20 am]

15 The gaps and activities that existed prior to 2004 once provided natural respite and promoted harmony in the area. Quieter Please fought for relief from the nuisance occurring at Ruapuna and it seems truly unfair that what little respite there is will come under threat from more activities with proposal 21.

20 The Environment Court has already determined an objective and Quieter Please sees no reason to alter that objective. It includes the use of the park for training and recreational activities. The objective also states that the adverse effects of activities at the park on the surrounding community and environment are effectively managed to not increase and if practicable, are reduced and Quieter Please contends that this is a very important part of the objective.

25

30 Consequently, Quieter Please is opposed to an increase of activities at the park, particular conference and function facilities where the hours of operation would extend well beyond the limits placed on the park by the Environment Court.

35 Whilst Quieter Please acknowledges that the focus of Plan Change 52 was on what is an appropriate noise bucket for activities undertaken at the park, we consider that was the appropriate forum in which to consider the entire suite of noise generating activities including from non-motorised activities.

40 A conference and function facility go hand in hand with the sale of liquor, and it appears unlikely that after being granted consent for these facilities a sale of liquor licence would be declined. Given the often direct link with motor vehicles and alcohol, Quieter Please strongly objects to adding social and business function facilities to an already very busy motorsport venue.

45 Thank you.

SJH: Thank you, Ms Dewar.

<CROSS-EXAMINATION BY MS DEWAR

[11.22 am]

5 MS DEWAR: Ms Harnett, in your evidence to the Environment Court, you stated that there were 18 members of Quieter Please?

MS HARNETT: Yes.

10 MS DEWAR: Yes, and is that still the case?

MS HARNETT: I am not the treasurer, but I presume it is about 18.

MS DEWAR: And some of those members do not live in the area, do they?

15

MS HARNETT: Not all of those members, no, some of those members moved out because of the noise.

MS DEWAR: Thank you.

20

MS HARNETT: But people are still living in those houses.

SJH: Mr Daysh.

25 MR DAYSH: Good morning.

MS HARNETT: Good morning.

MR DAYSH: Can we have this plan up that we had on the screen just before.
30 I just had a couple of questions.

On this plan, is your property the one that is number 9?

MS HARNETT: Yes, it is.

35

MR DAYSH: And I take it this was put before – this was part of the Plan Change 52 proceedings this map was produced for, is that your answer?

MS HARNETT: It looks familiar.

40

MR DAYSH: Okay, and some of the other people there, are these other people that are part of Quieter Please, the other numbers?

MS HARNETT: I am not sure what number 5 – oh, yes, they were bought
45 out. Yes, these are the numbers of member of Quieter Please, yes, there is some missing.

MR DAYSH: And when did you buy your property at number 9 and lived in there?

5 MS HARNETT: We have been living on Pound Road for about 26 years.

MR DAYSH: Okay, so you bought it when the sports – Ruapuna was operating ?

10 MS HARNETT: When we bought it, you would hardly have known that Ruapuna was there and for a long time that was the case, but when the rules changed in the previous district plan and became operative and then the noise started to build up and so I guess it was about 2004 that it was quite noticeable that noise was happening every day and it was
15 relentless.

[11.25 am]

20 MR DAYSH: The question about these other – I think what has been called non-noisy activities the additional, ancillary, accessory activities that the Council has provided in their provisions to us, what are the actual effects outside of noise that you and your organisation are concerned with?

25 MS HARNETT: We are concerned about the, apart from noise, it is a rural environment and we are concerned about the built form and traffic and of course, we are concerned about the possibility of a liquor licence at these functions.

30 MR DAYSH: So outside of noise it is those two issues that are really driving your concern about expanding the use of the facility to other activities. Is that fair?

35 MS HARNETT: The amenity, traffic and the effects of liquor obviously.

SJH: Could you speak up just a little please, it is very hard to hear you.

MS HARNETT: Do you want me to repeat that?

40 SJH: Yes please. So it is traffic?

MS HARNETT: It is traffic, it is the amenity of the built form, it is a rural environment and drink driving.

45 MR DAYSH: Right, thank you, that is clear, thank you.

SJH: Judge.

5 JUDGE HASSAN: Just in terms of Pound Road, over the last 26 years, have you seen that change in terms of usage and vehicles and so forth, is it much busier now than it used to be?

10 MS HARNETT: Well when we first moved to Pound Road you could have fired a gun down Pound Road and not hit anything, so it has changed like every other road, it has changed I guess.

JUDGE HASSAN: Yes. In terms of the Environment Court decision and the community liaison group concept, does your organisation support that?

15 MS HARNETT: The Environment Court decision?

JUDGE HASSAN: The community liaison group concept that is written into the Environment Court's set of requirements for the management of this land. What do you and your submitter group think about that?

20 MS HARNETT: I think we believe that it is always rather limited what a community liaison group can achieve given that we have had to go to the Environment Court to get any kind of respite, I would not want to leave everything to the community liaison group.

25 JUDGE HASSAN: But do you think it is a good to have concept if it works properly?

MS HARNETT: If it works properly, yes.

30 JUDGE HASSAN: Okay, thank you.

SJH: Do I understand your answer that you do not have confidence in the community liaison group?

35 MS HARNETT: No, I suppose there is not a great deal of confidence there.

SJH: And why do you not have confidence in the community liaison group?

40 MS HARNETT: Well I suppose it stems - - -

SJH: Sorry, you really do have to speak up.

45 MS HARNETT: Okay, I suppose it stems from, Plan Change 52 was notified et cetera, et cetera, and then the Hearing was heard before a commissioner and the commissioner made a decision and then both parties appealed et cetera, and then when it came to Court, the Council

made the extraordinary decision not to defend its decision, but to align itself with the car club.

5 And so when you are in the community liaison situation, you are there not only with the community but with the Council and the car club and as I said, if we had difficulties – if we had to go to an Environment Court hearing to get any respite then how much more difficult is it just to get an agreement with the parties.

10 SJH: So your concern, if I can put it this way, is that the community liaison group may well not agree with you and your group?

MS HARNETT: Well Quieter Please can be part of the community liaison group of course. You are referring to the Council and Car Club members et cetera?
15

SJH: I am talking about the community liaison group in terms of the Environment Court decision which you said you had no confidence in.

20 MS HARNETT: Can you just elaborate what the question is?

[11.30 am]

25 SJH: I am trying to understand why you have no confidence in such a group, it is a fairly simple question.

MS HARNETT: But it is not just down to the community, it is the community talking to other parties and coming to a consensus.

30 SJH: Well is that not the point of a liaison group?

MS HARNETT: That is right but whether it – whether it achieves anything is what I am trying to say.

35 SJH: Well achieving your aims or someone else's aims, is that the concern?

MS HARNETT: Well, a compromise occurs, it is always a compromise.

40 SJH: And do you see the noise outcome in the Environment Court as a compromise?

MS HARNETT: The Environment Court's decision?

45 SJH: Yes.

MS HARNETT: I think it is fair to say that Quieter Please is disappointed with the decision.

5 SJH: Okay, thank you. Just one final question, you talked about the concerns of the amenity effect of built form standards, what are your specific concerns and what amenity effects are you speaking of?

MS HARNETT: It is in a rural environment - - -

10 SJH: No, no, you said that, I am asking what are the specific concerns?

MS HARNETT: The proposal is including commercial activities such as – I suppose you – I do not know what you call them – mechanic, repair places, and retail and conference facilities and – so it is quite a large area of buildings in a rural area.

15 SJH: So is it the position of your group that there should be no commercial activities on this site?

20 MS HARNETT: Well there are commercial activities.

SJH: What is your limit then around that so we understand it?

MS HARNETT: What we are asking for is for it to be consistent with the rules on other public reserves.

25 SJH: All right, thank you. Anything arising Ms Dewar.

MS DEWAR: No, sir.

30 SJH: Thank you. Thank you, Ms Harnett, you may stand down.

<THE WITNESS WITHDREW [11.32 am]

35 SJH: Ms Dewar, can you - closings, can you file them by close of business Wednesday?

MS DEWAR: This Wednesday, sir – yes, we can do that.

40 SJH: Ms Harnett, you also have the right to file closing submissions if you wish to do so. Does your group wish to do that?

MS HARNETT: When was that, sorry?

45 SJH: The first thing is do you wish to avail yourself of the opportunity to file closing submissions?

MS HARNETT: I suppose we could, yes.

SJH: All right, could you do that by the close of business on Wednesday?

5

MS HARNETT: And that is just electronically, isn't it?

SJH: Yes, of course.

10 MS HARNETT: Wednesday, yes.

SJH: Thank you, and Mr Conway, can the Council respond by close of business Friday?

15 MR CONWAY: Yes, sir, that will be fine.

SJH: Thank you, thank you all very much, we will adjourn this Hearing, thank you.

20 **MATTER ADJOURNED AT 11.33 AM ACCORDINGLY**