

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 (FLAT LAND RECOVERY) – STAGE 3

TRANSCRIPT OF PROCEEDINGS

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

Date: 14 December 2015

Hearing Panel: Sir John Hansen
John Illingsworth
Jane Huria
Stephen Daysh

APPEARANCES
DAY 1 – 14 December 2015

<ROBERT STANLEY ROUSE, affirmed	[10.50 am]	10
<EXAMINATION BY MR ALLEN	[10.50 am]	11
<CROSS EXAMINATION BY MR McNAMARA.....	[10.54 am]	12
<THE WITNESS WITHDREW	[11.15 am]	21
<MS MARGARET JANE WHYTE, affirmed	[11.15 am]	22
<EXAMINATION BY MR ALLEN	[11.15 am]	23
<CROSS-EXAMINATION BY MR McNAMARA	[11.21 am]	25
<THE WITNESS WITHDREW	[11.47 am]	37
<PETER NICHOLAS EMAN, sworn	[12.03 pm]	44
<EXAMINATION BY MR McNAMARA	[12.03 pm]	45
<CROSS-EXAMINATION BY MR ALLEN	[12.10 pm]	48
<RE-EXAMINATION BY MR McNAMARA	[12.45 pm]	62
<THE WITNESS WITHDREW	[12.47 pm]	64
<MR WHITE	[2.03 pm]	66
<MR WHITE WITHDREW	[2.26 pm]	76
<ERNEST TSAO	[2.26 pm]	77
<ERNEST TSAO WITHDREW.....	[2.46 pm]	84
<JAN BURNEY	[2.46 pm]	85
<JAN BURNEY WITHDREW.....	[3.10 pm]	95
<STEPHEN BOURKE	[3.10 pm]	96
<STEPHEN BOURKE WITHDREW.....	[3.26 pm]	102
<CLIVE KENNETH ANDERSON, sworn	[3.28 pm]	104
<EXAMINATION BY MR McNAMARA	[3.28 pm]	105
<THE WITNESS WITHDREW	[3.53 pm]	115

DAY 1 – 14 DECEMBER 2015

[10.28 am]

5 SJH: Yes, good morning. We will just record appearances, Mr McNamara, you are for the Council?

MR McNAMARA: Yes, sir.

10 SJH: And, Mr Allen, you are for the Crown?

MR ALLEN: Yes, sir.

SJH: We have Mr White for the Human Rights Commission?

15 MR WHITE: Yes, sir.

SJH: Can you come forward to counsels' table in front, you are appearing as counsel I understand, is that correct?

20

[10.30 am]

MR WHITE: No, that is incorrect, sir, I am appearing as a submitter, just presenting a statement on behalf of the Commission.

25

SJH: Well, can we clarify. What is it, is it a statement of evidence, is it a statement? What exactly is the position of the Human Rights Commission because you have not made that very clear?

30 MR WHITE: Sir, it is a statement of the Commission's views on this proposal.

SJH: But it is totally a legal submission.

35 MR WHITE: If the Panel would prefer - - -

SJH: I have seen a number of legal submissions and know what they are, Mr White.

40 MR WHITE: If the Panel would prefer that we presented it as a legal submission we are happy to do so.

SJH: No, it is a matter for you but I wonder if you have just thought about exactly what your position is?

45

MR WHITE: Given the late stage that we came in, sir, we considered that it was better just to present a statement.

5 SJH: All right, okay, well, we will leave it at that but it would be better if you move forward to the next table please. Now, Ms Burney, is it?

MS BURNEY: Yes.

10 SJH: If you would just speak into the microphone please.

MS BURNEY: Yes, sir.

SJH: And you are speaking on behalf of yourself?

15 MS BURNEY: Apologies, yes, on behalf of myself and I am also asking permission to present from Brooklands Community some signed statements.

20 SJH: And that is from a number of residents that you have collected from other residents supporting your view?

MS BURNEY: Yes, it is.

25 SJH: Right. And this is a submission you are making or is it evidence?

MS BURNEY: I am making a statement on the submission.

SJH: Yes, you have not applied to give sworn evidence?

30 MS BURNEY: No, I have not.

SJH: Okay, thank you. Mr Bourke, you are representing yourself and your wife?

35 MR BOURKE: Yes, sir.

SJH: And you are making a submission or you wish to give evidence?

40 MR BOURKE: A submission.

SJH: Right, thank you. And finally, I hope get the pronunciation right, Mr Cho, is it?

45 MR TSAO: It is Tsao.

SJH: Chow?

MR TSAO: Tsao.

SJH: Right, okay, and you are again submitting to us today?

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MR TSAO: Yes.

SJH: Okay, thank you. Just for some reason we have got the Crown juxtaposed with the Council to go first, was that by agreement or is just a slip up in the - - -

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MR ALLEN: Sir, it was by agreement.

SJH: Right, okay.

15

MR ALLEN: It was just in the thinking that maybe some of the background evidence, especially the evidence of Mr Rouse, sets the scene.

SJH: That is fine.

20

MR ALLEN: But we are in the Panel's hands.

SJH: No, I only got the schedule on Friday afternoon and I was reading it over the weekend and I just wondered why we had gone from the normal pattern but I perfectly understand. So if you go ahead, speak to your opening and then go ahead with your witness.

25

MR ALLEN: Thank you, sir. Just to check whether the Panel has read the opening yet because if the Panel has I do not intend to, and I am not going to read it at any rate.

30

SJH: Well, I can speak for myself I have but I know two of the Panel members have been heavily disrupted by air travel this morning so they may not have. Would that be the position?

35

MR DAYSH: I would prefer a reasonable summary rather than a brief.

SJH: So a bit more than what we have normally dealt with at these hearings.

40

MR ALLEN: Thank you, sir.

SJH: Thank you.

MR ALLEN: Well, out of ease I will just start at the start in the submissions and move through. Paragraph 1.3 is the best starting point of the Crown's opening and that is since filing of the evidence Ms Whyte and

45

Mr Eman have continued to work together and they developed a new package of provisions for the proposal and I understand that package has been provided to the Panel, and that is the revised and updated package, and from memory it was provided to the Panel on Friday.

5

SJH: Yes.

MR ALLEN: Just to check that the Panel has copies of that latest package?

10 SJH: Yes, we do.

MR ALLEN: So in terms then of just going through in order of the Crown's opening, there is a - - -

15 SJH: Sorry, that is one that is dated 7/12/15?

MR ALLEN: That is correct, sir, yes. A small scope issue has arisen related to a very small portion of the Recovery Zone, that is also within the Central City provisions. The agreed position with the planners is it is more efficient to have that dealt with in this hearing and the Crown submits that it is caught in terms of submissions and scope within its Central City proposal, but there is an issue as to the ability to have that heard in this hearing.

20

25

[10.35 am]

The Crown submits that the relief sought is within scope of its Central City proposal, no party is prejudiced by the change because the small parcel is solely owned by the Crown and, as this hearing precedes the Central City hearing and is the specific hearing on the Recovery Zone, this is the better place for the Panel to hear and decide on this matter, and it is agreed between the planners. So I can deal with that more in closing if needs be, I just thought I would flag that for the Panel.

30

35 SJH: Thank you.

MR ALLEN: In terms of the current Crown position, and this is section 3 of the Crown's opening, the objective for the Recovery Zone has been agreed between Mr Eman and Ms Whyte and I will just take a minute to read that objective because obviously it sets the scene for the rest of the proposal.

40

And that is a largely open environment with a very low density of residential and non-residential activities that reflects the changes in land uses in the area, including building clearances, recognises the natural hazard risks affecting many properties, recognises the

45

infrastructure limitations in the area, acknowledges the interim nature of this zone and maintains the long-term potential of the area to contribute to the recovery and future enhancement of Christchurch.

5 Just looking at each of those matters in turn. The first matter there reflects the changes in land uses. The figures are changing all the time but the Crown owns virtually all of the former properties within what is the Red Zone, Flat Land Red Zone. There are still a number of properties in private ownership.

10 SJH: Can you just pause there and you might be able to help us with this or we might have to come back to Mr McNamara, but at the Council's 4.1 it says there are 1,787 properties, that should read - - -

15 MR McNAMARA: The seven got put in the wrong place, sir.

SJH: So that should read?

MR McNAMARA: 7,187.

20 SJH: 7,187.

MR McNAMARA: I am sorry, sir.

25 SJH: No, I thought that was probably the case. Yes, thank you.

MR ALLEN: Thank you, sir. So what has happened is the Crown has in the evidence of Mr Clark now completed, of the properties that the Crown acquired, 99 percent clearance of buildings on those properties. So within Christchurch City the Red Zone my understanding is, approximate figures, 350 hectares and there is around 81 remaining private properties and around 45 properties still with buildings on them, and the Crown has cleared 99 percent of its properties. What the Crown has done, and this is in the evidence of Mr Clark, is cleared the properties and has an Open Space Zone and is undertaking active management of those now Crown owned properties.

30 SJH: Can you give us a feel for what the five commercial properties left are?

40 MR ALLEN: Sir, I understand they are small scale properties, dairies et cetera, but the submitters would know more detail on that.

SJH: Okay, thank you.

45 MR ALLEN: Or Mr McNamara.

The second part of the objective is recognising the natural hazard risks affecting many properties. A large area of the zone is overlaying, and it is within the evidence of Mr Eman for the Council, by various natural hazard overlays and are affected by the natural hazard proposal. Within that proposal new development within those overlays is, as I understand it, proposed to be, well, is a non-complying activity. And of the remaining privately owned properties I understand over half are overlain in some way with the natural hazard overlay.

And the evidence of Mr Anderson also for the Council sets out some of the geotechnical background.

The third part of the objective recognises the infrastructure limitations in the area, and that is the evidence before you of Mr Rouse and he talks about the different infrastructure limitations within the Recovery Zone.

The fourth point there is acknowledging the interim nature of this zone and the easiest way to describe that might be if you could turn to the provisions dated 7 December 2015 that were provided to you on Friday.

[10.40 am]

And just before the objective there is the introduction to proposal 21.1.1 and that is at the top of page 2. And that note there is the land within the Specific Purpose Flat Land Recovery Zone is to be subject of a separate process to determine its long-term future use. Thank you, it is on the screen also, mind reading help and assistance, so it is on the screen.

This process was outlined in the Residential Red Zone programme, in the recovery strategy in the LURP. In the Greater Christchurch Earthquake Recovery Transition to Regeneration Plan it stated that a new Crown Council entity called Regenerate Christchurch will oversee the long-term development and enhancement of Christchurch's Residential Red Zone. Regenerate Christchurch has a role in developing the plans and strategies, the development of these plans and strategies will occur under a different timeframe to the Replacement District Plan process.

So within this the comment, and you will have seen it in the evidence about the interim nature of the zone, reflects that this zone is interim while this planning process goes on, and that planning process is, as I understand it, underway and ongoing through into the future, and that is the process as to strategically what is the long-term use of this zone.

5 The fifth point there is maintains the long-term potential of the area to contribute to the recovery and future enhancement of Christchurch. That point is covered in the planning evidence. It is also covered in to some degree in the evidence of Mr Anderson as to the potential benefits of wider scale infrastructure sort of stabilisation or geotech work in an efficient and effective manner. And also the evidence of Mr Rouse about the efficient and effective delivery of infrastructure, especially given the many competing demands on infrastructure around the city as a whole.

15 Then moving on now and skipping down to 3.3 of the Crown's opening. Subject to a difference of opinion as to the activity status of new community facilities on privately owned sites Ms Whyte and Mr Eman agree on the policies and rules to apply in the Recovery Zone.

20 In terms of residential activities Ms Whyte and Mr Eman agree that residential activities on privately owned sites should be provided for to a similar extent to that currently provided for in the Residential Suburban Zone. They also agree that rule P1 enables homeowners in the Recovery Zone to conduct residential activities within appropriate limitations on their properties.

25 I will skip now through to non-residential activities because residential is largely agreed.

30 Again Ms Whyte and Mr Eman agree that non-residential activities of a residential scale should be managed as permitted activities, and Mr Eman's evidence is that those activities are unlikely to create significantly greater conflicts with potential future users and in respect of residential activities.

35 Recognition of natural hazards. Ms Whyte and Mr Eman agree that the objective, and we have just read the objective, and policies should recognise the influence that natural hazards have had and continue to have within this zone and they have agreed on objectives and policies in relation to that.

40 Turning over the page now to 3.9. Now, both Mr Eman and Ms Whyte agree that given the potential level of intensification that may result from new community facilities they are not appropriate to be provided for as permitted or controlled activities and should be considered through a resource consent process. However they disagree as to the process that should be used with Mr Eman going for discretionary activity status and Ms Whyte considering it should be non-complying.

[10.45 am]

5 And Ms Whyte's view is based on the evidence of Mr Rouse that
decisions relating to intensification of land use is beyond what is
currently provided for as permitted or restricted discretionary should be
made with key strategic decisions on infrastructure. And I refer there
in opening to Mr Eman's rebuttal evidence reinforces that view saying
that no decisions have yet been made by the Council about
10 infrastructure provision during this interim period. And Mr Anderson's
evidence also that the scale of the liquefaction effects of settlements
and lateral spreading that have affected the Red Zone, in
Mr Anderson's opinion these effects are likely to be more economically
dealt with on an area wide basis where large plant can be used in the
constraints of dealing with property boundaries and the attendant issues
15 can be removed.

Now, briefly there Ms Whyte notes that the Recovery Zone does not
have a residential population that would necessitate new activities of
this nature, and just by way of background to community facilities are
20 facilities, such as veterinary clinics, day care centres, church religious
facilities. So it is only those types of activities that we are talking
about.

And Mr Eman's section 32 report does not contain any specific
25 analysis in support of community facilities having discretionary activity
status. There is a slight technical issue in 3.12 but I will not dwell on
that because I can deal with it in closing if it remains an issue about the
interpretation for non-complying activity status.

30 Mr Tsao's evidence, he supports the proposed rules allowing a
homeowner in the Recovery Zone to rebuild his or her house as a
permitted activity and, as gone through, the rules that are now proposed
and agreed between Mr Eman and Ms Whyte do allow for appropriate
residential activities to occur in alignment with the Suburban
35 Residential Zone.

Mr Tsao's key objection is the establishment of the Specific Purpose
zone seeking that residential or zoning be retained. And the Crown at
4.3, the Crown concurs with the Council's position that the
40 establishment of the zone is necessary and appropriate. It is submitted
that careful consideration has been given to the circumstances of the
Recovery Zone, the requirements of higher order documents and the
rights of existing owners to provide for their economic and social
wellbeing. And reference is made at paragraph 4.4 to the section 32
45 report which just teases that out a bit, I will not read that.

5 But at paragraph 4.5 both Mr Eman and Ms Whyte support the establishment of a Specific Purpose Zone having regard to the particular circumstances of the area, and those circumstances include, we have been through that list, the land is largely vacant, as I have already described to you earlier when going through the objective; the land is not managed or serviced in the same way as other residential land within the city, again that is in the objective, and as noted and already discussed Mr Anderson's evidence about large scale liquefaction.

10 The higher order documents identify that the future long-term use of the land will be considered through future planning processes. It is important that the zoning and the types of activities enabled under it do not foreclose options under those processes.

15 So unless there are any questions, hopefully that, sorry, I spent more time than normal.

20 SJH: I will just check. Ms Huria:

MS HURIA: No, thank you, sir.

SJH: Mr Illingsworth?

25 MR ILLINGSWORTH: No, thank you, sir.

SJH: Mr Daysh?

30 MR DAYSH: No questions, no.

SJH: All right, thank you, if just proceed to your first witness then.

MR ALLEN: Thank you, sir. The Crown call Mr Rouse.

35 **[10.50 am]**

<ROBERT STANLEY ROUSE, affirmed

[10.50 am]

<EXAMINATION BY MR ALLEN

[10.50 am]

MR ALLEN: Your full name is Robert Stanley Rouse?

5 MR ROUSE: That is correct.

MR ALLEN: And you prepared a brief of evidence for this hearing dated 24 November 2015?

10 MR ROUSE: That is correct.

MR ALLEN: And you have the experience and qualifications as set out in that statement?

15 MR ROUSE: That is correct.

MR ALLEN: And your evidence is true and correct to the best of your knowledge and belief?

20 MR ROUSE: It is.

MR ALLEN: Thank you, Mr Rouse. Could you please read your highlights package to the Panel and then answer any questions?

25 MR ROUSE: Good morning. Since the filing of evidence the Crown and Council have reached agreement on proposal 21.1.1 with the exception of one outstanding matter relating to the activity status for new community facilities on private land. I will be commenting on those provisions from the perspective of horizontal infrastructure.

30

The agreed provisions permit residential activities on privately owned properties as long as activity standards are complied with. I consider that the types of residential activities permitted under these provisions will not create any significant demand on horizontal infrastructure provided the property is currently being serviced. If residential activities are proposed on a privately owned but currently unoccupied site, service connections or suitable on-site service options will be required.

35

40 Some non-residential activities are proposed as permitted activities and include bed and breakfasts, care of non-resident children, market gardens, storage of one heavy vehicle per site; and dismantling, repair or storage of motor vehicles or boats owned by people who live on site.

45 I understand these are permitted activities in areas outside the Flat Land Residential Red Zone. Properties in the Red Zone are currently

5 serviced by a range of service connections including overland water supply pipes and on-site wastewater storage tanks. These on-site servicing options are limited in their flexibility and ability to meet increases or changes in demand, unlike the public reticulated networks outside the zone.

10 It will be necessary for Council to be aware of these potential developments to ensure adequate service provision. I understand from Mr Eman's evidence that Council is legally obliged to provide services and does not propose to discontinue services to privately owned sites.

15 I do not support more intensive non-residential development such as new community facilities in the Red Zone. These types of development, for example, pre-schools, healthcare facilities and veterinary facilities are likely to require new horizontal infrastructure or substantial on-site alternatives to a connection to the local network and it is worth, I think, making the note that the damage to infrastructure in the Red Zone is significant therefore its ability to service new development is very limited.

20 The repair or rebuilding or the provision of new local infrastructure is inconsistent with previous decisions regarding local horizontal infrastructure in the Red Zone. The reasons for those decisions are set out in my evidence and include the scale of damage in the Red Zone and the cost to repair or rebuild damaged networks, and again it is worth making the point that if significant parts of the network are required to be repaired or rebuilt to service new development, that is likely to cost tens of millions of dollars.

30 Given that decisions are still to be made about the future land use in the Red Zone, I consider allowing more intensive non-residential development in the Flat Land Red Zone may result in the issues identified in section 7 of my evidence-in-chief, including diverting public funds from other priority earthquake recovery work, and undermining the integrated approach to land and infrastructure. I support the establishment of a Specific Flat Land Recovery Zone which will enable the integration of infrastructure with land use. Thank you.

40 SJH: Thank you. Mr McNamara?

<CROSS EXAMINATION BY MR McNAMARA [10.54 am]

45 MR McNAMARA: Thank you, sir. Morning, Mr Rouse. In paragraph 7.9 of your evidence-in-chief you state that there are significant issues associated with rebuilding or repairing existing networks or building new horizontal infrastructure within the Flat Land Red Zone to service

new development, and you list them there at the end of that that paragraph.

[10.55 am]

5 The first one you mention is the distance, well you mention that new development could be located a significant distance from repaired networks. Equally we have a number of private properties in the Flat Land Recovery Zone that are adjacent to Green Zoned land, do we not?

10 MR ROUSE: Yes, that is correct.

MR McNAMARA: And for those properties the infrastructure solution may be to connect to the Green Zone infrastructure which is being maintained and may have capacity?

15

MR ROUSE: Yes, that is possible, but currently it would be necessary for any new infrastructure to follow the existing alignment of the infrastructure currently in place, which may have issues associated with it. So in other words, as the crow flies might be the best alignment option for a particular service, currently because of the Crown's position with respect to access to Crown-owned land it will have to follow the existing alignment, so it still may not be as attractive as you might think.

20 MR McNAMARA: What I am trying to explore is the uniformity or not of the Flat Land Recovery Zone and whether in your view it is appropriate that there be case by case consideration of the infrastructure constraints for a particular site, in that some private properties may have an access solution that is more feasible than properties located smack in the middle of the Red Zone?

30

MR ROUSE: That would be correct.

35 MR McNAMARA: You go on to mention in that list issues with infrastructure capacity within red zone infrastructure because only limited levels of service are being provided. Again are those infrastructure capacity issues less of a concern if the infrastructure that is being utilised is green zone infrastructure adjacent to the property?

40 MR ROUSE: Green Zone infrastructure will be repaired or rebuilt to ensure its performing and serviceable so there should be no significant issues in the green zone.

45 MR McNAMARA: And just finally, you also express concern – penultimately, sorry – but you also express concern at the prospect that development within the Red Zone may divert resources away from

more pressing or higher priority repairs to green zone infrastructure, is that correct?

MR ROUSE: That is correct.

5

MR McNAMARA: If the connection to green zone infrastructure were that possible were privately funded, ie volunteered by the owner, would that be of concern to you?

10 MR ROUSE: No, that would be an acceptable outcome, I would have thought.

MR McNAMARA: So now, finally, in your last paragraph you say that significant repair or rebuilding of horizontal infrastructure or new or realigned infrastructure, solely to service current development prior to future land use decisions being made is unlikely to deliver efficient and effective outcomes, and as I understand it that is a key driver for this zone, that decisions about infrastructure servicing the zone on a whole of zone area just have not been made?

15
20

MR ROUSE: That is correct.

MR McNAMARA: That is correct? But in the interim, because what we are looking at here is on its face an interim planning framework, we have as I understand it approximately 80 privately owned properties still in the zone?

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MR ROUSE: That is correct.

MR McNAMARA: And roughly half of those are outside the natural hazard overlays that would cause development on those sites to be a non-complying activity, is that correct?

30

MR ROUSE: I understand there are a number of those properties outside that zone.

35

MR McNAMARA: So if we were to give a signal I guess that the development of community facilities on those privately owned sites were discretionary rather than non-complying, would that compromise the long term infrastructure solutions for the Red Zone?

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MR ROUSE: I guess either of those could be applied. I think it is fair to say that in terms of horizontal infrastructure and the implications around providing services, it might be better to send a signal that the bar is set quite high.

45

[11.00 am]

5 MR McNAMARA: But certainly you would at least want any discretionary activity status to be flagging that infrastructure constraints need to be considered case by case at a policy level as appears in the provisions that are put forward by the Council?

10 MR ROUSE: At the end of the day, in my view, it would be critical for any developer to engage early with the Council to clearly understand what the horizontal infrastructure limitations or implications are going to be. They will be significant.

15 MR McNAMARA: Just in terms of the approach that I understand many of the residential submitters are coming from, those infrastructure constraints are one of the reasons why a Special Purpose Zone, as opposed to a normal Residential Zone, are appropriate in your view?

MR ROUSE: Yes.

20 MR McNAMARA: Thank you, I have no further questions.

SJH: Thank you. Ms Huria?

25 MS HURIA: No, thank you.

SJH: Mr Illingsworth?

30 MR ILLINGSWORTH: Yes, sir. Good morning, Mr Rouse. The question I want to ask relates to infrastructure in the Red Zone and Green Zone, but the Green Zone prior to the rebuild. So the question is, is the state of repair of the infrastructure in the Red Zone any worse than it was in the Green Zone prior to it being rebuilt?

35 MR ROUSE: As I say in my evidence, a response with respect to the repair and rebuilding of infrastructure in the Red Zone was established fairly early and as a consequence condition assessment work has been limited there because the decisions were made because of ground conditions, et cetera, to establish the Red Zone.

40 So very little infrastructure assessment work has been done in the Red Zone, but it would be our assessment, if you like, at desktop level, that the damage would be very similar to some of the worst affected areas in what is the Green Zone, other parts of the city, particularly where liquefaction has been high and damage has been significant.

45

MR ILLINGSWORTH: Now, that does answer the question, thank you. I
guess it lead on to the question, to what degree did the state of the
infrastructure lead to the forming of the Red Zone, if you like, and you
said there was limited information around that, so it was not that the
5 infrastructure was in such a bad state of repair it was going to cost
relatively more than the infrastructure in the Green Zone?

MR ROUSE: I was not around at the time these decisions were made, I
suspect that given the land and property damage at the time, that would
10 have influenced the decision-making. It is likely that the loss of service
from horizontal infrastructure contributed to that decision, if the
properties were damaged and the land was damaged, then the
infrastructure would have been damaged also. So I suspect the
decision-makers would have considered horizontal infrastructure as
15 part of that process.

MR ILLINGSWORTH: Thank you. So the nature of the damage that
occurred, I mean it is understandable that the connections to the trunk
mains would be damaged quite easily because they are small, in the
20 Green Zone where a lot of repair work has been done, to what extent
has that been on the main sewer and storm water lines versus
connections?

MR ROUSE: I think damage has been fairly uniform, mainly – most of our
25 repair work is on the mains, private property laterals have by and large
been able to continue to operate. So the damage in the Red Zone was
not untypical of elsewhere in the city, a lot of pipe loss of grade, just
disjointed pipe joints, ingress of sand and fine materials and ground
water because it is subject to liquefaction in some parts of the Red
30 zone.

MR ILLINGSWORTH: Thank you.

MR ROUSE: So the damage primarily is to the mains, the laterals seem to be
35 okay, although they are still in service but are probably damaged.

MR ILLINGSWORTH: So I do not have a good picture of what the main
underground infrastructure is in the Red Zone, so it is very hard to
40 make any assessments.

MR ROUSE: Yes.

[11.05 am]

MR ILLINGSWORTH: But at least in part it is working for the remaining private properties, is that correct?

5

MR ROUSE: No, I think the network is sufficiently damaged that it is not forming part of the servicing for a large number of people that occupy properties in the Red Zone. So in terms of wastewater, there are a number of properties that have onsite storage tanks, so their discharge would be into the tank and then a truck goes around and empties the tank out on a regular basis, and that has contributed to the high servicing costs, that is why I make the comment that these onsite options have a little bit less flexibility than if you have a connection to the main.

10

15

MR ILLINGSWORTH: Okay, that was my next question, around the \$36,000 per house that Mr Eman had in his evidence. So that is not because the infrastructure upkeep has spread to fewer houses, it is more that it is a dedicated service to the houses and on average that is \$36,000?

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MR ROUSE: In 2004 I think Mr Eman said that the servicing costs were \$36,000 a property, yes, and that is - - -

SJH: Sorry, 2004?

25

MR ROUSE: 2014, sorry, sir. That is why because of the specific services provided to those properties and it is driven by the support required for the onsite services.

30

MR ILLINGSWORTH: Because I guess my question was leading to the concept that if you have underground infrastructure that is servicing 7,187 houses spread across those number of houses, obviously the cost is going to be lower per house. So what you are saying is primarily the cost is because they have a dedicated - - -

35

MR ROUSE: Because of the inputs required to provide that service on a site by site basis.

MR ILLINGSWORTH: Thank you. The roadway outside Mr Tsao's house, I read I think in Mr Eman's evidence, that the level of that road was below the river level and was supported by a temporary stop bank, is that the case?

40

MR ROUSE: That may be the case, yes.

45

MR ILLINGSWORTH: It may be the case, you are not sure?

MR ROUSE: I am not familiar with Mr Tsao's property or particularly the circumstances.

5 MR ILLINGSWORTH: No more questions.

SJH: Thank you. Mr Daysh?

10 MR DAYSH: Yes, thank you very much. I want to ask a few questions about what I call the lie of the land as it is, and I would like to do that with you looking at one of the planning maps, so if we have planning map 2 as attached to Mr Eman's evidence-in-chief?

15 MR ROUSE: Is it possible to get it on the screen, sir?

MR DAYSH: Yes, we are just getting it up there.

SJH: Yes, it takes a moment.

20 MR ROUSE: I am sorry.

SJH: There you are.

25 MR DAYSH: So this is planning map 2, it is one of a series of seven planning maps that characterise or geographically describe the zone, and that is shown in orange. We have heard evidence that I think 99 percent of the properties in the Red Zone have been acquired by the Crown, that is the evidence we have, so looking at that planning map - - -

30 SJH: I think it is demolished 99 percent, is it not?

MR DAYSH: It is demolished. 99 percent acquired and demolished or?

35 SJH: No, no, 90 percent is the demolished.

MR ROUSE: They are 99 percent demolished, as I understand it, but also more than 99 percent acquired. I understand it is around 80 still to be acquired out of 7,187.

40 SJH: 7,187.

MR ROUSE: Thank you, sir.

45 MR DAYSH: Okay. So could you just describe to me what that area looks like? Are all the buildings in that area, apart from the ones that have

not been acquired, are they all demolished now, no more buildings in that area?

5 MR ROUSE: My understanding is that there are a number of properties that are still in place, some of those are occupied and some of them vacant.

MR DAYSH: Okay.

10 MR ROUSE: So by and large it is an open space from these occupied or undemolished properties, which are still in private ownership.

[11.10 am]

15 MR DAYSH: And are all the roads still there?

MR ROUSE: The roads are still there but are in poor condition.

MR DAYSH: And the underground servicing is all there and has not been - - -

20 MR ROUSE: The underground surfacing is there left as is and there are some overland pipelines being laid to service occupied properties with water, and there are the tanks that are outside the properties for wastewater.

25 MR DAYSH: Okay, thank you. You see on that plan there are the green, two green shaded properties, there is a private property not touching either flood ponding or high flood hazard, so those would you agree are at the edge of the zone on this planning map?

30 MR ROUSE: They appear to be at the edge of the zone, yes.

MR DAYSH: Are they at the edge of the zone or are they not at the edge of the zone?

35 MR ROUSE: Well I am not familiar with those individual properties but looking at the plan it looks like the boundaries are between the Red Zone and Green Zone.

40 MR DAYSH: Okay. Do you agree that the exercise to delineate a Red Zone property as opposed to a Green Zone property, that went through a process but there may be some blurred lines in terms of whether properties actually perhaps came in on the criteria or not and there was a judgement call to be made?

45 MR ROUSE: Sir, I do not believe I am qualified to comment on how the Red Zone was established.

MR DAYSH: Right. Is that better for Mr Anderson or?

MR ALLEN: Well, sir, the Crown's relied on earlier evidence given by Emma Jane Jacka of 20 February 2015 on the Natural Hazards Proposal, but Emma Jane Jacka is not here at present. We have just
5 relied on it as per the Panel's reliance of earlier evidence and that also helps maybe Commissioner Illingsworth in terms of section 4 of her evidence sets out all the background cabinet decisions et cetera – I
10 should have summarised this, sorry, in my opening – to the Residential Red Zone.

MR DAYSH: Okay, thank you, so the witness is clear; he is not qualified to comment, so that is fine.

15 SJH: No, but that other evidence is in light of the Panel's directions that we are hearing is actually in front of us.

MR DAYSH: Yes.

20 SJH: It is just a matter of accessing.

MR DAYSH: Yes, and it has been referred to by some of the other witnesses so that is good. So your expertise is in asset management?

25 MR ROUSE: And horizontal infrastructure.

MR DAYSH: Yes. So if this area was to be redeveloped in the future which is a possibility, would you think there would be advantages in staying with the current roading patterns for example or the current
30 infrastructure alignments or in reality would that likely be another layout preferred given the state of the land?

MR ROUSE: I think that – and my understanding is because I am involved in some aspects of it – is that there is a lot of work being done on what the
35 future use opportunities are for the Red Zone, and it is likely that there would be new road alignments and new activities carried out in the Red Zone and new horizontally infrastructure alignments. But they are unknown at this stage. So we have been reluctant to invest in the repair of infrastructure of current alignments because it may need an
40 expensive relocation or realignment once future use decisions are made and the infrastructure could be in the wrong place.

MR DAYSH: Okay, thank you. That is mine, thanks.

SJH: Thank you. You prefer to at your 6.9 to Mr Eman's evidence about the average of \$36,000 per occupied residential household. Are you able to tell us what the average is across Christchurch per household?

5 MR ROUSE: Sorry, I do not know off hand but I am not sure what the average rates would be but it would be significantly less than that. I am sorry, I do not live in Christchurch.

10 SJH: No, I understand that. I will leave it for once of the Council witnesses, I thought you may of - - -

MR ROUSE: I am sorry.

15 SJH: That is fine. Mr McNamara, anything arising from the Panel's questions?

MR McNAMARA: No, thank you.

20 SJH: Anything arising or re-examination, Mr Allen?

MR ALLEN: No, thank you, sir.

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

25 MR ROUSE: Thank you.

<THE WITNESS WITHDREW

[11.15 am]

30 MR ALLEN: Sir, the Crown calls Ms Whyte.

<MS MARGARET JANE WHYTE, affirmed

[11.15 am]

<EXAMINATION BY MR ALLEN

[11.15 am]

MR ALLEN: Your full name is Margaret Jane Whyte?

5 MS WHYTE: Yes.

MR ALLEN: And you prepared a brief of evidence for this hearing dated 24 November 2015?

10 MS WHYTE: Yes.

MR ALLEN: And you have the experience and qualifications as set out in that evidence?

15 MS WHYTE: I do.

MR ALLEN: And your evidence is true and correct to the best of your knowledge and belief?

20 MS WHYTE: It is.

MR ALLEN: Thank you. If you could please read your highlights package and then answer any questions.

25 MS WHYTE: All right, thank you, okay. Since filing our evidence, Mr Eman and I have continued to work together in an effort to agree on appropriate provisions for the Flat Land Recovery Zone and is culminated in the revised set of provisions that filed with the Panel.

30 Mr Eman and I now agree as to all of the provisions with one exception regarding the appropriate activity status for new community facilities which I will discuss later. In summary, we agree that residential activities should be permitted subject to activity standards.

35 We also agree that non-residential activities of a residential scale – and by this I mean bed and breakfast activities, care for non-resident children within a residential unit and home occupations and market and community gardens on private land should be permitted activities subject to activity standards. Our agreement for these activities is
40 considerably more enabling than a notified proposal.

When considering the overall effectiveness and efficiency of the Flat Land Recovery Zone Provisions, it is important to recognise that the Natural Hazard Provisions in Chapter 5 of the Replacement Plan would
45 also apply to land within the Flat Land Recovery Zone.

5 In the provisions particularly as they relate to property within the high floods hazard overlay will be quite restrictive on a number of the privately owned properties within the Flat Land Recovery Zone. For these properties, the development of new buildings will be a non-complying activity under the provisions of Chapter 5.

10 Based on attachment D to Mr Eman's evidence, over half of the identified privately owned properties will be affected by the High Flood Hazard Overlay and for those properties not affected when undertaking residential or non-residential activities of a residential scale, then the provisions applying to these activities and the Flat Land Recovery Zone are consistent with the provisions that are proposed to apply to the Residential Suburban Zone in proposal 13.

15 At the time of writing my evidence, I considered a new permitted activity condition should be included with rule 21.11.2.2.1, permitted activities rule P1, namely that the site is able to be serviced for water supply, waste water and storm water.

20 Having reconsidered Mr Eman's evidence, rebuttal evidence and through our further discussions, I understand that there is no question that the Council will provide wastewater and storm water infrastructure to a suitable standard for residential activities to each privately owned property within the Flat Land Recovery Zone, so based on the
25 assurances I have been provided by Mr Eman, I consider the additional permitted activity condition I originally sought as not necessary.

30 As mentioned earlier, Mr Eman and I disagree as to the appropriate activity status for new community facilities and by community facilities I mean preschool activities, health care facilities, veterinary care facilities, education activities, places of assembly or spiritual activities. Mr Eman considers that new community facilities on privately owned land should be discretionary activities and I think they should be non-complying.

35 My main reasons for considering that non-complying activity status is appropriate are; first, these types of community facilities have different infrastructure demands to residential activities, and key decisions regarding the level of service of horizontal infrastructure for land
40 within the Flat Land Recovery Zone are yet to be made, and decisions relating to intensification of land uses should be made at the same time or in conjunction with the key decisions on infrastructure.

45 Secondly, I think enabling more significant developments in the Flat Land Recovery Zone is inconsistent with it being an interim zone until infrastructure and land use outcomes are determined in the future.

And thirdly, Flat Land Recovery Zone does not have a residential population that would necessitate new activities of this nature.

5 **[11.20 am]**

10 So this difference of opinion means that I recommend that activities D2 to D7 be deleted from rule 21.1.2.2.4, discretionary activities, and I also do not consider that policy 21.11.1.1.2, clause A(iv) should be included, because if a plan does not anticipate an activity occurring as expressed through a non-complying activity status then it is not appropriate to provide a policy approach enabling for that activity.

15 However, if the Panel decides that new community facilities should have discretionary activity status then Mr Eman and I agree on the wording of clause A(iv).

20 So the second to final matter I address, is that part of our Flat Land Recovery Zone, which is subject to the Central City Recovery Plan, in my evidence I identified this is a small area but I did not provide further clarification as to its size or ownership. The area of land is approximately 3.1 hectares and it is all under Crown ownership.

25 So now the final matter I just wish to address arose from a question earlier and related from the Panel in relation to the existing non-residential activities within the zone, the six that were identified. My understanding is two of them are dairies, one is a tavern, one is a pre-school and in terms of the information I have two, I do not know what they are.

30 SJH: Thank you. Mr McNamara?

<CROSS-EXAMINATION BY MR McNAMARA **[11.21 am]**

35 MR McNAMARA: Thank you, sir. Good morning, Ms Whyte, I just have a couple of questions about the one matter in which you and Mr Eman's disagree.

40 MS WHYTE: Sure.

MR McNAMARA: So you address at paragraph 6.32 of your evidence-in-chief the Strategic Directions.

45 MS WHYTE: Yes.

MR McNAMARA: And you refer to those that relate to infrastructure constraints within the area and I think we are agreed at a planning level that that warrants at least discretionary activity status in new community facilities?

5

MS WHYTE: Yes.

MR McNAMARA: The paragraph that I am looking at there, 6.32, does not refer to Strategic Direction 3.3.11 which you do mention in your appendix A of your evidence, which is the one that pertains to new community facilities.

10

MS WHYTE: Yes.

15 MR McNAMARA: Could you just turn to that because that is in two parts - -
-

MS WHYTE: Yes, it is.

20 MR McNAMARA: - - - and the first part refers to the expedited recovery and establishment of community facilities and educational activities in existing and planned urban areas to meet the needs of the community.

MS WHYTE: Yes.

25

MR McNAMARA: Do you think that discretionary or non-complying activity statuses are – which one of those two activity statuses better meets that strategic objective?

30 SJH: Well they are conjunctive though, Mr McNamara, which I was going to come to later.

MR McNAMARA: Yes.

35 SJH: But we might as well do it now, they are conjunctive, are they not? It is not a choice of one or the other?

MR McNAMARA: Which part do you mean, sir?

40 SJH: Well A and B - - -

MR McNAMARA: A and B.

SJH: - - - read separately, are they?

45

MR McNAMARA: Yes.

SJH: They have to be read together, do they not?

MR McNAMARA: Yes.

5

SJH: Because they are linked by the “and”, not an “or”?

MR McNAMARA: Yes.

10 SJH: So proceed with the question but I will be interested to see your - - -

MR McNAMARA: Well I am at - - -

SJH: - - - version of how we only apply A and not B.

15

MR McNAMARA: Well I am not asking that only A/B apply.

SJH: Well you could not could you?

20 MR McNAMARA: No.

SJH: Right, okay, well on that basis you my go ahead.

25 MS WHYTE: I think in terms – in my view in relation to the Flat Land Recovery Zone, I think non-complying is appropriate. In terms of expedited recovery, community facilities for permitted activity rules recognise and provide for the existing facilities that are in there to be recovered.

30 But I think in relation to the particular circumstances of this zone and considering that objective, it does not make me change my mind about the activity status.

35 MR McNAMARA: So - - -

MS WHYTE: One of the key things is, in relation to this area, its primary focus, it is interim in terms of the provisions, and I think when you get to existing and planned urban areas then I think for the Flat Land Recovery Zone that existing and planned is going to be better achieved through the later process that is still to come, and so that is the reason for my view.

40 MR McNAMARA: Yes, but the way Mr Eman describes the overriding issue in this case is, how do we strike that balance between recognising that this is an interim zone and that there are opportunities that will be

45

realised through a future planning process while not unduly restraining development opportunities for the present occupants of this zone.

[11.25 am]

5

MS WHYTE: Yes.

10 MR McNAMARA: And it is for that reason that we have liberalised the permitted activities and we are having this debate about whether new community facilities should be discretionary and non-complying.

15 So you do not think that the needs for community facilities of the type we are talking about, vets, child care, churches, etcetera, you do not think those needs are better met if we signal that these could be discretionary rather than non-complying?

20 MS WHYTE: In relation to how the intent and purpose and the significant issues that exist in relation to determining appropriate infrastructure and balance with land use, I guess from my perspective I do not think you can just signal one objective because there are a number of other objectives in relation - to be honest for me the balance between land use and infrastructure would win out in my judgement over the balance between providing for new community facilities in the Flatland Recovery Zone at this time.

25

MR McNAMARA: If it were to be discretionary, the activity status for community facilities, you would certainly envisage that in several cases we might have applications being turned down because of the impact on infrastructure.

30

MS WHYTE: I certainly think that would be the case.

MR McNAMARA: That would be more likely if they were larger scale rather than smaller scale activity?

35

MS WHYTE: Not necessarily, I think based on evidence and the discussions I have had with Mr Rouse.

40 MR McNAMARA: If we were looking at something like a small child care operation, something like that, where a small number of children were being looked after, might that have a similar infrastructure demand to a large household?

45 MS WHYTE: Well I think that level has already been provided for through the permitted activities in relation to care of children, care of non-resident children. So I think for me up to a level of four children which

is what the permitted activity standard provides, then yes and that was the reason for considering that that should be as a permitted activity.

5 MR McNAMARA: Okay. One of your concerns about providing for these activities is discretionary activities was that, you did not think there was a substantial residential population within the Red Zone and clearly that is the case given the limited private sites still there. If we look at the maps that are attached to Mr Eman's evidence in attachment C and Commissioner Daysh was looking at those maps earlier – if they could be queued up – perhaps if we go to the third to last map which is 10 planning map 32, now there we are looking at the Avonside area?

MS WHYTE: Yes.

15 MR McNAMARA: You can see there that there are quite a number of privately owned properties right on the edge of the red zone or Flat Land Recovery Zone, would you agree that the catchment for community facilities should community facility be established on any of those agreed sites is likely to be the urban area outside the Red Zone, 20 not the Red Zone itself?

MS WHYTE: I really do not know.

MR McNAMARA: Well - - -
25

MS WHYTE: In terms of, is it - - -

MR McNAMARA: Well you seem to have a concern - - -

30 MS WHYTE: Well, look you – okay, so what you are – can you just be clearer, so are you saying if a community facility was developed on one of those say nine sections that are on the edge of the Red Zone, would it be more likely people who do not live there use that facility?

35 MR McNAMARA: Well I will take you back to 6.35 of your evidence-in-chief where you say “a key reason for determining that non-complying activity status is appropriate for these activities in the FLRZ, is that fundamentally the FLRZ is not a residential area and nor does have it a residential population that would necessitate new activities of this 40 nature being needed” and - - -

MS WHYTE: Yes.

MR McNAMARA: - - - that is clearly correct, it does - - -
45

MS WHYTE: Yes.

MR McNAMARA: - - - not have a substantial residential population.

MS WHYTE: Yes.

5

SJH: Well just pause, is the point of the question, that community facilities may be established, and I do not like using the term Red Zone, because it is not a zone as such.

[11.30 am]

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MR McNAMARA: No.

SJH: And that is now well accepted I think and recognised, and the use of it causes some of problems, but it was established within the orange area.

15

MR McNAMARA: Yes.

SJH: It could be established to be used by persons outside.

20

MR McNAMARA: Indeed, sir.

SJH: And the question is, does that fit in with the purpose of the orange area, is that the question?

25

MR McNAMARA: Yes, well I am really just testing whether simply because the FLRZ is not heavily populated, does that mean there is no proper place as a discretionary activity for activities such as vets, childcare and the like?

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MS WHYTE: I think in terms of answering that, what I would say to you is, the answer is clearly no, it would not preclude that, however, given that those activities would be permitted activities outside of the orange area, I think it is far more likely that that is where they would be established.

35

MR McNAMARA: Because they would not have consenting path.

MS WHYTE: No they would not, they would be permitted activities. Provided they could meet the permitted activity conditions.

40

MR McNAMARA: Finally, I am not trying to overstate the differences between you and Mr Eman, but I am trying to tease them out, is it your experience as a planner that once you get through one of the two gateways in section 104D, so either the effects of the activity are minor or it is not inconsistent with the objectives and policies of the Plan, that the activity falls to be determined much as a discretionary activity?

45

MS WHYTE: Yes.

MR McNAMARA: So were you to get through those gateways it would not make any difference? From an applicant's point of view.

5

MS WHYTE: So once you have got through the gateway then the similar conditions are.

MR McNAMARA: Would apply.

10

MS WHYTE: Yes.

MR McNAMARA: Thank you.

15

SJH: Thank you. Ms Huria?

MS HURIA: Yes, good morning Ms Whyte. I am just interested to know if you have any inkling at all about how long the interim period that we are referring to might last?

20

MS WHYTE: No.

MS HURIA: Okay. Short answer, thank you. Thank you, sir.

25

SJH: Mr Illingsworth?

MR ILLINGSWORTH: Yes, good morning. I have a question in relation to Regenerate Christchurch, which is the team of people that is working on the new design and structure of this zone. At some point in the future, let us say it is two years down the track as an example, that design is complete under this planned zone how is it implemented?

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MS WHYTE: I would anticipate there would be a plan change.

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MR ILLINGSWORTH: So that would be a separate plan change just for this area?

MS WHYTE: It would be a plan change for whatever area they determined it was necessary for, yes. I think the intent would be that this is an interim zone and it will be overcome. Once the latter process has occurred and key decisions have been made in relation to land use, hazards, rehabilitation, roading, all of those network decisions have been made, then provisions appropriate to the outcome reached at that point would then be implemented through either – I have just got to remember what the name of it is, a Regeneration Plan, which is

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potentially going to be available under the Bill or through a plan change.

5 MR ILLINGSWORTH: Is that a lengthy process? I mean how long would a process like that take?

MS WHYTE: The Regeneration Plan?

10 MR ILLINGSWORTH: No, not the regeneration plan, the implementation of the new zone? Would it have to be notified, would it?

MS WHYTE: Yes, it would if it went through the normal standard RMA processes it would, yes.

15 MR ILLINGSWORTH: And how long does that process normally take?

MS WHYTE: It really depends on the level and - - -

20 MR ILLINGSWORTH: Of interest?

MS WHYTE: Yes. Well I think that will be clearly an area with a high level of interest, but it could be anything, a good process, nine months through a normal plan process and up to, as a consultant, several years.

25 MR ILLINGSWORTH: Thank you.

SJH: Mr Daysh?

30 MR DAYSH: Yes, thank you Ms Whyte. Just as a starting point I would like to say that it seems like there has been a lot of hard work done on the objectives and policies and the wording since the last version I saw in the rebuttal of Mr Eman. So I would just like to say I appreciate the work.

35 I think most of the questions I had on the rebuttal evidence were around the wording of objectives, policies and rules have all been answered, so I just want to say that that has really advanced things really, so thank you for that.

40 [11.35 am]

MS WHYTE: Thank you, sir.

45 MR DAYSH: I do want to ask you some questions about the future of this land and get your opinion as a planner. The Regenerate Christchurch

process that Commissioner Illingsworth has been asking about, do you know if they are under a certain timeframe to deliver an outcome?

5 MS WHYTE: As I understand it, the legislation to establish them are still going through the house.

MR DAYSH: Right. So there is no specific timeframes. Are you aware of what is proposed?

10 MS WHYTE: What is proposed is the ability to do regeneration plans, which is not exactly the same but is similar to recovery plans that have been done, which is a more expedited process than potentially the standard Resource Management Act process.

15 So my understanding is that there is potentially an alternative path in that legislation to try and facilitate the recovery or regeneration of these kind of key activities in a different way.

20 MR DAYSH: But you would anticipate it would be a reasonably prompt, quick process, be a matter of years, months, years – one/two years' timeframe?

25 MS WHYTE: Yes, I think once the key stepping stones are in place as to the infrastructure, whether land rehabilitation can and will occur, then I think the land use aspects that fall around that should be relatively fast.

30 SJH: Mr Allen, you may be able to assist, the Select Committee Hearings have just been held, or maybe still being held in Christchurch at the moment, aren't they?

35 MR ALLEN: Thank you sir, I think they might have finished Friday afternoon, sorry Saturday afternoon, because they went over the weekend. But it is certainly matters I can address in closing as well. So hearing the questions is helpful for closing submissions.

SJH: Okay. Thank you.

40 MR DAYSH: All right. Thanks for that. I would like to ask you some questions in your appendix A, which is your summary of the High Order documents relevant to this zone, and again I would just like to say I think this has been very, very helpful to me to pull together all the documents and the key things that we need to consider in terms of those high level documents, so again thanks for that.

45 I would like to ask you some questions about your paragraph 17, about the Strategic Directions objectives, and it is associated with objective

3.3.1, which is enabling recovery and facilitating their future enhancement of the district. So do you think that, I will use your term, enabling these types of community facilities where you have a disagreement as with Mr Eman as a discretionary activity, and I use that term enabling advisedly.

MS WHYTE: Yes.

MR DAYSH: Do you think that doing that would meet the community's immediate and longer term needs for housing, economic development or community facilities, infrastructure, transport and social and cultural wellbeing?

MS WHYTE: I think if some were able to be granted consent then yes. I guess for me the issue is in terms of, like that is the title of the objective, but the part about the expediated recovery and future enhancement I think is quite an important matter within that objective as well, and it is a matter of how you expedite recover and how you best do that, be it piecemeal in some ways through this process or be it through a wider more general process later that gets to consider all of those issues. So they have been the type of matters I have been considering when I have been looking at these provisions.

MR DAYSH: Are you a Christchurch resident?

MS WHYTE: Yes, I am.

MR DAYSH: How long have you lived in Christchurch?

MS WHYTE: Approximately 15 years.

MR DAYSH: So you know these areas pretty well?

MS WHYTE: Yes, I do.

MR DAYSH: Do you think that there is some potential for some of this area to be redeveloped into, I think we heard from Mr Anderson that you can take a bigger area and rework it and perhaps make it suitable for urban development, do you think there is potential for some of this area to be developed in that way?

MS WHYTE: I honestly do not know.

MR DAYSH: Don't know?

MS WHYTE: I would hope so, but I truly, under oath, I just do not know.

MR DAYSH: But that is a possibility after further studies that some of the area could come back into **(INDISTINCT 5.00)**

5 MS WHYTE: I think that is certainly the intention of the next process is to be able to consider all of those factors and make some of those decisions about the future and longer term future.

[11.40 am]

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MR DAYSH: And if that was done it would be implemented for a plan change, I can envisage several plan change, structure plans, some areas being open space, potentially some being developed for some other purposes, is that - - -

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MS WHYTE: Or through the regeneration plans, depending on what comes out on the legislation.

20 MR DAYSH: And in that case even new, perhaps new zone or plan change would be introduced if it was targeted for some future residential – there would be a provision made in the zone for these sorts of activities without a doubt?

25 MS WHYTE: Absolutely, in my view absolutely and I think an outcome, I think it is just difficult to make, my issue has been trying to make those decisions now based on the level of information we have. I think those are certainly open in terms of once that future work has been done, then if it was a factor that you were going to have, if there were areas for more residential activities then I would expect those other activities that would enhance their sense of community and make it easier to live would be part of that.

30

MR DAYSH: So you would agree that consistent with the interim nature of the zone, it is a matter of timing that - - -

35

MS WHYTE: That is my view; it is a matter of when the right time to make those decisions is.

40 MR DAYSH: Sure. All right then, thank you for that. I would like, again, for you to have a look at one of these planning maps and I think the best one if I can ask you some questions about it is planning map 32 which we had up before.

45 Now, I was asking Mr Rouse some questions about sites from the edge of the zone and he could not really help me; it turned out that he was not from Christchurch so probably not that familiar but what – so

firstly, the orange zone boundary for the Replacement District Plan, is that equivalent to what is called the Red Zone? Does it match up exactly?

5 MS WHYTE: My understanding is that it does but Mr Eman may be able to answer that with better certainty than me. I have not done a property by property analysis.

10 MR DAYSH: So assuming that it does hypothetically I am interested in some of these sites that are right on the edge and like the one at the top right hand corner of the plans, an interesting example that I think Mr Anderson has given evidence about the fact that the final delineation, you know, there are some decisions that had to be made and it is always a judgement call about where the line is drawn.

15 Do you think that apart from the provisions, have you turned your mind to the fact that given the submissions and the land areas that actually still are in private ownership whether from a map boundary point of view it might be some justification to perhaps tweak the boundary of the zone in relation to the lie of the land as it is now as opposed to being a slave to the Red Zone criteria? I am talking about the difference between planning and the criteria used to delineate the Red Zone.

20
25 MS WHYTE: My honest answer is I do not know, I am not familiar enough to know about the process it went through. I have looked at it but one of the issues is that in terms of the evidence of Mr Rouse, infrastructure decisions and things like that have either been set aside or have been made more holistically so I have really, I cannot actually, I do not think I can help you in answering that question.

30
35 MR DAYSH: So you have not looked at that mapping zoning perspective as a planner in terms of those areas around the edge of the zone in that interface?

MS WHYTE: No, because as a planner I would have no basis to actually make a decision on whether the zoning was, or whether its determination or consideration either within or outside of the Red Zone was right or not, I would have no basis for that.

40 MR DAYSH: All right, thank you. And I think coming back to the provisions then, so I am looking at the updated revised proposal dated 7 December which has been given to us today.

45 So just to clarify, your disagreement with Mr Eman is because you consider we should not be planning for in the interim these sorts of

community facilities until an x amount of decisions are made that they should be made non-complying, and that would move all of those discretionary activities, D1, D2.

5 [11.45 am]

MS WHYTE: I am sorry, it would be D2 to D7.

MR DAYSH: Okay, D2 to D7 would move to the non-complying table?

10

MS WHYTE: Yes.

MR DAYSH: And in terms of the two gateway tests, 104D - - -

15 MS WHYTE: And, sorry, the other changes to policy 21.11.1.1.2, non-residential activities, I would delete (iv).

MR DAYSH: Yes, you have anticipated my question. So that is a change that you are seeking?

20

MS WHYTE: Yes.

MR DAYSH: And that is required because if that was left in your evidence is that you would meet the policy gateway test under 104D and therefore nullify the non-complying status?

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MS WHYTE: Yes, and that has certainly been the basis of all of the decisions of Mr Eman and I in that we wanted to provide an agreed set of provisions regardless of the activity status but we both recognised we had different views in relation to policy (iv) and whether it should be included or not.

30

MR DAYSH: Thank you very much, that is all I have, sir.

35 SJH: Thank you. Anything arising from the Panel's questions, Mr McNamara?

MR McNAMARA: No thank you, sir.

40 SJH: Mr Allen, re-examination?

MR ALLEN: No, thank you, sir.

SJH: Thank you, Ms Whyte, you may stand down.

45

<THE WITNESS WITHDREW [11.47 am]

5 SJH: Mr Allen, it may be useful in your closing if you dealt with C, the Regeneration Bill as it stands because I have not looked at it in detail yet but I suspect it has similar provisions to bring things directly into the plan as have earlier provisions. Are you familiar with it enough to comment on that at the moment or not?

10 MR ALLEN: Sir, I would rather not just do it given that it is a moving position at present with this committee, thank you.

SJH: No, I know what stage it is at. Thank you. Mr McNamara, do you wish to speak to your submissions and then call your first witness?

15 MR McNAMARA: Thank you, sir. I will just check whether the Panel has had the chance to read these, shall I go through them again - - -

20 SJH: For myself, yes. But I think the concentration needs to be on your area, the area of disagreement between the Council and the Crown which is really around these community facilities.

MR McNAMARA: So with that in mind then I will start at paragraph 3.1.

SJH: Thank you.

25 MR McNAMARA: I think there is an overarching issue which is how we strike a balance between those considerations in A and B. Maintaining options for future land use and recognising hazard risks and infrastructure constraints on the one hand whilst avoiding unnecessary constraints on private property rights of existing owners and providing for the long term needs of the Christchurch community on the other, and it was really that second consideration about avoiding unnecessary constraints that led to revisions to the proposal in response to submissions.

35 So we now – picking up at 3.4 – reach the point where there are only three main outstanding issues. Whether the Specific Purpose Zone itself is necessary and appropriate as opposed to a residential zoning such as Suburban Residential, which is what the residential submitters are seeking, then the issue that we have touched on, the activity status for community facilities and whether that is discretionary or non-complying, and then finally a site specific issue about the zoning of Mr Tsao's property.

40 I will go quickly through the next part of the submission, your Honour has correctly picked up that there are 7,187 Red Zone properties rather than 17,187 Red Zone properties.

[11.50 am]

5 The extent of the Red Zone both in terms of properties and aerial extent
has been covered already. Picking up at 4.2, the proposal as notified
was initially for a holding zone. That term is no longer used now. In
the revised objective it acknowledges the interim nature of the zone and
I think that is best explained through the explanatory note that my
10 friend Mr Allen took you through which foreshadows the processes that
are still to come through the Bill that is working its way through the
House.

15 However the revised objective does not capitulate the unique
characteristics of the zone and Mr Allen has talked about that and how
each element of that objective has support in the policies and in the
rules. So we reach the point – sorry, before I leave that part I think it is
important, given the scope of the issue between the Crown and the
Council, to emphasise that the policies relating to residential and non-
20 residential activities provide for such activities to the extent compatible
with natural hazard risks and infrastructure limitations, and that is
really setting up the discretionary activity status for community
facilities, because clearly there will be circumstances in which the
infrastructure constraints warrant applications for community facilities
being declined.

25 The proposed rule framework accordingly provides for very limited
activities within the zone, for example existing uses and the limited
modification, temporary activities and elements of immediate recovery
activity. In 4.3 I talk about the limited permitted activities, non-
30 compliance resulting in restricted discretionary or non-complying
activity status. There are no controlled activities in this proposal.

35 Activities not otherwise listed, new residential units and most
subdivision are non-complying and again that is compatible both with
the infrastructure limitations but also the limitations in terms of natural
hazards that permeate the zone. Even under the revised proposals there
are accordingly limited opportunities to use or further develop privately
owned residential sites.

40 I outline the revised proposal in section 5 of the submission and the
nature of the changes. I will not dwell on the changes to the objective
and the policy. Getting to paragraph C of that section I support my
friend's suggestion that the rezoning of that small part of the zone that
is within the central city area to be rezoned Central City Residential
45 Zone, and really have nothing to add to that except to say that I agree

that is within scope given the Crown's submission on the central city - -
-

5 SJH: Is that sought here though, or in the context of the Central City hearing?

MR McNAMARA: Well I think it is sought in the context of the central city
provisions but - - -

10 SJH: It is more appropriate to deal with it in that context is it not? I mean we
have had a lot of these overlays and in a sense I do not suppose it
matters but - - -

15 MR McNAMARA: Sir, wherever the Panel finds it most convenient. It was
just in terms of time and order of the hearings. This hearing came first
- - -

20 SJH: No, no, I fully understand that but it is likely that that is going to be a
different Panel. And I would have thought that if they are dealing with
Central City Residential the same Panel should deal with all of it, that
is the only thing.

MR McNAMARA: Well they have got a little bit that is all sort of overlaid
with this area so maybe in closing I will structure that out.

25 SJH: Think about it. It is only a structural thing I know, but.

30 MR McNAMARA: So here we get to the nub of the issue as between the
Council and the Crown. Picking up at 6.3 the Council's position is the
discretionary activity status is more appropriate for the reasons set out
in Mr Eman's rebuttal evidence and those reasons are in summary as
follows. Paragraph A on page 6 of the submission, "Discretionary
activity status will not compromise integration between land use and
35 the provision of infrastructure because the City Council is not
proposing infrastructure works beyond maintaining services in some
form within the zone".

And so the point here is that this is really within the control of the
infrastructure provided, whether that is the Council or NZTA.

40 **[11.55 am]**

45 The Council – and it has been referred to the in the evidence – is under
legal obligations to maintain infrastructure and in particular in respect
of water services those are found in the Local Government Act, sections
130 to 137, but those provisions beg the question as to the level of
service at which infrastructure is provided. And clearly the level of

service within the Flat Land Recovery Zone is not the same level of service enjoyed by other residents of Christchurch.

5 We have heard from Mr Rouse about how some residents in the zone have got holding tanks for their wastewater, which is clearly not a normal level of service in an urban area. And so those judgements are being made about appropriate levels of service but in terms of the key issue between the Council and the Crown, discretionary activity status will not necessarily lead to the Council changing its plans to deliver
10 infrastructure to these activities.

15 Secondly, discretionary activity status would enable the adequacy of infrastructure to be assessed on a site by site basis and resource consent could be refused or granted subject to appropriate conditions, such as provisions requiring the private provision of infrastructure and I think that is why some of my questioning this morning of the witnesses and indeed I sense Commissioner Daysh's questionings have focused on properties on the edge of the zone. Because for those properties case by case there could conceivably be infrastructure solutions that are private,
20 and in that event the displacement of public funds is not an issue, and the reliance on existing infrastructure footprints, which typically follow pre-existing roading patterns – horizontal infrastructure tends to be laid in roads – it is not a pre-condition that those would need to be followed.

25 Now these solutions need to be worked out case by case through resource consent processes. But I think my point in emphasising discretionary activity status over non-complying activity status is that the Flat Land Recovery Zone in terms of infrastructure constraints may not be uniform and so for that reason discretionary is a more
30 appropriate status.

35 Mr Eman considers the discretionary activity status would better achieve the strategic direction objective 3.3.11 which refers to the expedited establishment of community facilities. He also considers that it is not efficient or effective to require non-residential activities to pass through the section 104D gateway because it is not contrary to the zone's objectives and policies, although I note the comment by Ms Whyte that she would change the policy so that that issue no longer
40 arose.

45 I do touch on the wider question of the appropriateness of a Specific Purpose Zone, given that that has been raised in the submission and evidence of Mr Tsao. He and a number of other residential submitters questioned whether there is a planning basis for applying the zone to the area of land that is the same footprint as the Residential Red Zone.

5 The City Council's position is that the zone is necessary and appropriate for the reasons set out by Mr Eman in his evidence. Specifically it is the most appropriate way of recognising the unique circumstances of the area which arise as a consequence of the earthquake, including the long term opportunities presented and the constraints that exist. He considers that a general Residential Zoning would not adequately reflect these circumstances.

10 Those circumstances also have to reflect the reality on the ground which is that by far the majority of the land is vacant and in Crown ownership and this provides a unique opportunity for long term planning and potentially comprehensive redevelopment. In my submission, maintaining options for future land use through a Specific Purpose Zone while recognising hazard risks and infrastructure constraints is an appropriate resource management outcome which will achieve the sustainable management purpose of the Act.

[12.00 pm]

20 I touch in 7.4 on the relaxation of activity provisions affecting private property rights between the notified and final proposals and on that basis the Council does not support further changes proposed by Mr Tsao that would be incompatible with existing levels of infrastructure in the zone and could compromise future land use options.

30 I touch briefly on the position regarding the zoning of 123 Hulverstone Drive. This is best explored through Mr Eman directly but in summary the position is that it should retain the zoning of Flat Land Recovery Zone. It is a fair question to ask whether properties around the edge should be rezoned given that the criteria used to establish a Red Zone may not be appropriate criteria to establish a Flat Land Recovery Zone, given the implications of that in terms of the range of activities available and in particular there being far less permitted activities available than in a typical Residential Zone.

40 However, specifically in relation to Mr Tsao's property, Mr Eman identifies damage to infrastructure and services and the unlikely prospect of infrastructure being brought up to normal standards because Mr Tsao's is the only privately owned property in quite a large block. And if you go to Hulverstone Drive you can see that very clearly, it sticks out like a thumb as it were with vacant land on either side and only behind it, behind Mr Tsao's house to the south do we have occupied residential properties. Mr Eman therefore considers that Mr Tsao's property is likely to only be serviced with infrastructure

sufficient for a house, particularly in terms of road access and sewer in the interim period covered by the proposal.

5 I have touched on the possibility of private infrastructure agreements both through the witnesses this morning and Mr Eman explored that possibility with Mr Tsao. Mr Eman notes that this poses some particular challenges and risks with Mr Tsao's property. He also raises general concerns about whether such an arrangement would be feasible. The evidence further supports retaining Mr Tsao's property as Specific Purpose Flat Land Recovery.

10 There are two witnesses, Mr Eman and Mr Anderson, and in conclusion I commend the proposal to the Panel.

15 SJH: Thank you, Mr McNamara, you call your first witness then please.

MR McNAMARA: Thank you, sir.

20 Sir, I should perhaps foreshadow that quite unexpectedly I don't know where Mr Anderson is, we have been trying to get hold of him.

SJH: Your problem not mine, Mr McNamara.

25 MR McNAMARA: It is my problem. Were you planning on doing a morning adjournment or - - -

SJH: We started late.

30 MR McNAMARA: Yes, so we will hope to deal with that in the meantime.

SJH: So it is getting worse because if we had not had Air New Zealand delays we would have reached him by now and even bigger bother.

35 MR McNAMARA: Well, that is right.

SJH: Anyway let us get through Mr Eman's evidence and we will take it from there, Mr McNamara.

40 MR McNAMARA: Thank you, sir.

SJH: We may be able to take an early lunch adjournment if he is not available.

<PETER NICHOLAS EMAN, sworn

[12.03 pm]

<EXAMINATION BY MR McNAMARA

[12.03 pm]

MR McNAMARA: Mr Eman, could you please restate your full name.

5 MR EMAN: My full name is Peter Nicholas Eman.

MR McNAMARA: And your qualifications and experience have been set out in an earlier brief of evidence prepared for a stage 1 hearing?

10 MR EMAN: That is correct.

MR McNAMARA: But by way of summary could you just indicate your current position and summarise your relevant qualifications?

15 MR EMAN: I am principal advisor for the Christchurch City Council. I have a bachelor of science and a bachelor of town planning and have presented evidence on Strategic Directions, Temporary Recovery Activities, Cemeteries and I think that is it at this stage that I can remember off the top of my head.

20

MR McNAMARA: And you have prepared two briefs of evidence for this proposal, evidence-in-chief and a statement of rebuttal evidence?

MR EMAN: That is correct.

25

MR McNAMARA: There are no corrections you wish to make?

MR EMAN: No.

30 MR McNAMARA: Can you confirm that to the best of your knowledge and belief the contents of those two briefs are true and correct?

MR EMAN: Yes.

35 MR McNAMARA: Now, you have a highlights package that you would like to speak to?

MR EMAN: I do.

40 MR McNAMARA: Please do so.

[12.05 pm]

45 MR EMAN: Sir, I will just skip the introduction because I think most of the background has been presented already. I just note that as well as the Specific Purpose provisions there is also a provision that was inserted

into the subdivision proposal, and as part of this proposal there were no submissions on that and relate solely to the volume of earthworks that apply within the Recovery Zone.

- 5 SJH: But is that to be heard here or within the subdivision chapter, Mr Eman, so we do not get things, dare I say, falling through the cracks.

MR EMAN: Here, sir, at this hearing.

- 10 SJH: So it is to be heard in the subdivision?

MR EMAN: No, at this hearing, sir.

- 15 The principal issue raised in the submissions was the restrictive provisions of the proposal particularly in respect of the residential use of privately owned properties. Although no specific zone was sought in the submissions it was clear that the submitters sought a residential zoning similar to what they have under the Operative District Plan.

- 20 My evidence-in-chief was that I consider that the proposal as notified did not appropriately balance maintaining future land use options with avoiding unnecessary constraints on private property owners and on the needs of the Christchurch community. In particular I concluded that the proposal as notified unnecessarily restricted the residential use of
25 the privately owned residential properties. This is on the basis that the natural hazard issues that affect many properties were more appropriately managed through the natural hazard provisions, and that the Council was obliged to maintain infrastructure services in some form for the remaining private properties.

- 30 Rather than the restrictive development and activities proposed in the notified proposal it is my opinion that it is more appropriate to allow housing and home based activities like home occupations on those remaining privately owned properties to the same extent permitted in
35 the Residential Suburban Zone or the Residential Small Settlement Zone in the case of the Brooklands area.

- 40 In terms of non-residential activities that are provided for in those residential zones I am of the opinion that some, such as community gardens, should also be permitted activities. However there may not be adequate infrastructure for some more intensive non-residential activities, particularly community facilities such as pre-schools, healthcare facilities et cetera. This will vary depending on the infrastructure that will be provided to the site in the interim period and
45 on the nature and scale of the activity proposed, and as such I consider

that such activities should be classified as discretionary activities rather than non-complying as in the notified proposal.

5 I stress that I have proposed discretionary activity status for those non-residential activities only on the remaining privately owned sites which the Council is obliged to continue to provide infrastructure services. As such I do not consider that there is an issue of providing additional infrastructure or of the integration of such infrastructure with the long-term use of the zone. This is the one area where I continue to disagree with the Crown witnesses.

10 I have investigated in some detail the possibility of a Residential Suburban zoning for Mr Tsao's property which is located on the edge of the zone. The issue this raises is whether the full range of activities the Residential Suburban Zone provides for would be more appropriate than the Recovery zoning. This raises the issue of whether the infrastructure would be adequate for the more intensive non-residential activities.

15 There is no certainty that the infrastructure will be adequate as the Council has yet to make decisions on what infrastructure services will be provided during the interim period. I have been advised that, given the isolated location of the property and the damage and issues with Hulverstone Drive and the infrastructure within it, it is more likely that infrastructure would only be provided sufficient for a house on the property.

20 I have been advised that it is technically possible for the property to be connected to the normal suburban infrastructure in the adjoining Residential Suburban Zone, however that would require access across Crown owned land so there is uncertainty that this option can be achieved.

25 In the circumstances I consider it more appropriate that the property remain in the Recovery Zone so that infrastructure issues can be considered through a resource consent process on a case-by-case basis.

30 For completeness I note that the representative for the Catholic Church and church property trustees, who submitted in respect of the Lichgate Close, indicated at the formal mediation that the submitter was satisfied with the proposal as notified. I also understand from Mrs Wilkes that she is now satisfied with the proposal on the basis that the natural and cultural heritage provisions of chapter 9 apply to the zone.

35 40 45 SJH: Thank you. Mr Allen?

<CROSS-EXAMINATION BY MR ALLEN

[12.10 pm]

MR ALLEN: Thank you sir, and good morning, Mr Eman.

5 MR EMAN: Good morning.

MR ALLEN: Mr Eman, my questions solely relate to the (**INDISTINCT**
0.55) dispute, the activity status and just for clarity when I talk about
“activities” I am referring to those community activities, pre-
10 schools/healthcare facilities, veterinary facilities, et cetera.

MR EMAN: Yes.

MR ALLEN: And you consider those activities should be discretionary and
15 Ms Whyte considers non-complying.

MR EMAN: Yes.

MR ALLEN: And do you agree that poorly planned development can prevent
20 the efficient and effective delivery of infrastructure and services?

MR EMAN: Yes.

MR ALLEN: And do you agree that land use development and infrastructure
25 should be integrated?

MR EMAN: Yes.

MR ALLEN: And efficient and effective integration of infrastructure and land
30 use development is a key theme of chapter 6 of the RPS, is it no?

MR EMAN: Yes.

MR ALLEN: And just taking one policy there and maybe if we could pull it
35 up on the screen please, it is policy 6.35 – policy 6.35 is – sorry, 6.35
of the RPS, chapter 6.

SJH: Well that is 6.3.5 of the RPS?

40 MR EMAN: Yes.

MR ALLEN: Sorry, 6.3.5.3, I am muddling up my fives and threes – so
number three down please – thank you – there we have got providing
that efficient and effective functioning of infrastructure – sorry, here
45 we go – it is 6.3.5.2, ensuring that the nature, timing and sequencing of
new development are coordinated with the development, funding,

implementation and operation of transport and other infrastructure.
You are familiar with that policy?

MR EMAN: Yes.

5

MR ALLEN: And in this case the nature and timing of new development within this zone is into the future, is it not? The long term planning for this zone will be done through a separate process, will it not?

10 MR EMAN: For the long term.

MR ALLEN: Yes.

MR EMAN: Yes.

15

MR ALLEN: And in the interim then, we need to ensure that matters or activities now do not foreclose opportunities into the future, you would accept that?

20 MR EMAN: Yes, to the extent that they are provided for in the interim anyway.

MR ALLEN: Yes. And Mr Rouse's evidence for the Crown is that new non-residential development in the Recovery Zone may require significant repair and rebuild of damaged horizontal infrastructure?

25

MR EMAN: That is how I understand his evidence, yes.

MR ALLEN: And he goes onto say that such significant repair or rebuild is unlikely to deliver effective and efficient infrastructure?

30

MR EMAN: Yes.

MR ALLEN: And you consider that it is possible that infrastructure will not be an issue for some sites in the Recovery Zone?

35

MR EMAN: That is correct.

MR ALLEN: But you also accept – and this is at paragraph 5.7 of your rebuttal – that in the case of Mr Tsao's site, that more than a single house creates increased risk and potentially considerable ongoing maintenance costs for the wider community of such vulnerable infrastructure, do you not?

40

45 MR EMAN: In the circumstances of his particular site, yes.

MR ALLEN: And his particular site is on the boundary of the Recovery Zone?

MR EMAN: Yes.

5

MR ALLEN: And a critical question for any application will be whether infrastructure can be appropriately provided, do you accept that?

MR EMAN: Yes.

10

MR ALLEN: And you agree that consent is likely to be dependent on decisions made by infrastructure providers?

MR EMAN: Yes.

15

[12.15 pm]

MR ALLEN: And you also accept that at present the Council in this interim stage has not yet made any long term infrastructure provision decisions?

20

MR EMAN: That is correct.

MR ALLEN: And more than half of the remaining private properties within the Recovery Zone are also within the hazard overlay?

25

MR EMAN: Yes, in a rough order, yes.

MR ALLEN: And for those properties new development would be a non-complying activity.

30

MR EMAN: Sorry, new development?

MR ALLEN: For those properties - - -

35

MR EMAN: For those properties if they wanted - - -

MR ALLEN: Yes.

MR EMAN: - - - to build a house, a new house, it is not a non-complying activity.

40

MR ALLEN: No, but beyond that we are talking, sorry, community facilities, et cetera.

45

MR EMAN: That is the Crown position as I understand it, that it would be non-complying.

MR ALLEN: Sorry, within the hazard overlay areas, and - - -

5

MR EMAN: Sorry, yes, in terms of what is proposed in terms of the hazards

MR ALLEN: Yes.

10 MR EMAN: The two, high flood hazard and the ponding area.

MR ALLEN: It will be a non-complying - - -

MR EMAN: Non-complying activity, yes.

15

MR ALLEN: Thank you. Now given Mr Rouse's concerns that we have touched on and the RPS framework and the matters that we have just discussed, do you accept that caution should be taken for such new developments in the Recovery Zone?

20

MR EMAN: I think I would approach it in a slightly different way, accepting that the Council has an obligation to provide a level of service for privately own properties, then the issue to my mind is, it does not in terms of level of service necessarily make any difference if there is a house on that property, or in some cases if there are community facilities on that property. It will depend on a number of factors, including the scale and nature of that particular activity.

25

30 But it will also depend on the infrastructure that is available for that particular site, and there are sites for example on main roads for example where the infrastructure, even though it is within the orange area on the maps, where the infrastructure will actually be at the same service as for the rest of the city, because for example turning to the map that had – that has been referred to number 32 Stanmore Road for example is a main road, it has main trunk services through that road and therefore there is a green property I can see on Stanmore Road that is likely to have exactly the same level of services as a normal Residential Zone property.

35

40 MR DAYSH: Could someone point the cursor on Stanmore Road?

MR EMAN: Yes, and that is the - - -

SJH: It is a bit blurry.

45

MR EMAN: Yes.

MR DAYSH: You cannot read the main - - -

SJH: It is sort of blurry.

5

MR DAYSH: Yes.

MR EMAN: So yes it will differ from site to site and proposal to proposal, because if the infrastructure is there anyway and no additional infrastructure is required, then there is no need to provide additional infrastructure and it does not raise the issue of, certainly in my view, of integration between land use and infrastructure provision.

10

MR ALLEN: Do you accept that non-complying activity status is used to show activities which are generally to be discouraged or considered inappropriate in a zone?

15

MR EMAN: Yes, generally as in – I think I take it further than to say that they are not normally appropriate.

20

MR ALLEN: And that discouragement can reflect a vulnerable and sensitive or highly unusual environment such as the recovery zone?

MR EMAN: Yes, if that were the case then yes you would use that technique.

25

MR ALLEN: And that discouragement can also reflect an activity likely to produce significant adverse effects?

MR EMAN: Yes you could use that technique if that was the case.

30

MR ALLEN: And non-complying activity status does not prevent activities that have minor effects, does it?

MR EMAN: That is correct.

35

MR ALLEN: You accept that the remaining residential population within the Recovery Zone on its own is unlikely to be able to support the demands for new activities, do you not, community activities?

MR EMAN: Generally speaking yes, again it will depend on the location, but yes generally speaking.

40

MR ALLEN: Yes, we are talking within the zone.

MR EMAN: Yes.

45

[12.20 pm]

5 MR ALLEN: So you consider there may be demand created by the needs of residents outside of the recovery zone?

MR EMAN: That is correct.

10 MR ALLEN: But you accept that such activities are permitted in a number of other zones around the city?

MR EMAN: Yes.

15 MR ALLEN: And that those activities and those zones already service the surrounding residential areas?

MR EMAN: Whether the existing ones do or not I cannot answer, it would differ from area-to-area. Some areas may have a shortage of certain facilities.

20 MR ALLEN: Well your Section 32 Report does not identify any shortfall for such activities elsewhere in the city, such that supply for them in the recovery zone is necessary to meet the needs of the community, does it?

25 MR EMAN: No, I did not identify.

MR ALLEN: Thank you Mr Eman, no further questions.

30 SJH: Thank you. Ms Huria?

MS HURIA: Just one quick question thank you, Mr Eman, do you have any idea how long the interim nature of the zoning will be?

35 MR EMAN: Sorry, no.

MS HURIA: No. Thank you sir.

SJH: Thank you. Mr Illingsworth?

40 MR ILLINGSWORTH: Yes, Mr Eman, just one question. When you were preparing your evidence and obviously working through the iterations of the Flat Land Recovery Zone, what reports were available with respect to things like infrastructure, contours of the land, road condition and how they were localised across this variant – because it is quite a
45 big area. Did you have reports that you considered when you prepared that?

MR EMAN: Yes, there was a report that went to Council in August of this year, but it covered the area as a whole rather than localised areas. So it talked about the full range of infrastructure and options the Council might investigate for providing infrastructure during the interim period.

MR ILLINGSWORTH: So that led you to take a cross-zone approach. For example are there some areas that are better suited than others? Does that report give you information about that? Or less damaged?

MR EMAN: Sir, I am not really taking in a cross-, I do not think I am taking a cross the zone approach, I think what the report clearly identified is that the situation will differ from area-to-area, site-to-site, in fact as to what would be the appropriate approach for different sites in different areas.

MR ILLINGSWORTH: So if you get an application in your premise, which would be a discretionary application if it is outside the permitted area. You would either have sufficient information available to make a decision or you will or would Council go and that information, or would the submitter be required to submit information around things like infrastructure, access, water?

MR EMAN: I think the Council will always have a certain degree of information because of this obligation to provide services anyway for a house on these properties, then we know that there is going to be that minimum level of service. In some cases such as the property Stanmore Road that I was talking about earlier the Council will also know whether there are main trunk services that will be available to that property.

So there already exists, I suppose, a reasonable degree of information as to the minimum level of service that's likely to be available, but it is more where we know infrastructure is likely to not be taken up to that, the normal level of service for a suburban area, where the decision as to exactly what is going to be provided still has to be made.

There are situations, for example, where there are groups of privately owned properties where it may in fact be that for that group, that the level of service is the same as in the residential suburban zone generally. On the other hand, particularly where properties are isolated and there is only one property, or a few properties, then the level of service may be less than that.

MR ILLINGSWORTH: Thank you, no more questions.

SJH: Thank you. Mr Daysh?

[12.25 pm]

5 MR DAYSH: Thank you Mr Eman. I would just like to repeat my comments
about the fact that the provisions have moved, you know, quite a long
way over the week or so and thank you for the hard work on that, we
are down, in my opinion, to this narrow issue.

10 Could I start by asking, in your discussions Ms Whyte, how far apart
are you on this issue, is it in your opinion a finely balanced call one
way or the other or are you very fixed to thinking discretionary is a
must have in your planning opinion?

15 MR EMAN: Yes sir, I think it is probably more towards the fine than an
absolute. I think in my evidence-in-chief I mention that the probability
of somebody wanting to set up these sorts of activities in the area is
probably reasonably low. Partly because obviously there are quite a
number of residents who want to remain as residents within this area.

20 But also the fact that there are a large number of properties that are
subject to those hazard rules, which make any activity non-complying
anyway. So the potential is probably fairly small.

25 MR DAYSH: Thank you. I presume you are familiar with the definition of
amenity in the Resource Management Act?

MR EMAN: Yes.

30 MR DAYSH: How would you as a planner describe the amenity of this area if
you are looking as a provider of one of these community facilities to
establish something new and invest money-?

35 MR EMAN: I am not sure I understand the question. Obviously the character
of the area is quite different in that it is very much an open landscape
now.

40 MR DAYSH: Perhaps I should rephrase the question. If you were setting up a
pre-school activity and advising a client about that would this be an
area, taken in the whole, be an area of good amenity to establish that
type of facility in currently?

45 MR EMAN: I do not see anything in terms of the amenity that would be
necessarily negative, it may be that in terms of whether it is the best
location in terms of having a catchment of people to generate the
support for that facility, that obviously if you have got a proportion of

your catchment, had some houses in it, then from that economic perspective then it may not be as attractive.

5 MR DAYSH: So bring, for example, I am just hypothetically, if the roads were difficult to get there because they had not been maintained, that type of, I am trying to get from your perspective, because I do not know these areas well, particularly since the earthquake.

10 MR EMAN: Again, it will differ from site to site, I mean with sites where there are core services, and as I say there are a number of roads, it is not just Stanmore Road, but wherever the main roads run through this area, then the core level services are going to be available. And in some cases it is a matter of whether even if they are not on those roads whether they can get access to the green zone services.

15 So I think there are likely to be possible sites where that could be fulfilled, but yes, I accept if somebody could find one in the middle of a completely built up residential area than that is likely to be a more attractive option.

20 MR DAYSH: And I think you agreed with Mr Allen that these types of facilities are permitted in a range of zones - - -

MR EMAN: Yes.

25 MR DAYSH: - - - and there are options for people that want to establish something new and invest money, they can look at, if they can find a site, with a permitted activity status to establish?

30 MR EMAN: Yes.

MR DAYSH: Yes, thank you. Can I just ask you some questions about your rebuttal evidence? I am looking at paragraphs 3.12 and 3.13 together. And let us start with 3.13, "they are resource management questions, not in my opinion whether these activities are needed in the recovery zone, but what is the best or most appropriate outcome in terms of the statutory tests".

40 So I have got three questions about that. What is a resource management question relating to? Is that relating to your previous paragraph? Or a more general question?

[12.30 pm]

45 MR EMAN: Sorry, could you just repeat that question again, sir?

MR DAYSH: I will put it better. The activities you are referring to in the Resource Management question about them, what are those activities, do they relate to - - -

5 MR EMAN: These are the non-residential community facilities, sir.

MR DAYSH: Okay, so are the facilities you are referring to, with reference to 3.12?

10 MR EMAN: Yes, sir.

MR DAYSH: All right. So you talk about statutory tests and the term “best” or “most appropriate”, so what are the statutory tests you are referring to?

15

MR EMAN: Sir, the wider objectives for the Plan as a whole, so the Strategic Directions Objectives, the objective as it stands for this zone, and to expand on that, in my opinion what has been proposed in terms of allowing community facilities as discretionary activities does not create a problem with that objective because I do not see the establishment of those activities actually detracting from those objectives. So I do not see it as a creating an infrastructure issue.

20

MR DAYSH: Sorry, I asked you what were the statutory tests you were referring to?

25

MR EMAN: Sorry, yes, the most appropriate means of achieving the objectives, sir.

30 MR DAYSH: Under what statutory test are you referring to?

MR EMAN: Sorry, section 32.

MR DAYSH: Section 32?

35

MR EMAN: Yes, sir.

MR DAYSH: All right, thank you. Because things have moved along, I would like to ask you some questions around the submission that Mr McNamara gave us, because I think he capitulated the latest position between the Crown and the Council, and I would like you to look at paragraph 7.2 of Mr McNamara’s opening submission, if you have that in front of you?

40

45 MR EMAN: Sorry, sir, I do not.

MR DAYSH: Perhaps we can bring that up.

SJH: Thank you. It is there now?

5 MR DAYSH: So really what I am trying to tease out in planning terms with these questions, is you have got a large area, a lot of the houses have been demolished, there is certain private properties, so there is a scattering of houses around quite a big area, and other commercial facilities that we have heard about.

10

So in a new, say Brownfields, Greenfields planning scenario where say you might want to do something else in those areas, when you are looking at new developments, as Mr McNamara says “you need to recognise the unique setting of the area which arises as a consequence of the earthquake, including long term opportunities presented and the constraints that exist.”

15

So that is the context why I ask the question, so if you were designed a Greenfields development, whether it be a residential area or an open space area, do you think that encouraging further development that might have reverse sensitivity effects associated with them for new redevelopments, is a good thing to encourage in the short time prior to the long term zoning, or character of the area is determined?

20

25 MR EMAN: I think that these community facilities, which are permitted activities in a normal residential suburban zone, so that is the city’s lowest density suburban zone, leaving aside some very specific ones, suggested that certainly certain forms of these activities area appropriate in even that situation.

30

The only situation I think that I could think of where they may create problems, and it would probably be if it was proposed to have perhaps a heavy industrial zone next door to one of these properties. That is about the only situation I can see where reverse sensitivity might create real problems.

35

[12.35 pm]

40 MR DAYSH: Okay, so in 7.3 of Mr McNamara’s evidence he describes this zone as “having a unique opportunity for long term planning and potential comprehensive redevelopment”, so would it be easier, do you think, to have an open redevelopment area without areas that had been redeveloped in the meantime under resource consents that could cause issues for the comprehensive redevelopment of a particular area?

45

MR EMAN: Sir, all parties have agreed that these private properties can have a house on them, so the difference to me is, is there a difference between having a house on this property and having one of these community facilities on this property? And I do not think that there is a significant difference in that respect at all.

Using your example of greenfield areas for example, it is common for there to be houses in rural areas and a range of other activities as well, and it becomes then an issue of planning around those activities on the basis that they are there, that they are existing activities.

MR DAYSH: All right, thank you, that is all on that question. Can I confirm with you one last question. Do you agree with Ms Whyte that if we decide that activities should be non-complying, that policy 21.11.1.1.2.4 should be deleted?

MR EMAN: Yes.

MR DAYSH: Thank you. Sorry, there is one last question. You have heard me ask questions about the sites around the edges of the zone that about the Suburban Residential Zone.

MR EMAN: Yes.

MR DAYSH: Have you assessed whether any of those, apart from Mr Tsao's land could or should be brought into the Residential Suburban Zone?

MR EMAN: No, sir, I have not done an in-depth analysis, and it would require a consideration of all those infrastructure type issues and related activities that we did with Mr Tsao's property.

MR DAYSH: So given the submissions that were made about those sorts of issues, do you think it would have been useful for you to have done that? Useful to us?

MR EMAN: Yes, sir.

MR DAYSH: Thank you.

SJH: Mr Eman, is your view is that community facilities that would be developed within this zone would have no greater impact on infrastructure than houses?

MR EMAN: If the community activities that were consented to through the discretionary activity process have been assessed in terms of the infrastructure that was available, then yes.

SJH: But some of these activities, once established, could start to grow and make greater demands on infrastructure, could they not?

5 MR EMAN: Through a new resource consent they could, yes.

SJH: Well if the demand to use them grows there would be a greater demand for roading for example?

10 MR EMAN: Yes.

SJH: So if they grow, even within their existing resource consent, their demand for infrastructure upgrade could increase?

15 MR EMAN: Yes, but the initial resource consent would, and the scale of what is proposed, and what is proposed in the initial resource consent would have been assessed on the basis of “is the infrastructure sufficient for something of that scale and of that nature?”

20 SJH: All right. Mr Allen submitted that discretionary activity status would not necessarily lead to the Council changing its approach to infrastructure, and infrastructure repairs and upgrades. What is meant by “necessarily”, does that mean there are exceptions, and if so what are they?

25

[12.40 pm]

MR EMAN: Sir, I am not sure what he was referring to in terms of “not necessarily”.

30

SJH: All right.

MR EMAN: My understanding is that the assessment that will happen now that it is clear what the number of remaining residents are and where they are were located is that the Council will look at providing those properties with infrastructure that is sufficient for housing.

35

SJH: Well perhaps he can deal with that in closing. You said in answer to Mr Daysh when he was asking about the statutory test it was a section 32 test?

40

MR EMAN: Yes, sir.

SJH: In your 32 analysis is there an analysis of the need for community facilities within this overall area, and the costs and benefits of them?

45

MR EMAN: No, sir.

SJH: Which again would have been helpful to us.

5 MR EMAN: Yes, sir.

SJH: You can take me back to one point, and you may not be able to answer it and I will understand, but you do refer to evidence you relied on to show the average cost for infrastructure of these limited number of properties as \$36,000 per property. Can you compare that to the average across the rest of city?

10

MR EMAN: I can only do it on my own experience as a ratepayer in the city, sir, which would suggest to me that it is probably somewhere under \$5,000 a year.

15

SJH: Okay, thank you.

MR EMAN: Sir, if it helps I can find that out for you.

20

SJH: No, no, I just wanted to know whether they were close together or a long way apart because we did not really – and I understood it related to rates but it would have been helpful just to have that.

25 And finally can I take you to 3.3.11 of Strategic Directions which is a conjunctive objective is it not?

MR EMAN: Yes, sir.

30 SJH: Would it – I am just seeing how you feel, if you think about it – would it be fair to characterise B as a community facilities and education activities equivalent of the centres based approach in commercial? In other words encouraging grouping together.

35 MR EMAN: Yes, sir, I think from a resource management perspective that is what you are likely to see in a District Plan. Obviously there is the possibility of different community activities using the same facility but in terms of what the plan actually provides for, the Plan will just provide for community facilities and it cannot facilitate or certainly does not propose to facilitate in any particular way joint use of the facility. It is much more that the provision of the centres where activities can co-locate.

40

SJH: But it is the encouragement of shared use, is it not? Would that be a fair way of putting it? The plan should be attempting to do that?

45

MR EMAN: Yes, yes, sir.

5 SJH: And sadly, given the disparate nature of this area that is covered by the orange, there is possibly limited scope for that, is there not? If these community activities were approved?

MR EMAN: For shared use of the facilities, sir, I think it is possible.

10 SJH: Well given they are going to be scattered somewhat are they not?

MR EMAN: Sir, I think it am not understanding your question. I can see that if the facilities provided for include things like places of assembly, so a range of activities could use that place of assembly.

15 SJH: Yes but we do not have an analysis of the need and the numbers, and unless they come from outside the zone, given the sheer limitation of numbers, which as I say is very sad but is a fact, how likely is that sharing going to be, that is what I am trying to seek out with you?

20 MR EMAN: I agree, sir, and I think that was my answer to the earlier question. I think the reality is we are talking small numbers at best.

25 SJH: And just finally, and I know it varies from site to site within this area, given that community facilities would be a permitted use in the Residential Zone, on a scale how likely do you think it is that there is going to be this type of development applied for? Do you have a feel for that?

30 MR EMAN: No, sir, I do not.

SJH: Okay, that is fair enough, I understand. Mr Allen, anything arising from the Panel's questions?

35 MR ALLEN: No, thank you, sir.

SJH: Mr McNamara, or re-examination?

MR McNAMARA: Yes, sir, just a couple.

40 **<RE-EXAMINATION BY MR McNAMARA [12.45 pm]**

45 MR McNAMARA: Mr Eman, my friend Mr Allen put to you and you agreed that roughly half the properties in the Flat Land Recovery Zone are within the natural hazard overlay under chapter 5?

MR EMAN: Yes, I am going on figures as per October of this year and things have obviously changed since then.

5 MR McNAMARA: And it is your understanding that new community facilities within a natural hazard overlay are a non-complying activity?

MR EMAN: That is correct.

10 MR McNAMARA: So if the overall activity status for a new community facility in the Flat Land Recovery Zone and an overlay area was non-complying, would it make any difference whether under the Flat Land Zone provisions were are looking at here, activity status were discretionary or non-complying?

15 MR EMAN: No because provided one rule requires it to be non-complying then the whole activity is non-complying.

MR McNAMARA: On a bundling approach?

20 MR EMAN: Well all the issues that are relevant could be considered under a non-complying activity status. So they include infrastructure.

25 MR McNAMARA: And in your view is that something that goes to the relevance of whether we have a discretionary activity or a non-complying activity across the entire Flat Land Recovery Zone for community facilities?

MR EMAN: Yes, to the extent that some sites will not have the infrastructure limitations that others do.
30

MR McNAMARA: Thank you.

35 SJH: Just to follow up on that, essentially half of the privately owned properties, community use would be non-complying anyway because of the hazard zone?

MR EMAN: Yes, something in that order, as I say I - - -

40 SJH: No, no, no, I am not trying to tie you to exact figures.

MR EMAN: The new community facility, sir, yes.

SJH: Yes. So is there anything arising from that?

45 MR ALLEN: No, thank you, sir.

<THE WITNESS WITHDREW [12.47 pm]

SJH: And Mr Anderson is still not here?

5 MR ALLEN: No, sir.

SJH All right well we will take the luncheon adjournment for an hour, given the time we will start back at 2.00 pm but unless there has been something untoward occur, Mr McNamara, we expect him to be here.

10

ADJOURNED [12.48 pm]

RESUMED [2.01 pm]

15 SJH: Yes, thank you. Mr McNamara?

MR McNAMARA: Yes, sir, so I will be grateful if the Panel would agree to Mr Anderson being called out of order, he is on way, sir.

20 SJH: Well what is the reason?

MR McNAMARA: Well, sir - - -

SJH: The schedule has been out.

25

MR McNAMARA: I know, sir, and you will just have to take that up with him, I do not have the reason, sir.

30 SJH: All right, okay. Well we will go on with the schedule. I think it is probably easier if we hear from Mr White first and then we will come to the submitters which is just slightly out of order, okay.

35 There was one other matter I was going to raise, was some questions from the Panel regarding the – this is for you too, Mr Allen – regarding the line of the orange zone.

MR McNAMARA: Yes.

40 SJH: And the evidence we have heard that it is like any other line of that sort, a bit blurry, and whether that is something the process under the Regeneration Bill, which looks at the future use will take into account whether some of these properties should be rezoned Residential Suburban or whatever the case may be. So if you could look at that and deal with that in closings for us, is that all right?

45

MR ALLEN: Yes.

MR McNAMARA: Yes, sir, absolutely.

SJH: All right, thank you.

5

MR McNAMARA: If I just make one other point and I am not sure if it has been your practice in all hearings, sir, but I think in light of the sort of unique characteristics of the area that is subject to this zone, I would recommend a site visit and that I think that does explain some of the unusual features of the objective and the outcome that - - -

10

SJH: No, we will arrange that, I personally am very familiar with the whole area for various reasons, starting right back on day two - - -

15 MR McNAMARA: Right.

SJH: - - - with Red Cross, but we will certainly arrange that - - -

MR McNAMARA: Thank you, sir.

20

SJH: - - - and I think that is a very sensible suggestion, Mr McNamara. It is a little hard to envisage it now with all the houses remove, but it will still be very helpful to the Panel members and I will arrange it.

25 MR McNAMARA: Yes, sir.

SJH: Now, Mr White.

<MR WHITE

[2.03 pm]

MR WHITE: Thank you, sir. I have prepared a copy of this statement that I am delivering today that I can hand up to the Panel.

SJH: Yes, thank you.

5

MR WHITE: So just before I start, sir, there is just a couple of preliminary matters that I would like to deal with.

10 Chief Commissioner David Rutherford wants to express his apology for being unable to attend the hearing today, due to an unforeseen family matter on Friday, he had to withdraw from appearing at the last moment so he is - - -

SJH: Thank you for the apology and I hope it is nothing too serious.

15

MR WHITE: Thank you, sir. And the second thing that I would just like to acknowledge of transparency, is that I am in fact married to Julia White who has previously been acting as counsel for the Crown on this matter, in the circumstances that David Rutherford could not appear, that is why I am standing in, he has spoken to the senior management at CERA who have confirmed that they are comfortable with me presenting this.

20

SJH: All right, well thank you for the disclosure.

25

MR WHITE: So there are basically two key points that I want to address today in my statement, the first one being the use of the Red Zone for zoning purposes and the second one being the human rights implications of the proposal itself.

30

[2.05 pm]

35 Right from the outset, however sir, I want to just acknowledge on behalf of the Commission, the hard work that the Council and CERA has gone through recently, in particular in reaching the latest agreed amendments to the proposal.

40 This is a significant shift from what was notified and in our view goes a long way towards achieving the right balance. However, we are still very concerned about the process that is being adopted itself and the impact that this has had on the rights and wellbeing of Red Zone residents.

45 The Commission has been working on the Canterbury Earthquake Recovery since the earthquakes and their work has always been informed by the voices of the affected people. This has been

particularly the case in relation to the Red Zoned, or those people who have been affected by what has been deemed the “red zone”. That term is a significant issue for many of the affected people because in their view it gives a false legitimacy to that zoning.

5

It is important to remember that the Supreme Court has found that the decision to determine the Red Zones was not lawfully made, it has no legal status - - -

10 SJH: Well that is the majority view.

MR WHITE: The majority view, your Honour, yes.

15 It has no legal status and does not alter the permitted use of land under other legislation, but that is exactly what the proposal is doing in our view. It is using the unlawful Red Zone as a proxy to change Resource Management Act zoning.

20 Furthermore, it is really important to recall that the offers and the subsequent relocations from the Residential Red Zone have been held to be involuntary. It was the Crown’s actions that created the environment that in many respects was considered to be uninhabitable, leaving residents with what Justice Pankhurst described as a “Hobson's choice”.

25

The involuntariness of the offers and the relations has been reinforced recently by many people requesting to buy back the properties that they sold under those offers.

30 We have heard that it has been acknowledged that decisions about the future use of the, whether we continue to call it “The Red Zone” or “The Orange Area” on the plans, will be made under the Red Zone Recovery Programme, this is the proper mechanism to determine the appropriate use of Red Zone land, it is made under the recovery principles and with full community participation.

35

And again if we go back to the Supreme Court in the quake outcast, sir, that was one of their most significant concerns that the community participation had not been engaged properly.

40

So in all these circumstances we consider it is inappropriate to exacerbate things further by again pre-empting the real decision that under the recovery programme the decision on what should happen to this land and those who have chosen despite many obstacles in their way to remain in their homes.

45

Turning now to the human rights implication to the proposal. International human rights law requires any decision by the Crown which interferes with rights, to be lawful, necessary, reasonable and proportionate. This proposal clearly engages the rights of Red Zone residents and the two rights that are most often engaged are the rights to home and to property.

When I say that though we must not forget that all human rights are universal, indivisible, interdependent and interrelated, so we cannot see those two rights in isolation.

The evidence that has been presented to the Panel by both the Crown and the Council has shown that many of the factors purportedly requiring a Special Purpose Zone, can be managed through existing mechanisms. The evidence has also shown that in many cases there is no discernible difference between the status of Red Zone land and adjacent Green Zone land. Using the Red Zone as a proxy creates an arbitrary distinction between such properties.

I in fact visited the Red Zone yesterday, sir, and this arbitrariness is strikingly clear when you go out there.

[2.10 pm]

With only a very small number of privately owned properties remaining in the Red Zone, the Proposal in our view appears to go well beyond what is necessary.

Furthermore, in the absence of individual property assessments the proposal, even as amended, is a disproportionate response.

From a rights perspective it is incumbent on decision makers to respect human rights and to ensure that any decision that they make impacts on those rights as little as possible.

What this means is that where there is a reasonable alternative available to decision makers, which does not impact on rights, that alternative should always be preferred.

The Commission believes that maintaining Standard Residential zoning is such an alternative. It would achieve the Council's aim while impacting less on the rights of Red Zone residents. This is because in our view any risks to the residents themselves to future development and/or to the Council can be mitigated through existing processes.

45

5 The continued delays and uncertainty for those who remain in the red zone is severely impacted on their health and wellbeing, sir. Any ongoing uncertainty by imposing a Special Zone with inferences about the future land use can be expected to exacerbate the negative impact of the Crown's action in relation to the red zone.

Thank you, sir. I am happy to answer any questions that the Panel may have.

10 SJH: Thank you. Ms Huria?

MS HURIA: No thank you, sir.

15 SJH: Mr Illingsworth?

MR ILLINGSWORTH: No questions, sir.

SJH: Mr Daysh?

20 MR DAYSH: Yes, a point of clarification, thank you. Your sixth paragraph on the first part of your statement, you make a statement in the second sentence about the notified proposal. I will read it out. "This direction **(ph 2.17)** is significant shift from the Notified Proposal and goes some way towards achieving the right balance." In your oral presentation
25 you said "a long way" is it a long way or some way?

MR WHITE: It goes a long way from the Notified Proposal, but it certainly does not go far enough in our view.

30 MR DAYSH: Thank you. That is the only question I have, thank you.

SJH: Mr White, in your earlier fuller document and the original submission, you maintained the appropriate course was the "status quo", what exactly did you mean by the status quo?
35

MR WHITE: To continue with the zoning that had applied to those homes previously, sir.

40 SJH: For the 87 privately owned sections or the whole area?

MR WHITE: For the 87 privately owned, sir.

SJH: So in effect a spot zoning?

45 MR WHITE: Potentially.

5 SJH: Now I have every sympathy for those in a sense you a representing, but the reality is we have been appointed by an Order in Council for a Statement of Expectations, which is appendices to that Act, we have to apply – except for the changes or amendments that have been made for this purpose, the Resource Management Act. Have you read the relevant provisions of the Order in Council, the Statement of Expectations, the Strategic Directions Chapter, the RMA?

10 MR WHITE: I have, sir, but my response to that is that all of that has to read in light of the circumstances of what created the Red Zone, and in light of human rights obligations. So we cannot read any of those objectives in their abstract, sir.

15 SJH: So we ignore the Act of Parliament?

MR WHITE: No we interpret it in a way which is consistent with protecting the rights of Red Zone residents.

20 SJH: In what way then can the existing mechanisms protect?

MR WHITE: I guess the point is, sir, that again, and we have seen this long after the Supreme Court decision, the Red Zone has been used time and time again as a proxy - - -

25 SJH: Well I don't like that term, because I have never considered it a zone.

MR WHITE: But that is exactly – if we look at the section 32 report it says “the zone applies to the Canterbury Earthquake Recovery Authority Red Zone”.

30 [2.15 pm]

SJH: Yes, I understand that.

35 MR WHITE: I mean we can call it what we want but in effect for these people this artificial zone has been used again to undermine their rights, and for them it is suggesting what the future land use might be, and that is pre-empting what the Supreme Court says was the right process to achieve that.

40 And this is why I made the point about rights not being indivisible, the fact that that is the inference that Red Zone residents are taking puts a huge impact on their right to health and their right to an adequate standard of living. Okay, and we have seen right through the process
45 that the health and wellbeing of these people have been pushed down

further and further by failing to acknowledge that their rights were not taken away by the Red Zone.

5 SJH: If for example we rezoned them all residential tomorrow, how would all uncertainty be removed, given what they are surrounded by? Considering that half of them are going to be, probably, and it has not been decided yet, but it is highly likely I think you would concede, within a natural hazard area.

10 MR WHITE: Well again, we dispute without individual property assessments that they may actually be the reality, sir. I mean the distinction between the red and the green is indiscernible at times, as I think in failing to actually conduct an individual property assessment to assess those hazards is problematic in itself.

15 To your first question as regards future use, the certainty is not around what will happen after the Red Zone Programme is complete and the decision is made, but the point is that nothing will be taken away until the right process has been followed and there has been the proper community participation which is envisaged by the Recovery Plan and set out very clearly - - -

20

SJH: The Recovery Plan or the Regeneration Plan, sorry?

25 MR WHITE: The Recovery Plan I believe, sir.

SJH: What is the difference between what is proposed in the final version and a residential zoning in real terms as to land use?

30 MR WHITE: In real terms, I do not think very much, sir. But I put the same question back to the Panel, what is the difference between Residential zoning and the Specific Purpose Zone in real terms? We have got 80 properties, most of which - - -

35 SJH: Well no, no, no – it is not the whole of the area, because you have assumed that, you said it is only the individual properties, which would be little spot zones around the place.

40 MR WHITE: Yes.

SJH: So that is different from what you have just said, isn't it?

45 MR WHITE: But then one of the risks that has been raised by both the Council and the Crown is the development risk. Now, 99 percent of the land we heard is owned by the Crown, so surely that risk can be managed between the parties and existing mechanisms. If we then are

left with these 80 privately owned properties where none of the things that have been suggested are going to happen, are actually going to happen in reality.

5 So the same reality check has to go both ways and where undermining rights to do something with no legitimate purpose in the big scheme of things, taking all the circumstances into account, then we do have to ask ourselves what is the point?

10 SJH: Well I will repeat the question, what rights in reality are being taken away, given what is now in the notified version?

MR WHITE: The rights to enjoy their home without interference, in the same way they had prior to the Red Zone being designated.

15

SJH: That is not actually answering my question, I am afraid.

MR WHITE: So you are asking which – I mean I am not a planner, I am not -
- -

20

SJH: Well that is the problem, we have still got to apply the RMA, you are just telling us we can just simply set it aside, we do not do any section 32 analysis, we just set the whole thing aside.

25 MR WHITE: No, that is not what I am saying.

SJH: And perhaps you can then explain to the Panel how in terms of the Order in Council we can do that. Whatever sympathy we may have, we were created by the statute, just explain to me how in law this Panel can ignore that?

30

[2.20 pm]

MR WHITE: I think, sir, that when we look at all the evidence that has been presented and we look at the circumstances in that area as they really are, and what the real impacts will be, you can exercise your statutory duty while not putting restrictions on the homes of those who remain in the residential (**INDISTINCT 0.30**)

35

40 SJH: Well to do that we would have to do a section 32AA analysis because it is not in the existing section 32 analysis, would we not? And you have called no evidence to assist us in that regard?

MR WHITE: No, I have not, sir, as I said - - -

45

SJH: So where do we get it from?

MR WHITE: Well - - -

5 SJH: I am really not trying to be difficult, Mr White - - -

MR WHITE: Yes, no, no, I understand, sir.

10 SJH: - - - but what you are proposing is not as simple as it looks a first blush that is all.

MR WHITE: Yes. It is not normal process but we would be happy to provide that evidence and that information. We have not at this stage - - -

15 SJH: Well you had the opportunity to call evidence if you wanted to do so.

MR WHITE: Well, as I said this morning, sir, we made a decision that as we came in so late in the piece that it was more appropriate for us to present in this way - - -

20 SJH: All right.

MR WHITE: - - - rather than being involved in the full hearing.

25 SJH: Okay.

MR WHITE: If the Panel does want further assistance from us we are more than willing to give that.

30 SJH: You may not be able to answer this but why did you decide so late in the piece to be involved in the process?

35 MR WHITE: Because, sir, we were hearing what an impact these decisions were having on some of the residents that remained in the Red Zone and so that prompted us to look further into what had happened since our original submission in September.

40 SJH: All right, well can I just go back, and if you cannot answer this because you are not a planning lawyer, just say so, but in terms of what is notified for these properties, what is the difference between this and doing what you are asking, in terms of their land use?

MR WHITE: Sir, I do not think - - -

45 SJH: And if you are not able, do not hesitate to say that **(INDISTINCT 2.17)**

MR WHITE: No, I mean I am not a - - -

SJH: I quite understand.

5 MR WHITE: I am not across all that as much as I should be, sir. I mean the
fact of the matter is that the zoning is changing based on the Red Zone
designated and we have heard today about changing the boundaries to
pick up some of those properties on the edge, and that is exactly what
we are advocating for, that each property needs to be considered
10 individually. We are now down to these 80 or so properties. We cannot
be doing an area-wide assessment anymore, and an area-wide
assessment which is based on what has been found to be an unlawful
process.

15 SJH: Yes, obviously I cannot take it any further.

MR DAYSH: Yes, one, just a process question, the ability for the residents to
assess a proposal, make a submission be heard as part of the resource
management process we are following, that provides a vehicle to be
heard and for a decision to be made on the evidence and the
20 information, is that a good process from your point of view?

MR WHITE: Generally speaking or in this situation, it is two different
questions?

25 MR DAYSH: Well give us both then.

MR WHITE: Generally speaking, I mean the consultation process in the
Resource Management Act is considered sound, and the engagement
process through submissions and so forth does provide an avenue. The
30 problem is that it is not sufficient in these circumstances and this is a
situation where people have been consistently pushed down by
government and local government decisions, often inadvertently, you
know, it is not the intent of either the Crown or the Council to have
done that, but they have been significantly pushed and they do not
35 engage in these processes anymore and there needs to be a bit more
proactive consultation and engagement with each individual property
owner to understand the circumstances of their property and their
personal circumstances.

40 [2.25 pm]

SJH: But this is the RMA process. The timeframes of it have been abbreviated
but otherwise it is the RMA process.

45 MR WHITE: Which is sitting alongside another process, sir.

SJH: Well natural disasters have consequences unfortunately, do they not?

MR WHITE: They do, and the Crown has a responsibility to respond to those consequences in a way which respects human rights, sir.

5

SJH: And I am bound to say, if we are being asked for something we expect assistance. And at the moment we really have not got it. And I do not say that as a criticism, it is just the reality of where we are at, at this moment of time, is it not?

10

MR WHITE: That is right, and as I said it is unfortunate that we have got engaged so late in the piece, sir.

SJH: All right, thank you Mr White.

15

MR WHITE: Thank you.

SJH: You may be excused if you wish.

20

MR WHITE: Thank you.

<MR WHITE WITHDREW

[2.26 pm]

25

SJH: Right, Mr Tsao, we will come to you. Just make sure you speak into the microphone for us please.

<ERNEST TSAO

[2.26 pm]

MR TSAO: Thank you, sir. I am not a lawyer or any professional expert, I am just saying this as a resident in the red zone. It was interesting to see how our local and central governments dishing out and discussing our fate as to what we can do with our homes and the future of our lives.

5

The Proposed Zone was just an instrument in my view, formulated for the government's later planning intentions. The Council turned down the heat for the residents but it did not take us out of the oven. I think that is the best analogy that I can give to the Panel today. Given that the Council and central government have spent a considerable amount of time today discussing what I seem as a trivial issue, under what planning mechanism that a community facility will be allowed, whether or not an operator would need to apply for a resource consent. To me that is a non-issue.

10

15

The revised version of the Proposed Zone removes a small part in the Central City Red Zone from the Residential Red Zone. I am not aware of any prior consultation or reasons given from either side. This to me indicates double standards on the part of the crown and perhaps the Council and there was no discussion or dispute on that, even though the Crown owns all the properties there.

20

My discussions with the City Council regarding putting my house on the other side of the boundary served as an exercise for me to do some fact finding. I had no illusions that my endeavour would succeed. However this endeavour did show a lot of important information. One of the most important issues was that the only sticking point was the infrastructure and time and time again we come back to the issue of whether or not a particular property as enough infrastructure capacity to service a particular potential hypothetical future use that is allowed for in a normal Residential Suburban Zone as opposed to this Proposed Specific Zone.

25

30

I think that is just a red herring. I mean who controls the infrastructure? Who calls the shots? I think the answer is obvious. And the Crown knows that. From day one of the 2011 June Cabinet decision that established the Red Zone, the Council had to take directions or orders from the central government in regards to doing any infrastructure work in the designated Red Zone. Even the Prime Minister promised on national television that people are still living in the zone, pot holes will be repaired and roads will be maintained. That is one promise that I can tell you that has not been kept.

35

40

[2.30 pm]

5 So I guess my point is that, as a resident in a red zone, on the receiving
end of Central and Local Governments decisions, I have no control, no
say over what happens to the infrastructure because I do not own it, the
City Council has some say but in the end the Crown calls all the shots
either through CERA or the proposed new entity called “Regenerate
Christchurch”, and funny I made a submission and appeared in front of
10 the Parliamentary Committee just on Friday and gave my two cents on
that.

15 I can see that following the Supreme Court ruling in favour of the
Quake Outcast case which I have been very closely involved in, that
the present day government has not really done anything to honour the
judgement from the courts, it revised the buyout offer from 50 percent
of the 2007 land only RV to 100 percent of the land only RV, to the
remaining uninsured residents.

20 That to me is a slap on the face by saying that, you poor buggers I do
not give a rodents bottom why you are uninsured or if that has any
bearing to do with the government wanting to take your land, I think
that is great departure from what our society has established itself in the
traditional Magna Carta sense from, was it the 17th or 16th/15th
25 Century, that is one of the few principles that still being upheld today I
hope.

30 So the government’s after the fact, retrospective manoeuvring trying to
hijack and use a planning mechanism to establish some sort of
legitimacy to the Residential Red Zone which was already ruled
unlawful essentially. To me it is just something that is a dirty trick, it is
legal chicanery, trying to cover its own behind, and to allow for easier,
future planning change or a plan change under whatever future
mechanism that may come.

35 And it makes far easier to have an intact ring fenced area that one can
draw on a map and to conveniently change the designation some time
down the road. And my main objection is that I and many other
residents that are still remaining should not be subjected to this
40 arbitrary and potentially protracted long process and uncertainty as to
what is going to happen to our land and our homes whether or not we
can make any real decisions on what to do with our homes from little
simple things like maintenance, to bigger things like renovations and
other plans that would revolve around our everyday and mid to long
45 term life decisions, we have been held hostage by all this.

5 So Sir John Hansen, to answer one of your questions to Mr White, what
difference would it make between what he is proposing and what I am
proposing too, and what the Crown is proposing? The difference is that
under what I am proposing the residents will not have to endure that
level of uncertainty, at least not under this particular planning
mechanism that we have to worry about, for God's sake how long/how
many years that we have to endure sleepless nights as to when the next
planning review might come up and we have to be prepared and lose
some more sleep over it and spend more time and energy fighting for
10 our rights.

15 So in that regard I think all the discussion around costs and
infrastructure, it is just not important. I think the Crown's giving us the
right to rebuild and build new houses under the proposed rules is a red
herring as well because they know full well, if they wanted to use the
compulsory acquisition powers under the new "Regenerate Bill", they
could have used that, and there is no real sense that any of the residents
could use and exercise that right in time.

20 [2.35 pm]

25 So in its essence I think they are just giving us what we may never use,
and it looks very well on paper that we are getting all the normal rights
of a private residential zoned property, but in reality it is very different.

30 So in conclusion I think what the Crown is trying to achieve is to mop
up the mess that it has inherited from the Residential Red Zone, from
the 2011 Cabinet decision and to tie up some loose ends and to use
infrastructure as its main weapons as an argument.

35 So I like to pose this question, this rhetorical question to the members
of the Panel, how would you like to have your homes subjected to an
ongoing and uncertain and potentially protracted process that is still yet
unknown to you?

40 Your future is uncertain and it is in somebodies else's hands, it is not a
good feeling, and I have been on the receiving end for the last four and
a half years and I am tired, I am exhausted and mentally and physically
exhausted, I have lost weight, I have lost sleep, I have spent countless
hundreds of hours doing this and that just to protect whatever little
rights I have still left. I could have spent that time to work on my
business, I am a small business owner and I work very hard and very
long hours, I could have used that time and energy to build my business
and contributed towards the recovery of the Christchurch economy, but
45 I was forced to go through all these processes and this planning process
being one of them, one of many.

You have to see the big picture that what the government is trying to do here, this is just one small piece of the puzzle that they are doing to achieve their aims.

5

So I implore the Panel, please have heart and have the foresight and somehow find a way within your powers as mandated by the orders and council, to find a way to give us some reprieve.

10

Thank you.

SJH: Thank you. Any questions, Ms Huria?

15 MS HURIA: Yes, did I hear you say that costs and infrastructures were not important?

MR TSAO: Yes.

20

MS HURIA: Can you - - -

MR TSAO: I think - - -

MS HURIA: - - - perhaps just – I heard that - - -

25

MR TSAO: Well it is not important to me if they it is what you are asking, because I am a ratepayer, everybody else is a ratepayer and we pay our rates, so as far as we know we have done our bit. We have not done anything wrong. We have not done any illegal acts or anything to warrant this kind of treatment and, of course I acknowledge that there is some issues with cost and I know that the Council is in financial difficulty, and that is not my doing, it is not any of the residents doing, it is just the way it is and it is because of may be the government's policies and Councils management, I do not know, but that is not my responsibility, that is why we have governments for.

35

MS HURIA: Thank you, thank you for that, thank you, sir.

SJH: Thank you. Mr Illingsworth?

40

MR ILLINGSWORTH: Yes, good afternoon, Mr Tsao.

MR TSAO: Good afternoon.

45

MR ILLINGSWORTH: Paragraph 32 you suggested a “normalising zone”, so by that I take it that residential, the zone that it was previously previous the earthquake?

MR TSAO: That is correct, I prefer that.

5 MR ILLINGSWORTH: And is your position the same as the Human Rights
Commission in that you are suggesting just the sections of the
individual private landowners be rezoned “normal”, if you like or what
it was before but the rest could be zoned Flat Land Recovery?

10 MR TSAO: I would like to clarify that, I did not specifically say that I wanted
to have just the private property rezoned or the whole of the Red Zone
rezoned, I did not go specifically into that because I know it is
technicality and it is quite difficult. However, it is important and I
understand even as a layman that how difficult it may be in terms of
logistics.

15

[2.40 pm]

20 So I think what I want to say is, this is a question that is best answered
by an expert, but as a layman I am just saying that this is my land, this
is my home, and this is the way I am being affected and I have been
affected, and will be affected if this plan goes ahead as it has been
discussed today.

25 And what I would like to propose is to find a way – how to find that
way I am not sure, but the end result for me - - -

30 SJH: Sorry, the question is, in your view should it be just the 87 individual
properties that are zoned Residential or the whole of the area that is
wrongly called the Red Zone?

30

MR TSAO: I would prefer that whole area to be zoned Residential.

SJH: Thank you.

35 MR ILLINGSWORTH: Thank you. Could you me, is your property one of
the ones that is green outlined on the planning maps?

MR TSAO: Yes.

40 MR ILLINGSWORTH: It is green lined, and is quite close to the Green Zone,
isn't it?

MR TSAO: It is right next door to my Green Zone neighbour, yes.

45 MR ILLINGSWORTH: So I can see from Mr Eman's rebuttal that obviously
Council and yourself have looked at a number of different ways in

trying to remedy your particular situation, I think his paragraphs 5.5 through 5.11 in Mr Eman's rebuttal, you agree with most of the things are in that part of the Mr Eman's statement?

5 MR TSAO: I agree that there are options in terms of finding cheaper and more efficient ways to re-route services to my property, but I do not agree with the other parts where he said that my property should remain in the zone for whatever reason that he stated.

10 MR ILLINGSWORTH: Because endeavouring to put myself in your position, I have empathy for you, I am trying to understand that even if you were Green Zone how issues like access could easily be remedied, because it appears that they are below the river level and are protected by a temporary stop bank at the moment, and even if you were Green Zone,
15 the Crown controls that land anyway through Council. So I am trying to understand how, even if your zoning was changed you would be better off.

20 I guess this relates to Sir John's question, what difference does it make, apart from your uncertainty, I understand that, but how do you remedy these issues like a road having dropped one and a half metres or whatever it has dropped?

25 MR TSAO: I do not know how much the road dropped but I have recently emailed LINZ and CERA and asking for a proposal to reroute my driveway from facing down the river onto a side street, but that will require their agreement to swap the little piece of land for the driveway.

30 MR ILLINGSWORTH: That is Crown land, yes.

MR TSAO: And that will solve all the problems.

35 MR ILLINGSWORTH: Okay, I am not going to ask any more questions, thank you.

MR TSAO: Thank you.

SJH: Mr Daysh?

40 MR DAYSH: Yes, thank you. So you have had some discussions with Mr Eman through this process about the planning provisions and the rules and policies, been involved with some discussions. Can you explain what those were, did you go to mediations or were they one on one discussions?
45

MR TSAO: I attended the mediation, and following the mediation I had a telephone conversation and then followed by a face to face meeting with Mr Eman and several members of the City Council's Infrastructure team.

5

MR DAYSH: Okay, and how long ago was that, was that recently?

MR TSAO: That was a week ago.

10 MR DAYSH: Right.

MR TSAO: Yes.

15 MR DAYSH: Yes, and you have heard today that there has been quite a change in the way the objectives and policies have evolved, and there has been quite a change from the notified version to what we have got today. Do you think those provisions have improved from what was notified in your view of how they affect you as a resident?

20

[2.45 pm]

25 MR TSAO: Improved, yes, but still my main worry is that – how should I put this, like I feel I am being put in an internment camp, and the City Council and the Crown are discussing what kind of food to serve us, or how much choice to give us with food. And in essence we are given all the rights, same as everybody else, outside the camp, but I am still in the camp. I do not know if that's a very good analogy, but it is the best I can come up with.

30

I still live in that zone and under the planning rules, under the planning mechanism I am still different and I am still being stigmatised and I am still subjected to an uncertain future date that my home is going to be reviewed and re-planned and the fate of my home and my life is still up in the air. That is the main problem that I have with this particular proposed chapter.

35

MR DAYSH: Okay. Thank you very much. That is very clear.

MR TSAO: Thank you.

40

MR DAYSH: I appreciate that.

SJH: Thank you. Ms Burney? And you have those documents to hand in?

45

<ERNEST TSAO WITHDREW

[2.46 pm]

<JAN BURNEY

[2.46 pm]

MS BURNEY: Yes, I do.

SJH: Do you have copies for the Panel.

5 MS BURNEY: I do, yes. My statement is on the top and there is a cover letter for those underneath.

SJH: Yes. Thank you. Yes, if you just go straight to it. Now, the one's that
10 you have handed in with this, are all people that live in your immediate surrounding?

MS BURNEY: Yes, they are all Brooklands residents.

SJH: All right, thank you.

15 MS BURNEY: I will just do a short - could I ask the Panel to accept the signed statements from the Brooklands residents affected by the Specific Purpose Flat Land Recovery Zone?

20 SJH: We will do that.

MS BURNEY: Thank you. And I will just read from my statement. I live with my partner, Gary Sharlick in Brooklands community. Gary has lived in Brooklands for over 30 years and I have lived there for over
25 20. We own two properties.

Both properties are still connected to the original wastewater and sewer provision, I have normal service. We were notified on 23 July 2015 by the Christchurch City Council that our properties were directly affected
30 by the proposed changes to the Christchurch Replacement District Plan. The property is currently in the District City Plan, are classified as Living RS, Rural Settlement Zone, and on my statement there is an attachment 1 showing a description of that.

35 CERA zoned our land red. The Proposed Replacement Christchurch District Plan proposes a Specific Purpose Flatland Recovery Zone.

In Brooklands at least five new homes have been erected since the earthquakes, the last two within the last months under the current
40 planning provisions.

The letter from the Council notifying affected owners has, in paragraph 2, attachment two, the Canterbury Earthquake Recovery Act 2011 allowed for recovery plans to be put in place to help the city recover
45 quickly after the earthquakes. The Land Use Recovery Plan provided

for residential land to be freed up for development. The same plan fast-tracked the District Plan Review.

5 The Council Notification states “CERA’s residential Red Zone programme will explore future uses of this land. Eventually a plan change will be needed to confirm the future zoning of this land, determining what can happen there and the rules covering that.”

10 In the Crown opening submissions, the Crown position objective, a largely open environment with a low density of residential and non-residential activities, one, reflects the changes in land use area; recognises the natural hazards affecting my property; recognises the infrastructure limitations; acknowledges interim nature of the zone and maintains long term potential of the are to contribute to the recovery in
15 enhancement of Christchurch.

I believe points 1, 4 and 7 of the Crown opening submission predetermine the future use of the land notified, Specific for Purpose Flat Land Recovery Zone prior to public consultation and are not
20 consistent with LURP.

These objectives include private property which will be, or could be, by inclusion included in public consultation on the future use of the land notified Flat Land Recovery Zone. The specific purpose Flat Land Recovery Zone amalgamates privately owned land with that of the
25 Crown, acquired land and the Christchurch City Council owned land.

30 On 25 September 2015 the Ministry of Canterbury Earthquake Recovery and the Mayor of Christchurch and the responsibility for the long term development and enhancement of the Residential Red Zones will sit with the new entity to be established, called Regenerate Christchurch.

35 **[2.50 pm]**

Jointly the Crown and the Council via the Special Purpose zoning, are pre-empting the future use of the land called red and they have included private property for future use in this zoning. This is effectively regulating taking private property by restricting use and locking in to
40 an interim zone for an undetermined length of time. This process also devalues the property’s worth and amenity value.

45 An internal CERA paper prepared in the beginning of June 2011 in discussing land retirement, identified options which the paper stated were not all mutually exclusive and so a combination may be appropriate. The options were (a) a voluntary or compulsory

5 acquisition, (b) using the power under s27 to amend the land use zoning under the City Plan, (c) removing existing use rights related to the land, (d) the Minister could direct under s16 that the recovery plan could be produced setting out the amendments required to the city plan and any other relevant RMA documentation and the Christchurch City Council amending the City Plan to change the land zoning.

SJH: Just pause a moment. The (a) to (e) there, that is a quote, is it from something?

10 MS BURNEY: Yes, the options internal paper, that internal paper and I took that from the - - -

15 SJH: Right, now does that continue as a quote or is it then your evidence? Because you do not distinguish between what you are quoting and what you are saying which makes it rather difficult.

MS BURNEY: Okay, I am sorry.

20 SJH: So (a) to (e) is a quote?

MS BURNEY: Yes, it is.

SJH: And the voluntary offer was not so voluntary, is that your words?

25 MS BURNEY: That is mine, yes.

SJH: Right, okay.

30 MS BURNEY: Sorry.

SJH: If you come to any others and they are a quote, just indicate to us.

35 MS BURNEY: Okay, sorry.

SJH: Thank you.

40 MS BURNEY: The voluntary offer was not so voluntary after all. The notified proposals in the specific purpose Flat Land Recovery Zone and as was discussed in June, are the same. The voluntary offer option chosen by CERA did not come with the condition that if we did not sell that we would have our existing use rights or our residential status changed or removed. The District Plan proposal is the option considered but not chosen by CERA.

45

5 This zoning is a continuation of the red zoning. If the Crown could not get the people to move by voluntary offer, then they would go to the next phase, the City Plan and the zoning. Private property owners zoned red have had prolonged uncertainty, lack of security on ownership of land and homes for over five years now, and the Specific Purpose Flat Land Recovery Zone creates even more ongoing uncertainty and anxiety.

10 We are living in fear of compulsory acquisition. Owners of the private property targeted and called red have not had an equal opportunity to recover from the earthquakes. We have had no individual community, social or economic recovery within our city or with our fellow citizens. Experiencing and living this red zoning and the consequences feels like a form of individual, social and economic discrimination. We have
15 been set apart from our city, singled out and targeted as the losers, excluded because we were red zoned.

20 The social and emotional effect has definitely had an impact on the well-being and all aspects of our day to day lives. The value of our properties has also plummeted.

25 The Red Zone is a land category guideline only which indicates requirement for site-specific conditions of post-quake identification for remediation of land. Red is not a zone in the City Plan, it has no legal status. The Specific Purpose Flat Land Recovery Zone in the District Plan is legitimising the Red Zone into planning and red zoning private property owners again who did not accept the voluntary offer. CC and the Crown are seeking to make an unlawful zone lawful.

30 Is a non-acceptance of a voluntary offer to purchase private owned land a reason to rezone that private land under the District Plan? It is effectively disestablishing the current provided zone provisions for an intention to use in the future. Taking land by stealth to secure enhance the Crown and Council ability to capitalise the maximum benefit and return on future use, but that is at a private property owner's expense
35 and under the guise of a natural disaster recovery programme.

[2.55 pm]

40 Amalgamation of private owned land with that of the Crown and Council owned land will allow the same appalling indignity that the red zone bare land and uninsured suffered – public notification on our futures. The ability to self-determine our futures is diminished and will be put up for public scrutiny and discussion. This would amount to
45 public humiliation just because our properties were the most affected and badly damaged in a natural disaster.

5 The Red Zone process has been cruel and the Specific Purpose Flat Land Recovery Zone is continuing that. The Specific Purpose Flat Land Recovery Zone is the Crown and the Christchurch City Council red zoning us twice. The voluntary aspect in view of the objectives of the Specific Purpose Flat Land Recovery Zone appear to be a farce. We took their word that it was a voluntary offer, that infrastructure was required to be lawfully maintained by the local authority.

10 This zone is effectively setting us up for compulsory acquisition of our privately owned property in advance of future intended use or public consultation. This amalgamation is being rushed through with no real consultation or ability to review and submit with full knowledge. There is no recovery plan for the red zone to enable informed decisions and public submission. The Flat Land Recovery Zone is proposed to be an interim zone that allows reduction in scope and activity that can be undertaken as of right and also as an inclusion of private property in the future use of land acquired and land owned by the CCC and Crown.

20 We do not want to be temporary. We do not want to be on hold. We do not want to be interim. We wanted a recovery. A hazard notice will be put on our land if we do not mitigate against earthquake damage and land subsidence. The chapter 5 Natural Hazards provision allows for repair of earthquake damage to land until 2018. Prolonging real recovery with an interim zone with what is currently provided for in the District Plan will allow refusal of resource consent for hazard mitigation if this interim zone continues.

30 The Specific Purpose Flat Land Recovery Zone is area-wide. I am unsure what mechanism is within the planning that allows for establishment of a zone based on a zone that was deemed unlawful. Considering the unique nature and the varying natural disaster damage within each area and suburb of Christchurch, the Specific Purpose Flat Land Recovery Zone covers a vast area of land requiring differing approaches to the future and ongoing use.

40 Site specific requirements and standards for consent conditions require are set via determinations from professional reports of geotechnical engineering and survey for private property owners. The limited number of privately owned property within the Flat Land Recovery Zone is unlikely to have any real adverse effect, either within the provisions of the chapter 5 Natural Hazards or limit the Crown and Council's current use of the land, and as no future use has been decided it is an unknown element for the Christchurch City Council planning to make provision for the in the District Plan.

45

I see no purpose to amalgamate all of the land called red and do not see it as necessary or appropriate. Site specific requirements and standard for land use and hazards are dealt with in other chapters of the District Plan. The zoning is just a convenience for the Crown and Council. It is not a necessity considering there are provisions within existing site specific zones in the District Plan, in the City Plan that exists for land use.

Appropriate considerations, consultation, engagement with individual affected property owners and communities for land use and zoning changes would be met once the future use has been decided. Targeted, individualised property and community-wide approach would be more appropriate for the recovery of each individual area, community or suburb as well as private property.

I seek the deletion of chapter 21, Specific Purpose Flat Land Recovery Zone or exclude private-owned property from chapter 21 of the Proposed Christchurch Replacement District Plan. I have heard today that that could be difficult.

The difference between what the Council is proposing and what is already provided for is the uncertainty and that uncertainty has no time limit, it could go on for years and years and years.

[3.00 pm]

Gerry Brownlee in a public statement said that the land could take 10 years to sell. We have already had five years of uncertainty.

I have a suggestion. The Brooklands' community is a Living Rural Settlement Zone, I have put the City Plan in with the papers there and shows a description of Brooklands and Spencerville. The Living Rural Settlement Zone closely resembles the Specific Purpose Flat Land Recovery Zone.

SJH: Is that taken from the Operative Plan or the notified chapter on rural - - -

MS BURNEY: Yes, it is, it is the Operative.

SJH: - - - that we have already heard?

MS BURNEY: No, it is in the residential, Peter? I am pretty sure, it is in the Christchurch City Plan 1.4 Living RS Rural Settlement Zone and it is a description of that zone within the City Plan and that is the Operative City Plan.

SJH: And that is what you are recommending for your area?

5 MS BURNEY: I am suggesting an option that Brooklands, that particular zone takes into consideration the floor levels, the hazards already even prior to the earthquakes. That zone, Brooklands was a zone that had floor level flood management issues along with a lot of the, obviously some of the characteristics post-quake of the Red Zone land.

10 A lot of the issues within that you are talking about with infrastructure, stormwater were identified in the Brooklands area prior to the earthquakes and these were resolved through floor heights, through soak chambers, through sewer and drainage planning. These are not, they do not need to be interim, these are already in the City Plan. I think the Specific Purpose Flat Land Recovery Zone is very similar to
15 that Living Rural Settlement Zone and could take on some of those provisions without a rezoning or putting another plan into action. We do not need an interim zone, we need to recover.

20 SJH: Thank you.

MS BURNEY: Thank you very much.

SJH: Ms Huria?

25 MS HURIA: No questions, thank you, sir.

SJH: Mr Illingsworth?

30 MR ILLINGSWORTH: No questions, sir.

SJH: Mr Daysh?

35 MR DAYSH: Yes, thank you very much for that. That background is very helpful. Were you involved with the mediation and the discussions with the Council planners and the Crown planners around the zoning?

MS BURNEY: Yes, I was.

40 MR DAYSH: Yes. So you make a statement I think that, I am trying to find it, that your existing rights to allow residential status changed will be removed if you did not sell. Do you understand that under the new permitted activity 1 that residential activities, which is defined in the plan, is permitted just the same as it would be on your land if it was not
45 in a Residential zone?

MS BURNEY: I understand that they are saying it is but I also understand that the natural hazards proposal restricts and limits what we can do. In my area I am in high hazard, flood ponding, flood management means that under those proposals, and I have a letter from Peter Eman stating that – sorry, not stating, I cannot remember it exactly but that we may be only able to still, under the hazards chapter, use existing rights basically.

I will not be able to put perhaps a building platform to raise my floor height out of the inundation zone. I had considered putting in asking for an exemption from the chapter 5s in the Specific Purpose Zone objective 21.1.1.1 to delete or amend NC6 so that coastal hazard mitigation works are not specified as non-complying activity but a discretionary and permitted activity to enable recovery from the natural disaster.

[3.05 pm]

That is in line with other property owners in Christchurch under the Natural Hazards Plan, Chapter 5, has that provision that allows for recovery from earthquakes so that you can fill your land or raise your floor heights with less restrictive activity and that provision will go until April 2018. That is an exemption or an addition to the City Plan or some of the recovery activity.

If we are in an interim zone and these apply, we don't get that same – I have questions, will we get the same provisions? Will we still be able to do that, or will the council say you are in a Specific Purpose Zone therefore we will apply that provision NC6 literally when in fact under the District Plan and the City Plan we are able to recover from the earthquake and have a separate provision for that.

We are already well behind the eight ball in starting, so even 2018 is going to be not a timeframe that we can meet.

MR DAYSH: Where you here when I was asking questions about the timeframe for the regeneration planning process?

MS BURNEY: Yes.

MR DAYSH: And I think the answer was that it is still being considered and should be - - -

MS BURNEY: Yes.

MR DAYSH: - - - so I think you make a comment that there is no recovery plan for the red zone land, but that regeneration plan will effectively be a very specific recovery type plan for the whole area, won't it?

5 MS BURNEY: We haven't had one though, have we?

MR DAYSH: I am just saying, in the future - - -

MS BURNEY: Yes, I understand that regeneration - - -

10

MR DAYSH: - - - one is well and truly signalled.

MS BURNEY: Yes.

15 MR DAYSH: Yes. So you - - -

MS BURNEY: We have seen a lot of delays with a lot of these recovery plans. The Minister has been saying that they are going to have this public consultation. They have had the public consultation on the red zone in the Waimakariri District Council, they have gone through that entire process. Why hasn't that same timeframe and process been taken through to Christchurch? So it has been managed to have been done in other areas where they are getting a little more certainty and a little further ahead, but we are still years down the track.

25

MR DAYSH: Okay. Thank you very much for your evidence.

MS BURNEY: You are welcome. Thank you.

30 MR DAYSH: Thank you.

SJH: Ms Burney, are you a submitter on the last part of the Natural Hazards chapter?

35 MS BURNEY: Yes, I am. I sent a submission in last week but I have not had a reply back. I believe that some of the dates were on Tuesday, tomorrow, or Monday and Tuesday where that was being held. But I have not had a reply back.

40 SJH: Why did you submit only late week? Were you a late - - -

MS BURNEY: No. I already submitted under my original submission, but I asked for the opportunity to be heard at that hearing - - -

45 SJH: Well the hearing hasn't been held yet.

MS BURNEY: No. It was mediation, sorry. I asked to be heard at the mediation so I could ask for perhaps an exemption.

5 SJH: Well I can only think it is one of the coding issues we have constantly had with the submission received by the Council which makes it almost impossible for us to isolate people out. But you will certainly have the opportunity to submit on that chapter, and no doubt you will do so.

10 MS BURNEY: Yes. I would like to see it - - -

SJH: But that is a separate issue from this, isn't it?

15 MS BURNEY: To a degree. In a way, yes, and in a way, no. One of the provisions the Crown put emphasis on the fact that the Natural Hazards is closely linked with the Specific Purpose Flat Land Recovery Zone. And during mediation the Council, Peter Eman, suggested taking the Natural Hazards out because those provisions were already provided for in other chapters of the District Plan, therefore it didn't need to be in the Specific Purpose Flat Land Recovery Zone. But the Crown
20 wished to see that in there. And as long as that provision for the hazards is sitting there, then I think it could be altered within this to allow that recovery.

25 SJH: Well we will have to look at that. I don't think that is correct, but that is a matter for the Natural Hazards decision and no decision has been made on that yet. There is a notified version, but whether that is successful remains to be seen.

30 MS BURNEY: Yes.

SJH: And it is too early to say.

MS BURNEY: Right.

35 SJH: So thank you very much for the submission, and also the statements lodged by all of your neighbours.

MS BURNEY: Thank you.

40 <JAN BURNEY WITHDREW [3.10 pm]

SJH: Mr Bourke?

<STEPHEN BOURKE

[3.10 pm]

MR BOURKE: Hello Panel, my name is Stephen Bourke, I live in Brooklands and have lived in Brooklands for over 20 years. In this time I have watched this small coastal community being built and in the last years I have watched it being pulled down or pulled apart, not so much by the earthquakes but by the illegal zoning by the Crown of the red zone.

I mean, I agree with what Jan Burney and Ernest are saying but most of what I am hearing today goes back to infrastructure and the future of our land and can the infrastructure be repaired or rebuilt.

In the red zoning there are lots of areas, there is Havenside, there is Brooklands, there is all individual areas and all these areas are very unique with their services, and Brooklands is very unique in itself and I just have a plan here just of the services from SCRIT, could I give that to the Panel?

SJH: Yes, thank you. Did you keep yourself a copy to speak to?

MR BOURKE: Yes.

SJH: Yes, thank you.

MR BOURKE: I will just go through this first, as you will see on this plan there is Kainga, Brooklands and Spencerville and the way the wastewater works in this part of Christchurch is, it runs on a low pressure sewer line which most of the villages, Kainga, Brooklands and Spencerville had gravity fed sewer systems that went into a low pressure pumping line, this line goes from Kainga through Brooklands through Spencerville out through Bottle Lake Forest to Bromley.

This service services Kainga which is upstream of Brooklands and goes down the main street of Brooklands. It is not difficult and Donald Booth from the Council, we had a meeting last week, and admits that the services are not hard to repair in Brooklands because there is a low pressure sewer line is there plus it is still in the future going to feed Kainga plus we have to remember in Brooklands there are green zone areas and my property is right next to a green zone area.

So when they say about the cost to maintain services of 26/36,000 per property, in Brooklands it is nothing like that and we have asked the Council for years to hook everyone up to this line, but they refuse to do it. The Council have refused to do anything in the red zone, the government have refused to do it as well, and that is why we have got such a high cost to maintain these services which did not need to happen.

As you will see the services are being renewed at the moment, they have started in Spencerville, they are working through Brooklands to Kainga and so there is no issue with the services.

5 And my main point on all that is that, we need to – this red zoning we have all been put in one big basket and every area needs to be individually looked at, and I think by putting us all in this new proposal chit, the 21, is incorrect because we are all different and every area could be noted differently for the services.

10 I mean in the future Brooklands may be redeveloped or as just said “We are uncertain/we do not know”, but the chances if it was going to be made back into privately own land those services service 420 houses before and now they are only servicing, I think there is 17 properties left. There is no issue in the future for this not to be serviced or not to work, it is working now.

[3.15 pm]

20 So I just wanted to bring that to your attention because we talk about the services and the costs and whatever, but once again we did not make the earthquakes, we did not make the red zone. The government made the red zone which we found now is deemed as illegal and the government decided not to engage us, not to work with us so that we could recover from the earthquakes, they decided to do nothing to the land to let it basically rot and the infrastructure get worse and worse which it did not need to and it could have been fixed much earlier for a lesser cost of what it is costing now.

30 I mean the fact is, it is all right for people to sit and say, “These people have a tank out the front that their sewer goes to”, but we have got people in their 80s that have lived there all their lives, they have paid their rates, they paid their insurance, they have done everything right and now they are living in a third world country with a tank out the front that a truck comes every day to pump their sewer out.

35 I mean, we used to have night carts and now we have gone back to this situation when there is 17 houses left, it should not be like this. The roads are broken, everything, I mean our main concern is that, and I understand what Peter’s done with the proposal, but are we going to be able to rebuild? I do not know.

40 What they propose, yes we have existing rights, we can do this, we can do that, but until I physically apply for a building consent to go to do what I want to do I do not know if we are going to have that, and does this proposal specifically say that we are going to be able to do it and I

5 hope that the Panel in making a decision look out for all of us that are left because we did not, you know I mean you need to go and look at the community especially in Brooklands, we have got people that had no land damaged, they have got no insurance claims, they could not get any claim, they got an offer from the government of an old GV that was hundreds of thousand dollars less than what they could have, and they could not take the offer.

10 We have been portrayed in the red zone as the “bad people” or “everything is so bad in the red zone”, but the cup’s always half empty for us, and it has been for five years. But we look at it –we want it to be looked at that the cup is half full and we are just tired of fighting and sick of it.

15 I also have another document on the land, some geotech reports from my property because when we were red zoned I ask the Crown about the geotech reports of what the damage was to my land and they could not come up with individual area reports.

20 So I got an independent report done because I am actually a contractor by – I have a contracting business and I have dug holes all around Christchurch for the last 20 years, and I was very interested in why we were zoned red compared to other areas. In the end the end result was, we are probably 300 millimetres lower than anywhere else.

25 But the fact is, that in the Cabinet papers it says that pre-existing flooding and tsunamis cannot be used in the red zoning. It was used in the red zoning.

30 If you go to the conclusion on number one, it just states that the site is considered suitable for the construction of lightweight dwellings either on neutral buoyance, floatable basement or a reinforced earth raft or as a floating house. So in my report it basically says that I could rebuild on the land.

35 **[3.20 pm]**

40 So I chose to live there for a lifestyle and I have got that lifestyle, I got a report saying that the land was all right. We now know the surfaces are being maintained and looked after. There is no reason for me to go. And the red zoning was illegal.

45 The other main issue is the values of our properties have been dropped by 90 percent. My GV last year was \$150,000-odd and now it went down to \$15,000. I have had QV’s review it and they have put the value up to \$30,000. My parent’s property behind, if you look on the

Geotech Report, is green zone land. All the land behind is green. Their land has gone up by 10 percent. The land is right next door to each other. The issue of the lines of the red zoning to the green zone, there is a grey area.

5

We had meetings at the beginning of all of this with Roger Sutton and I explained to him there is going to be a so-called grey area in between these areas and we need to work together to how we are going to solve the issues.

10

CERA did not play a part in it, they didn't want to know us or anything, so we have been left, once again, to wait and wait and wait. And I guess my main issue with this new plan is that we don't lose any of our rights, or any more of our rights of what we have lost now for something that was not our fault. We paid our rates, we got building consents, we built to the codes that the Council made. We have done everything we should and now we are fighting for our biggest assets of our lives, like Ernest said, and there are, even though there are a small number left now, I think we can work together to get a proposal or resolve that will be in favour of everyone.

15

20

All any of us have ever asked for is to be treated fairly, and asked for what we had before. We are not asking for something that we never had before or anything, we just want to get on with our lives and recover from the earthquakes.

25

Thank you.

SJH: All right, thank you. Ms Huria?

30

MS HURIA: No questions, thank you, sir.

SJH: Mr Illingsworth?

35

MR ILLINGSWORTH: Yes, I do have a few. Thank you for that, Mr Bourke. So just coming back to your particular area, which is Brooklands - - -

MR BOURKE: Yes.

40

MR ILLINGSWORTH: You said there are 17 houses, is that correct?

MR BOURKE: I am pretty sure after we are – the offer closed on Thursday last week, the final offer. We have been around and it is close to 17.

45

MR ILLINGSWORTH: Okay.

MR BOURKE: But there may be – there are a few vacant lands as well, properties, but I am pretty sure there is around about that, yes.

5 MR ILLINGSWORTH: And you are on the edge of the Flat Land Recovery Zone as it is proposed?

MR BOURKE: Yes. Well, I have got the section – I have got green zone all around me, except one side.

10 MR ILLINGSWORTH: So the new sewer - - -

MR BOURKE: Yes.

15 MR ILLINGSWORTH: - - - that is coming up through Brooklands, how far away is that from your home?

MR BOURKE: It is across the road. It is the wide of the road. Nine metres.

20 MR ILLINGSWORTH: Nine metres. Is there any difference in elevation between your property and the road?

MR BOURKE: No.

25 MR ILLINGSWORTH: Is it negative?

MR BOURKE: No.

MR ILLINGSWORTH: No more questions.

30 SJH: Thank you. Mr Daysh?

MR DAYSH: Do you know which planning map your land is show on in terms of Mr Eman's evidence?

35 MR BOURKE: That is it – 1 I think. Number 2 sorry. Yes.

MR DAYSH: So could we locate it?

40 MR BOURKE: I think on that map there is only that bottom one there, but I have three residential sections there and I think there is only one marked on it.

[3.25 pm]

45 SJH: So you are on the main road through Brooklands, Mr Bourke?

MR BOURKE: Sorry.

SJH: You are on the main street through - - -

5 MR BOURKE: Yes, Lower Styx Road, sorry. I think if you go - - -

SJH: But on the sea side, on the eastern side?

MR BOURKE: Yes, sir, that is right.

10

SJH: Or the lagoon side I suppose is more accurate?

MR BOURKE: Yes, that is right. I think if you go to the map before we were
on, No 6, sorry. Yes, you will see those three sections there, yes, and
15 out the back is my parents' land which is all zoned green and the
section next to mine, their entrance is green as well.

MR DAYSH: Right, thank you, that is good to locate where you are, thank
you.

20

SJH: Thank you, Mr Bourke

<STEPHEN BOURKE WITHDREW

[3.26 pm]

25 SJH: Look, just before we go to the last witness, Mr White, where is
something else you may be able to help us with because I am sure your
knowledge of the Supreme Court decision is far greater than ours. As I
understood it the position the Crown took was that it had made a
voluntary offer but not to everybody in the same terms?

30

MR WHITE: That is correct.

SJH: And the effect of the majority decision was that it was an involuntary
situation and everyone should be treated pretty much the same.

35

MR WHITE: That is correct.

SJH: Which brought in bare land, uninsured people et cetera. Does the
decision anywhere deal with land use issues and matters of that sort?

40

MR WHITE: No, not - - -

SJH: There is nothing you could point us to that might assist us because I
have only read it to be honest very quickly and that was my feeling but
45 I could have easily missed something.

MR WHITE: No, it talks about it in the broader sense of maintaining the existing rights and not arbitrarily interfering with them but it doesn't go into - - -

5 SJH: It is more around existing use rights and the legal obligation to provide services and matters such as that I imagine?

MR WHITE: That is right.

10 SJH: Well, look if there is anything you think in that decision that would assist by all means file a memorandum to the Panel.

MR WHITE: Thank you, sir.

15 SJH: If you think it would assist us.

MR WHITE: Thank you, sir.

SJH: Thank you. Yes, Mr McNamara.

20

MR McNAMARA: I now call Mr Anderson.

<CLIVE KENNETH ANDERSON, sworn

[3.28 pm]

<EXAMINATION BY MR McNAMARA

[3.28 pm]

MR McNAMARA: Could you please state to the Panel your full name?

5 MR ANDERSON: Clive Kenneth Anderson.

MR McNAMARA: And you have the qualifications and experience set out in paragraphs 1.2 and 1.3 of your evidence-in-chief?

10 MR ANDERSON: I do.

MR McNAMARA: And for this hearing you have sworn one statement of evidence dated 12 November 2015?

15 MR ANDERSON: That is correct.

MR McNAMARA: And can you confirm that to the best of your knowledge and belief the contents of that brief of evidence are true and correct?

20 MR ANDERSON: I do.

MR McNAMARA: Now, could you please summarise the highlights.

25 SJH: Before you do that you were scheduled to be on much earlier today, Mr Anderson.

MR ANDERSON: Yes, I apologise for that, I have been away fly fishing this last week and out of communication in terms of email so I didn't catch up with the - - -

30

SJH: Well, we would probably all be sooner fly fishing.

MR ANDERSON: Yes, I am sure we would, my apologies - - -

35 SJH: But we try and meet and our obligations.

MR ANDERSON: Yes.

40 SJH: All right, go to your summary.

MR ANDERSON: Okay, just starting in section 2, just reading quickly from my scope, my evidence is narrowly focused on liquefaction and principally those aspects that aren't already covered by the natural hazards chapter and other chapters and I understand the Council will be submitting separately on the hazard aspects provisions on the natural hazards chapter.

45

5 So in particular I was asked to address the following issues. The magnitude of life hazard risk due to liquefaction within the Special Purpose zone Flat Land Recovery, whether the land within the zone is at greater risk from liquefaction than the land outside the zone and whether economically viable engineering solutions for dealing with the liquefaction can be undertaken on a site by site basis, or whether addressing liquefaction is more economically viable on a larger scale.

10 **[3.30 pm]**

15 So basically looking at the executive summary, the Red Zone was developed following the second major earthquake in February 2011 when it was decided that the proposals that were being developed following the 2010 September earthquake were no longer going to be viable, so large areas were Red Zoned, which basically meant the redevelopment of those areas was not going to take place, at least in the short term. And these areas immediately adjacent to the Red Zones were zoned Green and they were deemed suitable for repair or rebuilding the houses on them.

20

25 So in the Red Zone many of the areas of the land have been subject to the effects of lateral spreading and vertical settlement, which of course are common effects of liquefaction, but there are similarities between the adjacent areas of Red and Green Zoned land which are based on a desktop study which I have undertaken as part of this evidence. It sought to sort of highlight at least some of the areas where the impacts at least in terms of liquefaction appear to be similar to my mind.

30 So as I said earlier I was asked to address three specific areas to assist the Panel. So just summarising from the executive summary, life risk from liquefaction, I think it would be probably self-evident that there were to the best of my knowledge no serious injuries and certainly no loss of life attributed directly to liquefaction, despite the multitude of properties and people being affected by that. Liquefaction is not a taker of life in that sense that it clearly does large scale economic damage.

35

40 Looking at the scale of risk between the Red and Green Zones I examined two areas in particular and looked quickly at other areas and I think the things that stood out most was that lateral spreading was probably the key aspect that separated the zones that had been designated red from the adjacent areas that had been zoned green and sort of the scale if you like of the lateral spreading.

45

When you look at the scale of vertical settlement, and this is free field settlement, and in this case an accumulation of earthquake shaking over I think we are told something in the order of 14,000 aftershocks and obviously some large ones in there. They have a similar sort of starting magnitude and my table 1 seeks to try and highlight or summarise the LIDAR, where you can see that the lower bound for the two zones is similar and with maybe the Red Zone having a higher up or down than the adjacent land. But the thing that I noticed when we look at the MB criteria for design of if we were to redevelop for houses going forward, the design event is typically the SOS settlements over the upper 10 metres, and looking at that in combination of lateral stretch we have sort of similar figures in terms of vertical settlement as a future design as opposed to what has happened in the accumulation of multiple earthquakes, similar figures I think you can see that range in that right hand column there.

So that the key thing that again differentiates the Red Zone from the Green Zone is the scale of lateral spreading and of course land closest to the river will tend to move the most as opposed to land away from the river.

So I guess as a geotechnical engineer in terms of if I was studying this land for the first time without the benefit of earthquakes, say if I was in a situation like Dunedin, Napier or Wellington, the land has not been zoned red and I am applying my design techniques, I would probably apply the same techniques without the benefit of earthquakes as a design event as I would here. And in terms of what does one do with the land in terms of engineering, mitigation to mitigate or reduce the impacts of liquefaction that would show up in such a study.

[3.35 pm]

And there are a variety of techniques of ground improvement which have been developed within the Canterbury area, and some of those were tested by EQC, and there has been a recent report published on the success of those, and of course those techniques were tested within the Red Zone in Avonside and in Bexley. So they deliberately chose some of the worse land for their trials.

I think the key determinant, at least to my mind, is not so much the technical characteristics, and probably the financial viability, clearly looking at adjacent land, you know Green zone versus Red Zone and any of that land, particularly in the Red Zone there has been accumulated settlement so the flooding hazard that is triggered by that would need to be dealt with, as well as probably lateral spreading.

5 There may be a need for a particular project to try and reduce the impacts of lateral spreading. Again this would be on an area wide basis, as it is not going to be viable I would not think on a lot by lot basis. But you may recall that those studies were actually underway after the September 2010 earthquake. You may recall the terminology, so called “stone dams” were going to be put along what are now Red Zones before the February earthquake.

10 So those kinds of measures are likely to be needed, but their impact is more likely to be determined, or their viability if you like, more determined by the economics of the project and the cost of doing that, rather than the technical ability to achieve a particular degree of ground improvement that would meet the building code and other requirements such as that.

15 And as I have stated here, I think the economic viability is clearly going to be better on a large scale basis, such as has been developed - large scale subdivisions, we do not do it lot by lot we do it in big stages because the economics of moving machinery and earth around are much better on a large scale.

20 MR McNAMARA: Thank you.

SJH: Thank you.

25

MR McNAMARA: Please answer any questions.

SJH: You are not down to cross-examination?

30 MR ALLEN: No, thank you, sir.

MS HURIA: No, thank you, sir.

SJH: Mr Illingsworth?

35

MR ILLINGSWORTH: Yes, I do have a few questions. So Mr Anderson, the CPT tests that you used, are they across the whole of the zone or were they localised? It looks like they are quite localised?

40 MR ANDERSON: Yes, this has been a fairly quick study for the purposes of gaining an appreciation of differences between Red and Green Zone. So what we have used is just the readily available CPT on the Canterbury Geotechnical database. So those are CPT's that have been done by others and put on that database as part of that work.

45

5 Some were in the Red Zone and some were in the Green Zone, so it is not an extensive study of all available information, all the information that one might need, but it has been used for the purposes of making the point that in our future design work is likely to have similar settlement predictions between Red Zone and Green Zone using available data.

10 MR ILLINGSWORTH: So the QEII is it, that is in your table 4, that is this one on your first figure 1?

MR ANDERSON: Yes, that is correct, figure 1.

MR ILLINGSWORTH: That is that zone there, is it?

15 MR ANDERSON: Yes, that is correct.

MR ILLINGSWORTH: And the Berkley one is it, Berkley?

20 MR ANDERSON: Bexley.

MR ILLINGSWORTH: Bexley, sorry, which map is that one? That is that area there, it is in the Green Zone those CPT's?

25 MR ANDERSON: No it is not on the screen at the moment. Well if you look at figure 9 or figure 8, figure 7 and figure 6.

SJH: Area 2 was Bexley, wasn't it?

30 MR ANDERSON: Yes, area 2. Area 2, yes, that one is Bexley.

MR ILLINGSWORTH: Thank you. I am going to ask you some questions about the service of ability limits in a minute, but can I just ask – these plans, figures, I think it is 12 through to 15, when I read – these are elevation differences across those areas?

35 MR ANDERSON: Yes, using LIDAR, yes.

[3.40 pm]

40 MR ILLINGSWORTH: It says at the top, “Vertical elevation change without tectonic component”, so does that mean that this is before the earthquake or after? This was land that sunk?

45 MR ANDERSON: Yes, this is sunk, so we trying to separate out the impacts of crustal changes, so tectonic where the crust itself has sunk, as opposed to where the land has consolidated as results of the impacts of

liquefaction and you can do that within the Canterbury database, G and S I think have made estimates of the deflation of the crust underneath.

5 MR ILLINGSWORTH: Okay, thank you. So SLS, my understanding of that is, that CBT indicates the soil type, for instance in this case silts and silty sands and sandy silts, and that gives you an understanding of the soil behaviour type which is from which you get your SLS assumptions from, it is not an actual test, is it, the CPT?

10

MR ANDERSON: It is a form of in situ test, it does as you have rightly stated it does provide indications of a soil type, but it also provides indications of the soils geo-mechanical characteristics such as its density, sheer strengths, you know you can derive things like consolidation parameters through other empirical, so it does tell us a lot about the enduring properties of the soil and hence that can be run through specialist software to determine how much the soil may respond when it is shaken, you know by earthquake and see if it develops liquefaction, how much it may then consolidate or settle as a result of that, so it does provide more information than just the soil type.

15

MR ILLINGSWORTH: Yes, I understand that, there is quite high correlation between in the bit of research on that, so just coming to your figure 4, I just want to be sure in my own mind that these SLS indexes that you have got in your report, they are at the 10 metre level, and are these indicative of the soil types or are these an actual settlement test – the CPTs which you give an indicative soil type which leads to an indicative serviceability limits, correct?

25

30

MR ANDERSON: Well yes, the two are interrelated, we are getting the same information or the information is coming off the CPT, so these tests here are taking the output in terms of the cone, the values and the friction values on the cone and they are being run through a liquefaction triggering methodology that has been developed and verified internationally and derive when it is applied and a particular design earthquake, in this case the SLS event is applied to that, it is leading to a derivation of the amount of settlement over the upper 10 metres.

35

40

MR ILLINGSWORTH: Yes, I understand that, so these – we got SLS 0.19G benthic, this is indicative settlement with a soil type?

45

MR ANDERSON: Well for these particular soil conditions, the soil type will probably vary down vertically, so it is not – okay, maybe I am getting a little bit technical but the soil type can be sand, it can be silt, it can be

silty sand/sandy silt, that is how I think, it is not just a single material and that is the nature of what has been deposited, you know way alluvial processes.

5 MR ILLINGSWORTH: Thank you.

MR ANDERSON: I hope I am answering your question.

10 MR ILLINGSWORTH: Yes, you are and I understand. So LIDAR is it that you – my understanding of LIDAR is that, when I have used it in the past it is not terribly accurate.

MR ANDERSON: No it is not, it is not pinpoint accurate, but it is the best we have got.

15

MR ILLINGSWORTH: Yes, and I have heard of variations of up to a metre in LIDAR.

20 MR ANDERSON: I believe according to the Canterbury geotech database that the accuracies a lot less better than that, you know probably plus or minus 50 or for some of the latest readings, I think some of the earlier stuff was may be plus or minus 100 millimetres, but I think that will be more recent.

25 MR ILLINGSWORTH: It does depend on the topography a bit though, does it not, because it is flowing, is it not?

30 MR ANDERSON: Yes, it is flown and it can vary with building type, but my understanding of the information that has been put on to the Canterbury geotech database is has been at the best skill people, you know with the best knowledge and best recovery techniques, you know recovery, I mean analysing information to provide people like myself with the highest quality information in terms of vertical defamation, and of course lateral defamation, as is possible with the current technologies.
35 I believe it is a lot more accurate than 1 metre.

[3.45 pm]

40 MR ILLINGSWORTH: Thank you for that. Would it be easy to understand natural spreading from (INDISTINCT 0.16) because really it's just a contour, isn't it?

45 MR ANDERSON: Well I have looked at what is on the Canterbury Geotech Database and if you look at some of the other figures you will see that there are arrows. So if you, for instance, go to figure 14, again others have looked at the location of the points, if you like, on the ground and

5 have worked out against, I guess, sophisticated analytical techniques that are beyond my capabilities, you know, what direction and how far these fixed points have moved. And then they are obviously not quite so fixed, but identifiable points. And what you can do with, you know, people like myself, the information in the Geotech Database tells us that we can scale those arrows - - -

MR ILLINGSWORTH: Okay.

10 MR ANDERSON: - - - using, you know, on google Earth you can measure the length of the arrow, divide it by 56, and that will give you the distance that that point has theoretically moved in metres.

15 MR ILLINGSWORTH: Okay. So I don't know what scale we have on this plan here but for the river, I don't know how wide the river is, but it is 150, if you take the arrow, some of the arrows that actually enter into the river, you are saying that it would be one 56th of that arrow length?

20 MR ANDERSON: Yes. You need to measure the arrow. We do that on Google Earth using the little, you know, the measurement tool, and we get a – it doesn't say, for instance, it might come up as 16 metres, divide that by 56 would give you roughly about 0.3 of a metre. But that is a – but in this case here I would have to check, but some of these movements are probably in the order of a metre or more in this area, and hence why some of the areas were red zoned. But I guess the point I would show, looking at the Westbough Park (**ph 2.08**) is when you look at the arrows, just visually, again some of the – they look to be similar lengths across that red zone, across either side of the red zone, of that line in black where the red zone is, and again the LIDAR has got similar levels either side of the – you know, you can see for instance you have got purples either side which of course are a lot of settlement, and a metre or more, and of course you have also got the evidence of 200 millimetres of settlement either side of the red zone boundary.

35 MR ILLINGSWORTH: So that is why you say in your evidence that they are significant different between green zone and red zone?

40 MR ANDERSON: No, not in a geotechnical sense that there is suddenly a strong something - hey, this can't be developed from a technical point of view. Economics might dictate otherwise, and that is something beyond where I have gone, you know, I my brief I have determined the technical – but economically it is not viable to develop. But technically I believe the techniques exist if the money exists to develop these lands. There is nothing particularly special.

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5 And I use the analogy, if we went to another part of New Zealand and were starting without the benefits of this, I don't know that we would necessarily suddenly be subdividing the land into red zone and green zone before anything had happened. We would be applying our engineering science with, you know, the best that we've got and deciding on the basis of what we find and the design criteria and methodologies that we use as to whether a particular project could be developed on liquefiable land in other parts of the country.

10 And again, I think those projects will rise and fall on their economics, plus of course other hazards and that, and I emphasise I am not looking at all the flooding issues and coastal erosion issues and that that go with this land – it is a limited study. I was asked to look specifically at liquefaction.

15 MR ILLINGSWORTH: No, thank you. So just one more question. In 5.16 you propose a type 2B surface structure – I didn't know what that was. What would that be?

20 MR ANDERSON: Okay. The point that I was seeking to make there was that if – I am going forward in a design event, you know, applying our research and recent events – the settlements, the SOS sentiments that I would calculate on some of this ground would fit with an MBIE mandated solution for such an area.

25 So the type 2B is a surface structure which is being applied commonly to the rebuild of a lot of houses, and even the repair of houses in TC3 areas. So it is a solution that is within the MBIE guidelines.

30 MR ILLINGSWORTH: With a compacted aggregate overlay or?

[3.50 pm]

35 MR ANDERSON: No, what it typically we consistent – yes, have it compacted, probably 600 millimetre of compacted aggregate, may be some geotech grit in there if there is lateral stretch is an issue and then a 300 millimetre thick reinforced concrete slab, and then upstands to the posts to then support a wooden floor, and particularly useful in areas where flooding is a problem and you need to get the house floor above a particular flood level now because the land itself has sunk.

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MR ILLINGSWORTH: 300 and 200, 600 of aggregate, 300 - - -

45 MR ANDERSON: 300 of concrete, yes it is in section 15 of the MB guidelines, you will find details of those.

MR ILLINGSWORTH: And the lightweight superstructure will just be a wooden building, would it?

5 MR ANDERSON: Yes, lightweight cladding, lightweight roof and there are a number of variations on those. My point there that I am making is that, as I said earlier the settlements, if I was approaching that land now without any of the benefit of past knowledge, using current design techniques, I would say type 2B will fit here.

10 MR ILLINGSWORTH: Yes, thank you. You may not be able to answer this but rammed aggregate peers, what sort of cost would they have for a standard house of 200 square metre house?

15 MR ANDERSON: Okay, well I declare conflict of interest, my company supplies those. Okay, look it depends on the area of the house but probably between 50 and 100,000 when it comes down to square area.

20 MR ILLINGSWORTH: And it is quite a significant amount of money is it not, for a single house?

MR ANDERSON: It can be, yes.

MR ILLINGSWORTH: And that is why got the area wide type solutions?

25 MR ANDERSON: Yes, you would look at – you know and I mention there deep diameter compaction of some of the soils may be suited, that typically is the most cost – that is dropping big weights from cranes, it looks expensive but it actually is the lowest cost method typically of treating large areas of land.

30 MR ILLINGSWORTH: One last question, obviously through liquefaction there has been a fair bit of consolidation in the ground, does that improve its potential to increase loadings or it just a poor water pressure thing and it is not going to happen?

35 MR ANDERSON: Its ability to support static loadings will return, what people often mistakenly assume is the land cannot liquefy again and I think the recent earthquakes have shown or the series of earthquakes have shown that that is not correct, the same land can re-liquefy. And work that has been done by people, you know like Sarah Baston on paleo liquefaction have shown that liquefaction has occurred in these areas in the past, and I think Dr Mike Quigley's place was a case in point, who was also in the Red Zone. So now that we are looking more closely we realise that liquefaction has occurred here in the past, probably not on this scale but may be as recent as a 100/150 years ago, it had initiated and as I say these studies have been done on that now.

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MR ILLINGSWORTH: Thank you very much, no more questions.

SJH: Mr Daysh?

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MR DAYSH: No questions, thank you.

SJH: Thank you, Mr Anderson, Mr McNamara anything arising or re-examination?

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MR McNAMARA: No, thank you.

SJH: Thank you, Mr Anderson, you my stand down and return fishing.

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MR ANDERSON: **(INDISTINCT 3.21)**.

<THE WITNESS WITHDREW

[3.53 pm]

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SJH: Closing submissions, you reverse the order of presentation does that mean we should reverse the order of closing submissions in this case?

MR ALLEN: Sir, I do not mind but happy to have closings in the normal way.

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SJH: Given the time of the year you want to respond or do it simultaneously?

MR.....: Yes.

SJH: Simultaneously is appropriate in this case, is it?

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MR McNAMARA: I think it is fine, sir.

SJH: Friday this week, is that suitable for both?

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MR ALLEN: Yes, sir.

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SJH: All right, thank you. Well thank you very much to Council and witnesses and the Human Rights Committee but a special thanks to the submitters, we are grateful you have given up your time and come along and submitted to us today. I know the difficulties you face and we are sympathetic to you but I do hope at least you can all have a good Christmas break, thank you.

MATTER ADJOURNED AT 3.54 PM ACCORDINGLY