

BOARD OF INQUIRY

**Hauāuru mā raki
Wind Farm Proposal**

TRANSCRIPT OF PROCEEDINGS

BOARD OF INQUIRY

Hauāuru mā raki

Waikato Wind Farm Proposal

Hearing

HEARING at TUAKAU on 8 MAY 2009

BOARD OF INQUIRY:

Environment Court Judge Jeffrey Allan Smith
Commissioner Diane Menzies
Ms Gina Rangi
Mr John Lumsden

APPEARANCES

MR T P ROBINSON and MR D RANDALL appeared on behalf of Contact Energy Limited and Contact Wind Limited

MR A S MENZIES appeared on behalf of Waikato Regional Council

MR L E MULDOWNY and MS M MACKINTOSH appeared on behalf of Waikato District Council

MS S M BRADLEY and MR J M PREBBLE appeared on behalf of Department of Conservation

MR R J GARDNER and MS D HARTLEY appeared on behalf of Franklin District Council

SIR WILLIAM BIRCH appeared on behalf of Sunset Views Limited

MR D A KIRKPATRICK and MS N M JORDAN appeared on behalf of David and Pam Walters

MR P R GARDNER appeared on behalf of Federated Farmers of New Zealand, Auckland Province

MR D GLOGAU appeared on behalf of himself

MR R GEMMELL appeared on behalf of himself

MR C BRADLEY appeared on behalf of himself

MRS WRIGHT appeared on behalf of herself

MR McCABE appeared on behalf of himself

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<EXAMINATION BY MR McCABE [9.40 am]

5

HIS HONOUR: After that very brief introduction, Mr McCabe, would you like to continue with your questions of this witness? Mr Lister, you are on your oath from yesterday, thank you.

10 MR McCABE: Thank you, sir. I spent last night refining my questions, sir, to try and keep it as brief as I can and I have got really three – my line of questioning is heading towards establishing - - -

15 HIS HONOUR: That is fine. Just move into them. If you have done that I am very grateful to you, and as I keep encouraging people, go straight to the point you want to make, and often the witness will agree with you, which solves the problem. If they do not, then you sometimes have to go backwards and get them to accept the point in another way.

20 MR McCABE: Sure. Okay. One point I am wanting to establish is the level of fullness of the reporting. I wanted to ask the Board, actually – I am not – this is the first time I have engaged in this sort of process before, and is it - the reporting from an expert witness like Mr Lister, is that a big part of – obviously a big part of the consideration in the Board – the
25 evidence-in-chief – if there are not submitters opposing his evidence-in-chief, do you accept his – are you pretty much accepting his evidence as fact, or -?

30 HIS HONOUR: Well, it depends whether there are other witnesses saying anything different and whether we agree or disagree with what he is saying, because we are entitled to use our own judgment as well.

MR McCABE: Sure.

35 HIS HONOUR: I do not really – this is no general principle there, so I cannot say that we necessarily do. If there is a general matter you want to raise with him, just raise it with him and see if he agrees or disagrees.

40 MR McCABE: I would just question the fullness of your reporting from the Raglan perspective. Do you think you reported fully in your evidence-in-chief the perspective from Raglan in regard to the visual impact imposed on this wind farm?

45 MR LISTER: Yes, I do.

MR McCABE: And where in your evidence-in-chief did you report that?

DISCUSSION

5 MR McCABE: Did you use the same methodology to make the assessment from Raglan as you did from other areas and other properties?

10 MR LISTER: No. I have already explained that yesterday. At Raglan, I went down there and looked along the coast from public viewpoints, from the public road. And on the basis of that, I was satisfied that the effects from that Te Whaanga Coast area would be quite low, and I explained what those effects would be in terms of distance and relationship to, relationship of the wind farm to the broad mass of the hills, and the other features that are in the intervening landscape and so on.

15 MR McCABE: So you generally used the – to get the prominence of the wind farm – the level of prominence, you – perhaps if we go to appendix H on page 152, you used those – you checked those qualities, or – “distance, relative elevation, number and extent of wind turbines visible, orientation of views, complexity of intervening landscape, screening, visual anchoring, light conditions, atmospheric conditions, rotor movement and rotor orientation”?

20

[9.45 am]

25 MR LISTER: Yes.

MR McCABE: Okay. If we could look at the first - - -

30 MR LISTER: Sorry, what page was that?

MR McCABE: In your appendix – page 152. It is appendix H on my disk. And it will also – pardon me?

35 COMMISSIONER MENZIES: H?

HIS HONOUR: Yes, 52.

MR McCABE: Page 152.

40 HIS HONOUR: Well, it is 52 according to us.

MR McCABE: It also features in paragraph 88 of your evidence-in-chief, the table 3.

45 MR LISTER: And I had referred to Raglan in the assessment of effects as well, previously.

MR McCABE: So you visited Te Whaanga Coast and you took these factors into account and you came to the conclusion that the effects would be minimal?

5

MR LISTER: Yes. I said “quite low”, I think.

MR McCABE: Quite low.

10 HIS HONOUR: I have found the paragraphs that discuss it, if you wish; it is 114, as well as 287 onwards.

MR McCABE: If we could – I think it would be helpful if we just went through this list of factors, and from the perspective of say, exhibit 33B, 15 the photomontage.

HIS HONOUR: Is this table 3 you are wanting to go through?

MR McCABE: This is table 3, yes.

20

HIS HONOUR: Well, let us move through it. What is it – we know the distance – 11 k – so less prominent.

MR McCABE: We know the distance. It is how many k’s, sir?

25

HIS HONOUR: Well, I thought it was 11 – over 11, was it not? How many is it, Mr Lister?

MR LISTER: It depends. It is 10 to Whale Bay I think. Ten to Whale Bay, so 30 where this photomontage is taken is probably two to three k’s closer than Whale Bay.

HIS HONOUR: Oh, you are talking about this particular – I thought we were talking about something else.

35

MR McCABE: No, I am just using this figure – 33B, sir, because this is quite representative of Te Whaanga Coast. This is taken from Wainui Reserve.

40 HIS HONOUR: Yes, it is just that you have been addressing the witness about some other positions – private land positions and I thought you were still pursuing that issue. So, we are now looking at this elevated position here.

45 MR McCABE: I am speaking generally, sir, from Te Whaanga Coast, which runs from - - -

HIS HONOUR: So, distance – we have got the answer to that – it is, what?

MR LISTER: On 33B it is 9.4 k's to the nearest turbine.

5

HIS HONOUR: Are you wanting him to go through every criteria? Because we - - - ?

MR McCABE: Pardon. If we can go through the criteria - - -

10

HIS HONOUR: Well, we know the answers to all his criterion, but – can we just run through them quickly, then. Relative to elevation - - - ?

MR LISTER: Relative to elevation is relatively even or slightly below.

15

MR McCABE: Yes. Which would put it where on the prominence scale?

MR LISTER: Well, you would not add anything on for elevation. You would not make any – in that case, not an exacerbating factor, if you like.

20

MR McCABE: Okay. Number and extent of wind turbines visible?

MR LISTER: There are a large number of turbines.

25

MR McCABE: Many? So it would be over to the more prominent end?

MR LISTER: Yes.

MR McCABE: Orientation of views - focused away from the site or focused toward the site?

30

MR LISTER: Well, from that Te Whaanga Coast there would be views - depending on where you are, there are views back toward Raglan and along the coast.

35

MR McCABE: Along which coast?

MR LISTER: Along the coast that the wind farm is on.

40

MR McCABE: Yes. Well, from this angle, sir, the northerly aspect which is where the beach is headed, you look over the beach and you look up the coast.

MR LISTER: Yes, that is part of a wide panorama. If you looked further around to your left, there would be the surf breaks coming around the Karioi.

45

MR McCABE: So if you travelled further around the coast towards the surf breaks your perspective, the angle of your – what is the wording – the orientation of your view as you got to Manu Bay, say, the orientation is directly toward the wind farm, would you not agree with that?

5

[9.50 am]

MR LISTER: Yes, for some houses it is, but the point I am making is that these views from around the coast are panoramic type views, so they are not - - -

10

MR McCABE: Okay.

MR LISTER: - - - just focused in one particular direction.

15

MR McCABE: They are not focusing on the coast, but is the coast not a significant part of that view, of that panorama?

MR LISTER: Yes, it is. It is.

20

MR McCABE: And the orientation is more or less in the direction of the wind farm?

MR LISTER: Well - - -

25

MR McCABE: Through much of that coastline.

HIS HONOUR: The orientation of what?

30

MR LISTER: For some properties, yes.

MR McCABE: The orientation of the view, sir.

HIS HONOUR: Yes, well, orientation of views is normally in relation to a building. I have never heard it being related to a person, because people move.

35

MR LISTER: That is right.

HIS HONOUR: We will move on to complexity of interweaving landscape.

40

MR McCABE: Well, if I can just clarify that, sir? Most of the - - -

HIS HONOUR: Well, you can give evidence to us later. This is questions of this witness, and I (**INDISTINCT 9.51.10**) going through this, but we can if you don't understand what I am saying.

45

MR McCABE: Well, it just really establishes whether or not he considered the visual impact high or low, and he says relatively low, and I contest that strongly. The complexity of intervening landscape?

5

MR LISTER: Well, it is a mixture. Looking across water always makes things look closer because it is open.

MR McCABE: Yes.

10

MR LISTER: But from this angle you are also looking along a coast so the features such as Mussel Rock, for instance, that are in the intervening landscape seem to make those other things seem a little bit further away. So in this instance it is a mix of factors.

15

MR McCABE: And as you head around the coast a little further the orientation shifts a little bit and you look directly across the water directly to wind turbines, is that -? There isn't really anything in between apart from ocean from a number of properties along Te Whaanga Coast, a number of houses?

20

MR LISTER: No, that is right. From Te Toto Gorge, for instance, and that is why we included that viewpoint, because it represents the best view across water from land, if you like, because it is the most furthest out. From Whale Bay you are looking across the bay to this coast and the wind turbines, and also back towards Raglan and the Raglan Heads, and the Raglan Heads become quite - - -

25

MR McCABE: From Whale Bay you can't see Raglan or the Raglan Heads.

30

MR LISTER: Well, from the viewpoints that I went to you could.

MR McCABE: Once you enter the Whale Bay area you can't see Raglan or the Raglan Heads.

35

MR LISTER: Well, maybe not from down within that residential - - -

HIS HONOUR: So what photo are we looking at now?

40

MR LISTER: - - - settlement.

DISCUSSION

MR McCABE: So moving onto screening. Is there any screening in this picture?

45

MR LISTER: No, there is no screening.

MR McCABE: No screening. So toward the prominent end, visual anchoring
towers set back from edges of hills, or can you see the full extent of
5 many of the towers?

MR LISTER: Yes, you can.

MR McCABE: So, toward the more prominent end in that one?
10

MR LISTER: Yes.

MR McCABE: Thank you. Light conditions, depending on what time of day,
I mean, there are obviously varying light conditions all through the day
15 - - -

MR LISTER: That is right. Those, I mean, in terms of assessing views from
houses and so on you don't take light conditions into account because
they do change all the time and they are just listed in that list for
20 completeness. But in this case it did mention the fact that you tend to
get a haze along the coast quite often, and that does add to the - - -

MR McCABE: How many days have you spent in Raglan?

25 [9.55 am]

MR LISTER: Well, I have holidayed there on two separate occasions,
including one in which we rented a house at Whale Bay.

30 MR McCABE: For how long?

MR LISTER: I don't know, say five days.

MR McCABE: Five days. And - - -
35

MR LISTER: I don't have any scientific analysis of how many days that there
would be haze and how many days that it would be clear, but I have
observed that, you know, as is common with a lot of coastlines that are
exposed to surf, that you get a haze that will be thrown up from the surf
40 if you are looking along that coast.

MR McCABE: Okay. Rate of movement?

HIS HONOUR: All of those, all of the final things are going to change
45 depending on what is happening on that particular day; they will affect
the prominence, but they change from moment to moment.

MR McCABE: But then the prevailing wind is a south westerly, is it not, in this area?

5 MR LISTER: Yes, it is.

MR McCABE: And the Te Whaanga Coast is basically south west of the wind farm?

10 MR LISTER: Yes, that is right. So that means your view would be oblique to the turbines.

MR McCABE: Okay.

15 MR LISTER: But from that distance that is not going to make – that is going to make very little difference at all.

MR McCABE: In appendix H the first house, well indeed the first page of houses, you state in your first sentence there “houses within five
20 kilometres of the proposed wind farm were identified”.

MR LISTER: Yes.

MR McCABE: It is actually appendix I; it was wrongly numbered.
25

MR McCABE: Oh, on my disk it says H, sir. I am sorry.

HIS HONOUR: Well, if you change it to appendix I. That is what it is. Well, there are number that are beyond five – we have already had that
30 discussion. You discussed this with the witness yesterday. So you are repeating questions you have already put to the witness.

MR McCABE: Okay. I am sorry, sir. But my point there is - - -

35 HIS HONOUR: Well, you made the point yesterday that some of them are beyond five. We had that - you spent about 15 minutes on it yesterday.

MR McCABE: But you chose not to report on, in this table, the effects on any
40 houses - - -

DISCUSSION

MR McCABE: In relation to outstanding natural features and landscape
45 worthy of protection, did you ever do a macro assessment to the degree of natural character or amenity value of the whole coastline book-ended by Port Waikato to the north and Mt Karioi to the south?

MR LISTER: Sorry, a - - -

5 MR McCABE: A macro – taking the whole stretch of coastline, that whole area which you acknowledge in your evidence as being book-ended by those two landforms.

10 MR LISTER: I assessed all the area within the wind farm area. I didn't, you know, I didn't consider Raglan, for instance, or Mt Karioi which is already identified in the district plan as an outstanding natural feature.

15 MR McCABE: Did you assess the area as a whole or – I note that you assessed particular areas, zones within the coastline, but did you assess the area, this stretch of coastline as a whole and the potential value that might be placed on that stretch of coastline?

20 MR LISTER: Yes, I assessed, I have assessed that whole area as – I have described it as having a relatively homogenous character and then I have broken it down into smaller landscapes and sub-units and assessed them individually, but always within that context of that broader sub-regional landscape.

25 MR McCABE: In your opinion, is the northern view from Te Whaanga Coast outstanding?

MR LISTER: The view or the landscape? It is a very attractive view up the coast; as in fact most coastal views around New Zealand are, but it is not an outstanding landscape area that the wind farm is in.

30 [10.00 am]

35 MR McCABE: How many headlands can you visibly see from the – can you make out from say, in the vicinity of where this photo is taken, with the naked eye, when you are actually there? How many ridgelines run down from the hills and create prominent headlands along the coastline?

40 MR LISTER: Well, I have not counted them, but you can see from the photo that there are – there is Mussel Rock, for instance, in the foreground which is the most prominent feature; probably more prominent in reality than it appears in the photo. And then there is a series of gable-end cliffs up the coast, and you could pick out Otahi(ph 10.00.48) Point along that coast.

45 MR McCABE: Would you say there could be as many as seven prominent headlands poking out from the coastline and standing out?

MR LISTER: Yes, I would say there would be seven.

5 MR McCABE: Strictly aesthetically speaking, what would your objective preference be up the coast – turbines or no turbines?

10 MR LISTER: I think if there was no benefit, or – in terms of renewable energy from wind turbines, I would have to say that it would be preferable to not have turbines on that coast or anywhere else for that matter. But that is not the situation that we are placed in, and in terms of landscapes for wind farms, I think this is a good one.

15 MR McCABE: Thank you. Moving to cumulative effects, would you agree that I, along with nearly 3,000 residents and countless domestic and international visitors to Raglan, currently enjoy a landscape more or less free of industry?

20 MR LISTER: Yes, I would say that is correct. There is not much industry in Raglan.

25 MR McCABE: And I just wanted to know to what degree you are willing to admit that wind farms industrialise landscapes. You have said they do not create industrialised landscapes, but to what degree are you willing to admit that they industrialise landscapes?

30 MR LISTER: I do not agree with that at all. I think that wind farms have their own particular character and I think applying the adjective “industrial” to them puts a flavour on it that is not warranted. I think that wind turbines are clearly human structures and they are clearly manufactured in industry, but when you see them out in a rural landscape, they are part of a rural landscape. That landscape is still rural.

35 MR McCABE: They are not part of that natural rural landscape though, are they?

MR LISTER: Well, they are not part of a natural rural landscape. They are a human structure, as are other structures in the rural landscape.

40 MR McCABE: A human structure that services industry?

MR LISTER: Services houses and all sorts of other things.

MR McCABE: All related to industry.

45 HIS HONOUR: I do not follow that at all. A cow in the same way services industry so – nobody would suggest a cow is an industrial item, but yet

it goes to a factory and it is processed. So that does not follow, I have got to say. I do not even understand the logic behind that.

5 MR McCABE: Well, I just – there are natural landscapes and then there are landscapes with wind farms. I see them as - - -

10 HIS HONOUR: Well, there are natural landscapes – there are natural and physical structures. This is quite clearly a physical element in the landscape – the Act sees two elements – one is natural and the other is physical. This is clearly a physical and constructed element, which the witness has accepted. Where he differs from you is he does not accept it is an industrial element of the – so, if the issue is, is it manmade, I think he has conceded that more times than I can count.

15 MR McCABE: Does this proposal – the wind farm, present negative cumulative effects for residents along Te Whaanga Coast?

20 MR LISTER: No, I do not think it does, you know, except in – you are getting into quite remote kind of effects where the residents of Te Whaanga Coast might have driven past the Te Uku wind farm on their way into Raglan, and then 20 minutes later they, from their houses, look out and see turbines up the coast. So there is a sequential effect in that sense, but it is – you know, you are starting to get down into - - -

25 MR McCABE: But it is – there are cumulative effects?

MR LISTER: Yes, there are in that sense.

30 MR McCABE: And would the number of turbines visible from Te Whaanga Coast constitute cumulative effects?

MR LISTER: Yes, and I have addressed that in my evidence as well.

35 MR McCABE: So, if the HMR wind farm proposal got accepted and there was a wind farm to the north and a wind farm to the sort of southeast of Raglan as you enter and the further wind farms south of – in Kawhia area, would you agree that Raglan is more or less sandwiched by wind farms? There is only the ocean to the west that does not have a wind farm on it.

40

45 MR LISTER: Well, from Raglan you cannot see those wind farms to the south. They are down beyond Aotea and Kawhia Harbours, and beyond Mount Karioi, so on a map of New Zealand it might appear that it is between wind farms, but I think that in normal experience, it would not feel that way at all.

MR McCABE: Or if you travelled that coastline – which many visitors do, and residents?

MR LISTER: Sorry, by boat, do you mean, or by road?

5

MR McCABE: No, well, by boat or by vehicle.

MR LISTER: Yes, and there would be a sequential cumulative effects in terms of people travelling that road, but it is a very remote route that you would be following and quite a torturous one.

10

MR McCABE: So, there are cumulative effects on small or large – on residents and visitors to that area?

15

MR LISTER: There are some cumulative effects, in conjunction with the Te Uku wind farm, I think that they are low and I have addressed those in my evidence at paragraph 156, following, and set out why I think those cumulative effects would be low.

20

MR McCABE: Just in relation to objectivity, in your reporting to the Board, it appears by your introduction that your primary job of late is to help large corporations.

DISCUSSION

25

[10.10 am]

MR McCABE: You included in your evidence in appendix I assessments from properties which are over seven kilometres away from the closest turbine - - -

30

MR LISTER: Yes.

MR McCABE: They do not actually see any turbines, according to your assessment here in appendix I – quite a number of them do not see any turbines, and they are in excess of six or seven kilometres from this site. You have stated that looking across water, an open feature like a body of water, it makes turbines appear closer – yet you have omitted from this list of affected houses, the whole Te Whaanga Coast.

35

40

MR LISTER: Yes, we have already discussed that, but yes. Perhaps it would be useful - - -

HIS HONOUR: I think, to give a fair – so you can have a fair answer to the question, I think what Mr McCabe is insinuating, despite me asking him to put it to you plainly, is that you deliberately omitted them

45

because you knew there was an effect on those properties and you included the others because he knew there was no effect on them.

5 I think that is what he was trying to insinuate, but he will not put it to you plainly. So I will put it to you so you have an opportunity to answer him fully.

MR LISTER: No, that is not the case. I did assess it from Raglan, and, you know, gave it full consideration. The appendix of houses is meant – the purpose of that is to try and identify those houses that are close to the windfarm that are most affected, and it is a technique that I have introduced to the way that we do our work for rural areas because I think it is more thorough and systematic than other ways that I have seen it done.

15

[10.15 am]

Now, maybe there are some issues that arise out of that as well, but the 5 k limit was one that I set as a reasonable distance to go to. Now, when you get to 5 k's, if there is another house a little bit further down the road, then I would expect whoever is doing the work to carry on and have a look at that as well, just to make sure. And I think the properties that you list at the beginning of the appendix that are out at 7 k's, I think that is probably just a reflection of my colleague who was compiling the appendix, just being over-thorough, if you like.

20
25

HIS HONOUR: Could I suggest to you that one possible, and it seems, likely explanation, is that when you were brief in early 2007, Sunset Homes was still part of the project and they may have been assessed during those assessment times, and even though their property was later deleted, since the assessments were included, it was just modified to include that; whereas, as I understand it the Raglan end was included very late in the project, and may not have been subject to assessment through 2007.

30
35

Now, you will need to think back when you did the assessments and that might be an explanation or it may not.

MR LISTER: Well, it probably is, actually. I had not put those things together. The assessment was done, you know, right at the start of the project when - - -

40

HIS HONOUR: So it was one of the first things you did with it, was it?

MR LISTER: It was one of the first things that we did. But there was never any intent to overlook Raglan or to downplay it or anything else of that

45

5 nature. And as I say, even if – you know, even if there had been – even if I had considered that there were, you know, very high effects from Raglan, for instance, because it is a settlement like that I would not have gone around and listed every house. I would have taken some representative viewpoints and, you know, probably done a rough count of the number of properties that might be affected, but I would not have set up an inventory in that manner.

10 MR McCABE: Just out of curiosity, what happens with these assessments? Do you give them to the property owners as well for their consideration, when you make the assessments, or is it strictly for your report here to the Board?

15 MR LISTER: No, it is really for the documentation that goes with the application and with my evidence. But it is public – once the application is lodged it is public, it is in the public realm. But, you know, we did not – it was done for our own purpose initially, to identify those properties that might be most affected. We did not discuss it with landowners, you know, individually.

20 MR McCABE: In considering the number of users of Te Whaanga Coast and the people who live there, would it not be pertinent to maybe provide some sort of assessment that is clear – that at least let's them have a professional opinion, or some professional advice as to the effects? I mean, what has occurred now is that no one – or very few people have been able to have – were alerted to this project, or alerted to – they still have no idea what visual effects this will have on them from that perspective, and so they have not been able to – or not been motivated to engage in this process. And that is my – really, the guts of my concern.

35 MR LISTER: Well, that is a consultation issue, really, or a process issue. It is not one that really comes down to my evidence or assessment. The assessment included Raglan.

40 MR McCABE: But much of the other expert witnesses depend on your assessments to make their assessments. And if you do not include, you know, all of the areas that are affected, whether it is mildly affected, or not, then they will not even consider those areas.

[10.20 am]

45 MR LISTER: But it was included. It was included in the assessment of effects, and we included a photo montage from the Te Whaanga Coast, from Te Toto Gorge.

MR McCABE: But when was that produced?

HIS HONOUR: This is part of the evidence which is the - - -

5 MR LISTER: In March this year. Was that right?

HIS HONOUR: No, it was produced – as I understand it, this is evidence for this case, but in fact the application was notified when it was called in, in October, and people then could have an opportunity to look at the
10 originating documents, which is a fairly large box, I agree. But nevertheless it is all there.

MR LISTER: The photo montage from the Te Toto Gorge was part of the original application. The three from Whale Bay and Manu Bay and
15 Matatura(PH) Beach were – they were done in response to submissions following the - - -

HIS HONOUR: I see. So you are correct that they were not available until the evidence was circulated.

20

MR McCABE: And Te Toto Gorge is – the feeling in my community is that you drove through the – past these perspectives out to Te Toto Gorge, and you did – and that was part of your evidence-in-chief, and it feels as though, from within my community, that you disregarded these
25 views, which are clearly significant, in that we can see over – I can see from my property, I think, I will be seeing over a hundred turbines. I mean – and you – the sense is that you disregarded that section of the community and just went to Te Toto Gorge.

30 MR LISTER: No, I did not disregard that and I discussed the effects from the Te Whaanga Coast including Whale Bay and Manu Bay in the AEE, and in my evidence. But we get – you know, we only - - -

MR McCABE: You did not mention cumulative effects, I do not think, unless
35 I am mistaken?

MR LISTER: Yes, I mentioned cumulative effects in both the - - -

MR McCABE: To the Te Whaanga Coast.

40

MR LISTER: Not specifically to the Te Whaanga Coast. But in terms of photo montages, no matter how many we produce there will always be requests for further viewpoints to be done, and you know, I understand that, but I made the decision that Te Toto Gorge was the best
45 representative viewpoint and largely because it is more elevated and it is further out on the headland, so you get more - - -

MR McCABE: But there is no one who lives there?

5 MR LISTER: - - - so you get more of a view back across the bay. No, there is nobody that lives at Te Toto Gorge, but it is an important scenic lookout and walking destination and so on.

MR McCABE: Thank you, no further questions.

10 HIS HONOUR: Thank you. Now, Mr Kirkpatrick and Ms Bradley, have you sorted about between you who is going next? No discussion? Well, Mr Kirkpatrick. Ms Bradley has been going first for a while, so perhaps we change the order a bit. Oh, yes, you win on the shortness stake, I am just reminded by the Commissioners, so brevity wins, yes.

15

<CROSS-EXAMINATION BY MR KIRKPATRICK [10.23 pm]

20 MR KIRKPATRICK: I hope that that was a reasonable estimate. Mr Lister, I take it from your rebuttal statement you did not visit the Walter property before preparing your evidence-in-chief?

MR LISTER: No, I did not.

25 MR KIRKPATRICK: Having discovered the error in the montages that were prepared for the view from the Walter property – the elevation issue, have you checked whether or not that error has occurred in any other montages?

30 MR LISTER: I have asked my colleagues who do that work to check that and they have gone through and done that.

HIS HONOUR: And what is the answer?

35 MR LISTER: No, that was the only one that was one.

MR KIRKPATRICK: Now, if you could have before you, and members of the Board and others may want to have this as well – your first rebuttal statement to Mr Brown's evidence – just the rebuttal evidence.

40

[10.25 am]

At paragraph 7 in relation to this issue of the accuracy of the photo montage, that 20 percent over-representation in size – is that a measured assessment of the difference in size by you?

MR LISTER: No, it was not. It was measured by my staff. I was actually preparing the rebuttal overseas so I was relying on staff. That was the figure I was given.

5

MR KIRKPATRICK: To the eye – particularly perhaps for a person who is not trained in the use of these montages, that 20 percent difference might be marginal in terms of one's perception, would you agree with that?

10

MR LISTER: Yes, I think that is a fair comment. I think that the difference in size of turbines is not – there is not a linear relationship between that and effect at all.

15

DISCUSSION

[10.30 am]

MR KIRKPATRICK: If I can put it this way, sir, I am quite content with what the witness has said, which of course, he has said in writing already, which is there is not a linear relationship - - -

20

HIS HONOUR: It is approximately – yes.

MR KIRKPATRICK: Yes, sir, and if I can perhaps put it this way to Mr Lister and he can say if my understanding is right or wrong, that means that although 20 percent in a linear sense, you know, we go from a hundred to 120 or whatever - - -

25

MR LISTER: Yes.

30

MR KIRKPATRICK: It is not quite the same in terms of visual perception?

MR LISTER: No.

35

MR KIRKPATRICK: Exactly. Thank you. That is really all I wanted to establish on that point, sir.

HIS HONOUR: I will just get my pages back together now.

40

MR KIRKPATRICK: Now, moving on to degree of visual effects in the next section of your rebuttal evidence, and then we go to your appendix I – the inventory of the houses with the view of the windfarm, and you say there that – and this, may it please the Court, at page 69 of the appendices, and it is about halfway down that page, N055 213-214 Nolan Road, Ferguson and Walter – it is a trust, sir, the name Ferguson

45

is a professional trustee – and you say that the estimated level is low at that point, which you say is clearly incorrect - - -

5 MR LISTER: That is clearly incorrect.

MR KIRKPATRICK: Yes. Now, I cannot quite see, in paragraphs 11, 12 and 13, where you say what the estimated level should therefore be - - -

10 MR LISTER: Sorry, which - - - ?

MR KIRKPATRICK: You have said, in 10, that in this appendix, low is clearly incorrect.

15 MR LISTER: Yes.

MR KIRKPATRICK: What is it, then?

MR LISTER: I have said that it is – in the previous paragraph - - -

20 HIS HONOUR: Which paragraph are you looking at there?

MR KIRKPATRICK: Oh, I see, sorry. Okay, so between moderate and high?

25 MR LISTER: Yes.

MR KIRKPATRICK: All right. And, as well as that, the next appendix J, the Walter house is the first in that list. That is the views of the transmission lines from houses and that is where you assess the impact in relation to the transmission line modelling?

30 MR LISTER: That is right.

MR KIRKPATRICK: Yes, all right.

35 HIS HONOUR: So have you done a compound effect? Sorry, you are just getting to that - - -

MR KIRKPATRICK: I am just about to come to that, sir.

40 HIS HONOUR: Sorry, I am leaping ahead of you, Mr Kirkpatrick, I - - -

45 MR KIRKPATRICK: And he does talk about that and I just want to ask him some questions about his assessment of that. Do you accept that from that side of the Walters house - and there are differing views depending on whether you are on the deck or the upstairs rooms – below there will be the transmission line and around the horizon to that south-western

aspect, which is one of the main aspects, that they will see a large number of turbines?

[10.35 am]

5

MR LISTER: Yes.

MR KIRKPATRICK: 16 in the middle distance and then 100 or more beyond?

10

MR LISTER: Yes, from the upstairs rooms.

MR KIRKPATRICK: At the moment their horizon is hills and the sea, depending on how high up they are in that view, and it will now be punctuated by a large number of turbines?

15

MR LISTER: Yes, that is correct.

MR KIRKPATRICK: And that the base of that, the valley down below the house, that is where the transmission line is going to go?

20

MR LISTER: Yes.

MR KIRKPATRICK: And you have made a comment - and it might be helpful here, sir, to look at the bundle of exhibits 5.

25

HIS HONOUR: Thank you.

MR KIRKPATRICK: Sir, that is GCL8, in which I think you will find the current photograph from the upstairs room, the view most recently from that property. And that is where you have got the ellipse relative to the rough locations where the pylons would be?

30

MR LISTER: Yes, it is probably helpful to refer also to exhibit 65B, which is the photomontage that shows the transmission line.

35

MR KIRKPATRICK: Yes, in bundle 4.

MR LISTER: In bundle 4.

40

HIS HONOUR: I see.

MR KIRKPATRICK: Sorry, sir.

HIS HONOUR: 5B?

45

MR KIRKPATRICK: 65B. And that is taken out in front of the house on the ground, is it not?

MR LISTER: Yes.

5

HIS HONOUR: It looks like in front of those trees, are they macrocarpas, something like that?

MR LISTER: Yes.

10

MR KIRKPATRICK: Well, I was just about to ask about those, sir. Those macrocarpas would provide – I think you say in your evidence – a degree of screening to that impact on the valley. From your viewing of those macrocarpas you would agree that they are quite mature?

15

MR LISTER: Yes.

MR KIRKPATRICK: Are you aware that there is no particular protection in the district plan for those sorts of trees?

20

MR LISTER: No, there would not be.

MR KIRKPATRICK: The Walters, in fact, have advised me that they would intend and they would like, in fact, to remove those trees because they are really past any useful life that they might have and they are actually getting in the way - potentially, at their age, pose a danger. Do you think that is a reasonable approach on their part in their circumstances?

25

MR LISTER: Yes.

30

MR KIRKPATRICK: So, to the extent that there might be screening from those trees on the property, it would not be reasonable to require the Walters to keep those trees in place, would it?

35

MR LISTER: No.

MR KIRKPATRICK: Now, at paragraph 13, you are responding to Mr Brown's point about this cumulative effect and you acknowledge that there would be a cumulative effect, you just do not think it would be very high, that is right, is it not?

40

MR LISTER: In paragraph 13?

MR KIRKPATRICK: Well, I am sorry, more generally you have acknowledged the cumulative effects?

45

MR LISTER: In terms of the wind turbines, the numbers of wind turbines?

MR KIRKPATRICK: The numbers of wind turbines and the line?

5 MR LISTER: Yes.

MR KIRKPATRICK: You acknowledge that that is a cumulative effect?

10 MR LISTER: Yes.

MR KIRKPATRICK: You have not separately assessed that combination of moderate to high for the turbines and moderate for the line, have you?

15 MR LISTER: No, I have not.

MR KIRKPATRICK: Mr Brown has said that that cumulative effect is a significant factor from the point of view of the Walters?

20 MR LISTER: Yes.

MR KIRKPATRICK: And, at paragraph 13, you say it is there but it is not exceptional, do you not?

25 MR LISTER: Not in paragraph 13. In paragraph 21 I acknowledge the cumulative effects.

30 MR KIRKPATRICK: Well, let us leave that for a moment, let us focus on paragraph 13. I apologise if I misunderstood what you were driving at. Simply dealing with this issue of whether the Walters property is an exceptional case?

[10.40 am]

35 MR LISTER: No, in that instance, I was not referring to the fact of the transmission line in combination with the turbines. I was responding to Mr Brown's assertion that the Walter property was exceptional or unique because of its proximity to wind turbines and the number of wind turbines that would be visible.

40 MR KIRKPATRICK: I see, all right. Well, if we move on from there and if we accept that the Walters will have both a view of the line and the line will be on their property, and they will have this view of the turbines. The Ashhurst example and the Awhitu examples do not present that combination, do they?

45 MR LISTER: No, they do not.

MR KIRKPATRICK: And, in the context of this proposal, I put it to you that the Walters are an exception because they have clear effects of both and, in fact, they have part of the project proposed to go on their property?
5

MR LISTER: Yes, in terms of this project they are unique in that sense.

MR KIRKPATRICK: Yes. If we move into the next section, the nature of the visual effects. Can I ask you to look at paragraph 16? And you acknowledge that the turbines become major elements in the landscape and you acknowledge, elsewhere in your evidence-in-chief, the turbines will bring a significant change to this overall area. You go on to say, “They will not render the landscape subservient”. That is a matter of judgement, is it not, as to whether something is dominant or subservient in a landscape?
10
15

MR LISTER: Yes, there is no way of measuring that, that I know.

MR KIRKPATRICK: So, while you accept that the Walters landscape will be significantly affected, you are still saying in its overall context it is not as though it will be dominant?
20

MR LISTER: What I am saying, in essence, is that those wind turbines will become part of that landscape and they will have a figure-ground relationship with the underlying landform rather than dominating it per se.
25

MR KIRKPATRICK: Have you read the evidence of David Walter to be given to the Board?
30

MR LISTER: I am sure I have, I cannot recall.

MR KIRKPATRICK: Well, the main point I want to ask you about is are you aware that he has longstanding connections to this land?
35

MR LISTER: Oh, yes, I have read his evidence. Yes, I am aware of that.

MR KIRKPATRICK: So, from your professional point of view, you would accept that, in that context, he would react to a significant change perhaps to a greater extent than someone who might be a more ephemeral visitor to the area?
40

MR LISTER: Yes, I accept that and I understand that. But, in terms of doing my assessment, those are things that I cannot take into account in order to be impartial. And really what my assessment is, is trying to provide
45

5 a comparison between different degrees of change or degrees of prominence so that you can make a distinction between those people who are 10 kilometres away or those people who are one and a half kilometres away, because there is a big difference in that. But in terms of those personal responses to the wind turbines, now that is a personal a thing and it is beyond what I am able to contribute to the hearing.

10 MR KIRKPATRICK: Although you note in your evidence-in-chief, you talk about - at 77 - "A polarisation of opinion in relation to the turbines". In relation to the transmission line you note, in paragraph 207, "Almost universal antipathy towards the lines". So notwithstanding your attempt at rising above individual responses, at least in relation to the lines, experience suggests that there is a general response of people?

15 **[10.45 am]**

20 MR LISTER: In relation to transmission lines that is quite easy because there is an, almost universal, antipathy so a large change to the landscape you can quite readily say is a large adverse effect. With wind turbines it is not as straightforward as that and there are some people who are living quite close to the wind farm, and to other wind farms, who are quite happy with that landscape. And, at the same time, there are people who live 10 kilometres from a wind farm and if they can see a group of wind turbines at that distance then, to them, that is a huge effect.

25

DISCUSSION

30 MR KIRKPATRICK: Mr Lister, just following on from what you were saying before we oriented ourselves on Tatum, would it be fair to say that, in your experience as a landscape architect and in giving evidence for Boards such as this for the Environment Court, that reaction to change generates a great number of submissions relating to landscape issues?

35 MR LISTER: Yes, I think that is very true.

40 MR KIRKPATRICK: And do you consider, as a landscape architect of extensive experience, in advising your clients, management of dealing with that change is a key element to whether or not - leaving just to one side your notions of acceptability in the landscape - those people who are familiar with the landscape regard changes acceptance(PH).

[10.50 am]

45 MR LISTER: Well, I agree with that proposition. It is not something that I have advised my client, particularly.

MR KIRKPATRICK: I see. All right. You go on in your rebuttal statement, paragraphs 18 and 19, you are commenting on Mr Brown's quotation of the district plan criterion, and you note at the beginning of paragraph 19 that "no windfarm is likely to meet such criteria."

MR LISTER: That is right.

MR KIRKPATRICK: The Franklyn District Plan essentially does not contemplate the provision of wind farms in this part of the district, does it?

MR LISTER: No.

MR KIRKPATRICK: And in your experience, are there many district plans in New Zealand that contemplate provision of windfarms?

MR LISTER: No, not that I am aware of at all.

MR KIRKPATRICK: And that is a problem both for those who want to promote the windfarms – I can understand that; I do not need you to comment on that. But in relation to those who read the district plan and try and get some understanding of what may happen in the future, it is a problem to them that the district plan gives no indication of what might be coming, is it not?

MR LISTER: Yes, I think that is an unfortunate situation.

MR KIRKPATRICK: But you would not say that it was a fault of the people of the area - - -

MR LISTER: No.

MR KIRKPATRICK: - - - so the district plan has that – the true (INDISTINCT 10.51.47), would you?

MR LISTER: No.

HIS HONOUR: Which one? I should add, just for the sake of completely, could be covered by a national environment standard or - - -

MR KIRKPATRICK: If you want to get me going on that, sir - - -

HIS HONOUR: Yes, but the reality is there are none in place, and so, although there are two mechanisms – one is the plan change, or a national policy statement or standard, there are none in New Zealand at

the current time. There are no standards or policy statements relating to windfarms.

MR KIRKPATRICK: Yes. There is the transmission.

5

HIS HONOUR: Yes, but not relating to windfarms.

MR LISTER: No, not windfarms specifically.

10

HIS HONOUR: I do not know if anyone has mentioned the one relating to transmission, but it is relevant of course, so we will come to that in due course.

15

MR KIRKPATRICK: Well, I was open, sir, because I suspect that my friend, Mr Robinson will be addressing you on it, and file(PH) a number of issues.

20

HIS HONOUR: Well, he has not to date, but it is obviously going to be relation to the transmission aspect, but - - -

25

MR KIRKPATRICK: and that is where, sir, the Walters' focus comes in because – and I will be coming to this in a moment – that if there is a windfarm proposal, that you have got to get that electricity to the grid. And there (INDISTINCT 10.52.52) of that transmission lines.

DISCUSSION

30

MR LISTER: I have a personal view that there should be a proactive planning – for where windfarms should go, but, you know, that is not the situation we are in.

HIS HONOUR: To that extent he agrees that it is a problem not of people's making but nevertheless we still have to deal with the reality.

35

MR KIRKPATRICK: Coming now to the transmission line in the next section of your rebuttal, and at 21, we now get to these cumulative effects. Now you not at 21A the distances – you disagree with Mr Brown on the distances - - -

40

MR LISTER: Yes.

MR KIRKPATRICK: Whoever's measurement is more accurate, the line is still clearly visible, is it not?

45

MR LISTER: Yes.

MR KIRKPATRICK: It would be clearly visible?

MR LISTER: Yes.

5 MR KIRKPATRICK: And at 21B, you acknowledge that the tree planting –
at least some of those trees that might otherwise provide screening,
there would be no certainty that they would remain?

MR LISTER: No, that is correct.

10

MR KIRKPATRICK: And, in fact, given the nature of those macrocarpas, I
put it to you, it would be reasonable to expect that they may well want
to take them down in the near future.

15 MR LISTER: They may well want to.

MR KIRKPATRICK: And at 21C, the factors that might reduce the potential
prominence, there is a focus obviously in all of this on views from the
Walters' house, whether it is the deck or the upstairs window or in the
vicinity of the house, but of course the whole property – it is a working
20 farm, but it is also still their home, is it not?

[10.55 am]

25 MR LISTER: Yes.

MR KIRKPATRICK: And you would expect that the Walters would be out
on the farm in the course of any day, working, doing whatever people
might do on their own property.

30

MR LISTER: Yes.

MR KIRKPATRICK: So, you would accept from a landscape point of view it
would be incorrect for a property like this, simply to fix on the home
without also considering landscape effects as they might affect other
35 parts of the property?

MR LISTER: Yes, I agree with that, and I have noted that in my evidence, in
a couple of places as a caveat to those appendices. Those appendices
40 can only deal with effects from the houses, and that is important,
because that is where – that is the focus of people's lives. But I
acknowledge that there will be effects on the land in general on farms.
But there is no way of addressing that in the same way that we have
done with the appendices.

MR KIRKPATRICK: Turning to the alternative alignment, have you been onto the neighbouring property, which I think is called, in the exhibits, am I right, the Bramwell property – sometimes also referred to as the Harford property?

MR LISTER: I have not been onto the property. I have climbed up onto the ridges above the road so I can see over it and looked along from the ends, so I have a good idea of what is happening in that land, as part of looking at that alternative alignment.

MR KIRKPATRICK: And you note, in paragraph 22, that it does not form part of the notice of requirement. So a choice was made by Contact based on a consideration of alignments, and you go through your part in that process. I put it to you that the difference between the choices was a matter of degree, rather than absolute. While you state why you think the current alignment is preferable, it is not an absolute distinction between the other alternatives?

DISCUSSION

HIS HONOUR: So there are two houses that would be - - -

MR LISTER: Two houses which are now owned by - - -

HIS HONOUR: Oh, they are owned by Contact, are they?

MR KIRKPATRICK: Yes.

HIS HONOUR: What numbers are they?

MR LISTER: N707 and - - -

MR KIRKPATRICK: I hesitate to say this from the bar, sir, but Mr Walter tells me that although noted as a house, one of them may be a hayshed.

HIS HONOUR: Oh, I see. But in any event, both – they are owned by Contact. Is that right?

MR KIRKPATRICK: Now they are, yes, sir.

HIS HONOUR: Right. So that has changed things a little bit. And so the line, the reason – can we go back, I need to go out, because there are impacts about Umukaraka Bush as well.

MR KIRKPATRICK: Yes.

HIS HONOUR: And issues about going around that.

5

MR LISTER: It would make little difference because the common point would be here.

HIS HONOUR: Well, unless, of course, you were entirely around the bush. Carry on. Keep going. Around the bush – no, but around the bush, and then went up from there. Is that all owned by Contact now?

10

MR LISTER: I do not know what the ownership over here is.

HIS HONOUR: You do not know. So the alternative, which was in the original options, was that one you have just shown, that – there is that – you do not know.

15

MR LISTER: Different landowner.

20

HIS HONOUR: Different landowner, yes. I see. It was to cut through that – as you say, and come to that common point, and then to go – that is the alternative you have been looking at – is running along that ridge, and then hooking back – what – at that bend again?

25

MR LISTER: This – just picking up there.

HIS HONOUR: Picking up there.

MR LISTER: But it is not – my understanding is that it is not part of the - - -

30

[11.00 am]

HIS HONOUR: No, I appreciate that, but you seem to see it as feasible in general – at least landscaping terms.

35

MR LISTER: It is feasible in landscape terms. There is a QEII covenant area up here that we would need to cross, or – so you would need to address that with Mr Kessels, and I think it is a feasible route but I prefer the existing one because it is in a valley. And the new one could climb a spur up here and the towers along this part here would be in the skyline from the Walters property - - -

40

HIS HONOUR: Oh, I see.

MR LISTER: So even though it was further away they would be on the skyline rather than down in the valley and against a backdrop. This is all quite elevated and there is a very sort of low saddle that kind of runs through here and then it becomes pretty - - -

HIS HONOUR: And is that the QEII area that was marked by – as you were avoiding it, another max(PH) - - -

MR LISTER: My understanding is that this is the QEII area in here. It is not – has not been marked on Tatuk.

HIS HONOUR: Well, we did have one that was marked, so I do not know where that is. Perhaps that is further on the route. It does not matter anyway for current purposes. I just wanted to understand what we were talking about exactly. Thank you.

MR KIRKPATRICK: Mr Lister, were you involved in giving any advice to Contact about the acquisition of the Bramwell private property?

MR LISTER: No.

MR KIRKPATRICK: So you did not advise them that it might be desirable to acquire that property for landscape reasons?

MR LISTER: No.

MR KIRKPATRICK: Talking about, in your next section of this rebuttal, the alignment through the Te Umukaraka Bush, I know you are referring to the evidence of Mr Kessels, and there has been evidence from Ms Yorke about his as well, and I do not know what detail you know about putting the line through the bush, you suggest stringing it above the bush using higher towers and limited felling. Do you have any knowledge of the detail of what would actually be involved there, the degree of impact on the underlying bush in putting the line through?

MR LISTER: No, not in detail. I have discussed the degree of clearance that would be required with Mr Kessels and so I have a feeling for the extent of that, and I have been through that area and looked at the tower sites and so on, of the towers apart from tower 14 is the only one that I have not been to.

MR KIRKPATRICK: The degree of effect will depend – of that construction within that bush, it will depend heavily on what is actually done by the contracting crews who do the work. Is that right?

MR LISTER: Yes, that is right.

MR KIRKPATRICK: And then finally on this statement of evidence, the
5 landscape appraisal – this business of outstanding – whether or not any
landscape in this area is outstanding, is not the determinant factor for
landscape purposes, is it?

MR LISTER: No, not at all.

10 MR KIRKPATRICK: Now, I think Mr Bradley, yesterday put something
along these lines to you, but I would just like to put it to you in my own
way. I apologise if I am repeating – your approach, as set out in our
evidence – and I am thinking about paragraph 11, paragraph 79 and
15 paragraph 200 –and you do not need to turn to those paragraphs, but
generally speaking, you repeat in your Evidence-in-Chief the desire to
avoid existing settlements and as far as possible to avoid houses, either
in the position of the windfarm itself, or the position of the transmission
lines. That is right, is it not?

20 MR LISTER: Yes.

MR KIRKPATRICK: And is it fair to describe that as a sort of a – the obverse
of a utilitarian approach – utilitarian – the greatest benefit to the
greatest number – what you are trying to do is to have the least impact
25 on the greatest number, to that approach, are you not?

[11.05 am]

MR LISTER: That is part of it. It is the least – we are looking for the least
30 impact overall, so not – and avoiding settlements, for instance, is a way
of avoiding concentration of people, but in terms of alignment of lines
and so on, we are also looking to avoid individual houses as far as
possible.

35 MR KIRKPATRICK: Well, I was going to say, that is still important, is it not.
We are not simply sacrificing certain individuals for the purpose of
avoiding as many others as possible?

MR LISTER: No.

40 MR KIRKPATRICK: I appreciate that you have not been called to give any
evidence about value in economic terms of properties, but as a
landscape architect would you accept that this word “value” crops up in
things like amenity value or landscape value, has a direction
45 relationship to the property value of a property?

MR LISTER: Yes.

MR KIRKPATRICK: And an impact upon the amenities of a property, you
5 would reasonably expect it could well have an impact on the economic
value of a property?

MR LISTER: Yes, I could accept that, but that is an area of specialist
expertise that is outside my area.

10 MR KIRKPATRICK: You comment about mitigation techniques and you
refer to opportunities in certain places for planting - - -

MR LISTER: Yes.

15 MR KIRKPATRICK: And I put it to you that in the context of a farm
property more so than for say, an urban property? Screen planting may
well raise issues in terms of farm management or efficient utilisation of
a farm property. Do you agree with that?

20 MR LISTER: Well, it may do. The mitigation planting would normally be
carried out quite close to a house in order to get the maximum leverage
of angle of sight. And it typically works best when it is behind the
house, if the house is – you know, if the transmission tower, for
instance, is behind the house and the house is facing the other way, and
25 you can plant some screening quite close to the house behind it.

MR KIRKPATRICK: But a farmer may not want to screen his or her property
from view from the house. A farmer may want to wake up in the
morning and be able to see as far as he or she can see.

30 MR LISTER: Yes, I accept that, and it is not a mitigation that you can force
on people, obviously.

MR KIRKPATRICK: No. Now, if Contact owned this property the way it
35 owns the neighbouring property, it could do a whole lot of things
without any need for – I mean it may still need a consent but it would
not need any arrangements as to access, it would not need to take time
in terms of disruption to farm activities; it could make a number of its
own choices about how it might want to implement this project, could it
40 not?

MR LISTER: Yes.

MR KIRKPATRICK: And that is what Contact can do with the Bramwell half
45 of the property?

MR LISTER: Yes.

MR KIRKPATRICK: Very little of the project will actually be on that property, will it? I think, maybe there is a pylon in that. Oh, sorry - - -

5

MR LISTER: This is Bramwell property on this side as well.

MR KIRKPATRICK: Here? That section.

10

MR LISTER: That section and through this section.

MR KIRKPATRICK: All right. Compared to say the Walters or the Balls – a lesser amount on that property is correct?

15

MR LISTER: I have not counted or measured that.

MR KIRKPATRICK: All right. In terms of the reaction to the proposal within the area to have the turbine itself – and I appreciate Sunset Farms to the north has a particular point of view – the land owners who are part of the Wind Farm Group, the joint venture with Contact, they have not (**INDISTINCT 11.09.46 coughing**) this process, have they? They seem to have accepted the impact on their properties?

20

MR LISTER: Yes.

25

MR KIRKPATRICK: Do you think that may be linked to that fact that they are in a joint venture and they will be receiving income from the turbines?

30

MR LISTER: Yes, I would imagine that that would influence perception.

MR KIRKPATRICK: Thank you, Mr Lister. Thank you, sir.

HIS HONOUR: Thank you. We will take the morning adjournment and then come back to your questions, Ms Bradley.

35

MR BRADLEY: Mr Prebble.

HIS HONOUR: Oh, Mr Prebble – of course, sorry.

40

ADJOURNED [11.10 am]

RESUMED [11.30 am]

45

HIS HONOUR: Mr Prebble, you had questions for this witness?

DISCUSSION

<CROSS-EXAMINATION BY MR PREBBLE**[11.33 am]**

5 MR PREBBLE: Good morning, Mr Lister.

MR LISTER: Good morning.

10 MR PREBBLE: I refer to paragraph 40 of your evidence-in-chief. Now, just a matter of clarification. You refer there down in the second to bottom line “an inland area at Umukaraka”. Is this referring to Te Umukaraka Bush as well?

MR LISTER: Yes.

15

MR PREBBLE: All right. So if I take you then to page 23 of appendix (i) – so it appendix (e) actually.

20 HIS HONOUR: This public opinion on wind farms – is that what where we are looking?

MR PREBBLE: This is the appendices to evidence-in-chief, page 23.

25 HIS HONOUR: It is actually appendix (f). Carry on, we are at 23.

[11.35 am]

MR LISTER: Sorry, appendix ...?

30 HIS HONOUR: (f), page 23.

MR LISTER: ... of existing landscape units?

35 MR PREBBLE: Yes. So you have got there a description of Umukaraka at 5(f), is that right?

MR LISTER: Yes.

40 MR PREBBLE: Now, it may assist – because I am struggling really to determine where is your assessment ultimately of Te Umukaraka Bush, given that when you refer to page 4 of your primary exhibits it seems to me that Te Umukaraka Bush is within the Waikawau Valley, possibly within 6(e) but certainly not within 5(e) and I am just wondering which criteria relates to the landscape assessment of Te Umukaraka Bush?

MR LISTER: The Te Umukaraka landscape unit that I am referring to there is the one where there is 5(e), which is the area along the Te Umukaraka Stream and I labelled that “Te Umukaraka” because at that time that was prior to starting on the transmission line work and prior to that name for that area of bush that has been applied – that was prior to my becoming aware of that use of that name.

MR PREBBLE: But 5(e) is within the Limestone Downs catchment according to plan 4?

MR LISTER: Yes.

MR PREBBLE: So how does that relate to Te Umukaraka Bush?

MR LISTER: Well it does not. There is an area along the Te Umukaraka Stream which is what I have labelled as “Te Umukaraka”. That stream drains down and out through the Kawerau Valley, out to the coast directly. And then there is the area which has become referred to as the “Te Umukaraka Bush” which is where the transmission line goes, and that is part of a catchment that drains back the other way and back into the Kawerau Valley.

MR PREBBLE: So for clarity then, just so I understand you, 5(e) where it is on the line there, is actually still providing a landscape assessment of the Te Umukaraka Bush in terms of going back to your appendix (f) at page 23?

MR LISTER: No, that description relates to that area that is north of the solid line.

MR PREBBLE: Right. So where is the description then for Te Umukaraka Bush?

MR LISTER: Well there is not an assessment in this appendix of that area.

MR PREBBLE: Right.

DISCUSSION

[11.40 am]

MR LISTER: 4F would apply to this area up in here. This is the valley that I have referred to as Te Umukaraka, and that is a stream that drains out this way, and that is 5F.

MR PREBBLE: (INDISTINCT 11.40.48)

5 MR LISTER: This area up in here where the transmission line goes, which is also referred to a Te Umukaraka Bush, has not been assessed as part of this inventory.

MR PREBBLE: Right. Okay, that is the point I wanted I wanted to understand. Thank you.

10 MR LISTER: And the reason for that was that the assessment was initially for the windfarm project and the transmission line - - -

MR PREBBLE: Came later.

15 MR LISTER: - - - followed on.

HIS HONOUR: So only part of the bush has been assessed?

20 MR LISTER: Yes, as part of this inventory. Yes.

DISCUSSION

25 HIS HONOUR: Just so I can follow, I assume therefore you accept that the special amenity area of 5F needs to include all of the bush recognised by Mr Kessels as significant and carries on to the east?

MR LISTER: Yes, it could carry on ---

30 HIS HONOUR: To follow Mr Prebble's point.

MR LISTER: It is a – 5F is a discreet valley and it has particular rimrock features as well, and it has a particular history that I understand is associated with it.

35 MR PREBBLE: Turning to paragraph 212 of your evidence-in-chief, you refer to the fact that the department challenged your choice of route through Te Umukaraka Bush?

40 MR LISTER: Yes.

MR PREBBLE: And you note there that you favour the proposed route over Te Umukaraka Bush because the line would be less visible from public roads and a house. Now, can I just clarify a few things, is that one house or several houses?

MR LISTER: Well, it will be visible from more than one house, but in particular, in fact, there are two houses that it will be visible from, but in particular that refers to N81 which stands on a spur that looks up and down that valley.

MR PREBBLE: Is it not correct that those houses are all owned by the Greys and in fact there is only one residential dwelling?

MR LISTER: It is on the Grey property, yes. I am not sure - - -

MR PREBBLE: So really it is one family being affected rather than three or four different families in separate houses?

MR LISTER: Yes, that may be the case. I am not sure what the arrangements are.

MR PREBBLE: Can you confirm that that road is a formed road, not simply a paper road?

HIS HONOUR: Is this Baker Road, is it?

MR LISTER: This is Baker Road.

HIS HONOUR: Is that what you are asking about, Baker Road?

MR PREBBLE: Yes.

MR LISTER: Yes.

MR PREBBLE: It is, and that is a public road?

MR LISTER: Yes.

MR PREBBLE: Have you done any photo montages to compare the various routes, taking the transmission line through Te Umukaraka Bush?

[11.45 am]

MR LISTER: No, I haven't.

MR PREBBLE: At paragraph 2.1.2 you state you were only able to reach your conclusion taking into account the fact that clearance will be small and ecological affects not significant, relying on Jerry Kessels for that evidence, is that correct?

MR LISTER: Yes.

MR PREBBLE: Would you not, therefore, agree that if Mr Kessels' evidence is not right in any way, you would need to reconsider that view?

5

MR LISTER: I am not sure that I would say in any way. But, if it fundamentally went wrong - - -

MR PREBBLE: Materially wrong?

10

MR LISTER: If it is materially wrong, then that is right. That route – I would not support that route.

MR PREBBLE: Are you aware that contrary to Mr Kessels' evidence at paragraph 1.2.5 of his evidence-in-chief, the length of the line through the bush area is not 800 metres but instead, as we have been shown from Mr James using tatuk, the total length is 1110 metres?

15

MR LISTER: Well, I haven't referred to any of those distances and I imagine you are comparing the difference between the area that – over this mature - - -

20

MR PREBBLE: That is right.

MR LISTER: - - - area with the open area at the - - -

25

MR PREBBLE: No, I am just saying that Mr Kessels has sited the area through the bush as being a corridor of 800 metres, but in fact the actual area of the corridor through the bush is roughly 1110 metres.

30

DISCUSSION

HIS HONOUR: Can I put it in a way that it seems to me it depends on the actual alignment of the transmission line as to whether you can utilise a very small green patch and reduce the length from 1100 metres to 800 metres? Within the corridor there are alignments that could be chosen, which would mean you would be looking at at least 1100 metres will you not?

35

MR LISTER: Yes.

40

HIS HONOUR: That probably answers the point does it not?

MR PREBBLE: Well I guess from our perspective as well, that is our corridor so there will be clearance below the line. It is the actual corridor within the bush from a visual perspective will affect more than 800 metres.

45

HIS HONOUR: Well I think the way you can put it is even if they put the tower in that small clearing, you would have 800 metres followed by another approximately 300 metres?

5 MR PREBBLE: Certainly, yes.

HIS HONOUR: Would you agree, Mr Lister?

MR LISTER: Yes.

10

MR PREBBLE: Do you agree that is a material difference?

MR LISTER: No, because my assessment was not based on measuring that, it was based on what the actual affect would be through that area, or my
15 assessment of it. So I have relied on – I haven't relied on a particular measurement.

MR PREBBLE: Are you aware that contrary to Mr Kessels' comment at
20 paragraph 1.2.5 of his evidence-in-chief that there will be only one area cleared for a transmission tower to be placed he hopes in a logged area, there is in fact three towers, possibly five towers, required in the actual bush area of Te Umukaraka?

[11.50 am]

25

MR LISTER: No, that is not my understanding. When we looked at this alignment, we came – we spent a whole day up in this area and came up and spotted tower sites and we walked down through this bush area
30 here.

30

I think we actually, on that particular day, we picked another tower site which I understand Mr Kessels has since revised because he found a better alignment. But it seemed clear to us that you would be able to construct a line through there with towers out here placed in open
35 grassed areas or rough pasture. The same on the other side and we would need one tower in the middle of that bush and that was the main issue.

The understanding from that site visit and subsequent discussions was
40 that it would be possible to build the line through there without bearing a swathe underneath the line. The line could be strung above the canopy and there might need to be some clearance of individual trees where that effect of the clearances from the conductors, but even then, my discussions with Mr Kessels are that he believes that he may be able
45 to do it without doing that. But nevertheless what the application says is there will be some clearance of trees.

MR PREBBLE: You may not be aware, but we heard from Ms Yorke that Contact's proposed design allows for a line sag of a maximum of 9 metres off the ground. Are you aware of that?

5

MR LISTER: No, I am not aware of that.

MR PREBBLE: Are you familiar with the electricity regulations which Ms Yorke confirmed require a further four, I think she said to five metres, four metres for vegetation clearance and then one metre for safety as a buffer down from that nine metres?

10

MR LISTER: I am aware of those regulations in general, but in our discussions with - - -

15

MR PREBBLE: That was all I was asking, thank you.

MR LISTER: Well, I have not finished the answer. In our discussions with Ms Yorke she confirmed to me that we would be able to string the line above the bush canopy without having to clear it to the ground.

20

MR PREBBLE: Thank you. Are you aware also from Ms Yorke that a track would need to be cut, even if the helicopter access was possible, to provide access for carrying in a digger and work people?

25

MR LISTER: Yes.

MR PREBBLE: I just want to move on to paragraph 219 of your evidence-in-chief. You talk there in response to Gavin and Janice Ball, are there any other values you consider noteworthy that are associated with their property?

30

MR LISTER: Not specific ones that I am aware of.

MR PREBBLE: Mr Kessels at paragraph 127 of his evidence in chief describes, "the external line is crossing several scattered podocarp broadleaf forest fragments containing kohikohi, tanekaha, and puriri" and he states these are "ecologically significant". He then states, "the line crosses a limestone outcrop immediately to the south of that area". Can you clarify the area he is referring to?

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MR LISTER: I presume he means this area down at the base of the escarpment.

HIS HONOUR: Is this on the Ball property?

45

MR LISTER: This is the Ball property here.

MR PREBBLE: Is it your understanding that that remnant area is the area immediately north of the transmission lines?

5

MR LISTER: I do not know for sure what he is referring to there.

MR PREBBLE: Have you assessed that in terms of its landscape values?

10 MR LISTER: No, I have assessed the landscape in general through here and noted the limestone beaches through this area and through the whole basin in fact. And one of the reasons for aligning the route on this side of basin was that those features are less significant than on the southern side of the basin. So I have acknowledged those. In terms of the
15 vegetation, I was not aware that we were affecting any vegetation through that area. We have to rely on Mr Kessels for that.

[11.55 am]

20 MR PREBBLE: I think there is an overlay on there. It shows the actual ecological area. Obviously that is a bit rough but it does include areas that the transmission corridor crosses.

HIS HONOUR: Importantly to us it goes through an ecological area. You did
25 not consider that was important?

MR LISTER: I did not consider that in my assessment.

HIS HONOUR: You did not consider it at all?

30

MR LISTER: No.

MR PREBBLE: I would like to now turn to Pungapunga wetland at paragraph
35 239 of your evidence-in-chief. You state here that - - -

35

HIS HONOUR: Sorry, I just want to – I am just having a little trouble
understanding the answer which surprises me. So you took into
account the covenant of areas and reserve areas but you did not take
40 into account what are significant natural vegetation areas or ecological areas?

40

MR LISTER: No, my understanding through there was that we were avoiding
vegetation and - - -

45 HIS HONOUR: Well, you can see quite clearly the ecological area. The transmission line goes right through it.

MR LISTER: Yes.

5 HIS HONOUR: So you were just not aware that there was an ecological area there?

MR LISTER: No, I was unaware of that. I have not looked through that area with that layer turned on.

10 HIS HONOUR: Now that you know about it, does it modify your view as to the appropriateness of that alignment?

15 MR LISTER: I would need to look more closely at what the actual effects of the line were in that area and why the line is drawn in that way over that area.

20 HIS HONOUR: Sorry, Mr Prebble. It was just a surprise to us as well. Carry on. It does not have a particular name – does that ecological area have a name that we can identify?

MR PREBBLE: I do not believe it has a name, no.

25 HIS HONOUR: But it is just the Ball ecological area. I think it is on the Ball property is it not?

MR PREBBLE: Yes.

30 MR LISTER: But my understanding was that we were avoiding the vegetation.

MR PREBBLE: Even then the line itself, the centre of the line, goes over the southern most part of the vegetation?

35 MR LISTER: Yes.

40 MR PREBBLE: So turning to paragraph 239 and the Pungapunga wetland. You state, that “the main effect with the transmission line crossing the Pungapunga wetland will be visual”. Do you not consider that putting the transmission line across the wetland might have other implications, such as biophysical effects?

MR LISTER: Not that I am aware of because the line is being strung above the wetland, the towers on either side.

45 MR PREBBLE: If I refer you to your page 53 of your **(INDISTINCT 11.58.42)**, report, you refer to the preferred option as considered

appropriate and your first bullet point is “biophysical effects will be limited”. You do not say there will be no biophysical effects. You say for this group they will be limited.

5 MR LISTER: Biophysical effects includes effects on landform as well. What page is that?

DISCUSSION

10 MR LISTER: Could I have a copy of that, please.

MR PREBBLE: Sorry, it is just a page if that is all right.

[12.00 pm]

15 MR LISTER: In that context it clearly refers to earthworks. It says, “biophysical effects will be limited. The site is open pastureland and earthworks will be relatively modest and visually contained”. So that is referring to the works associated with the switching station itself, not
20 the fact that the line crosses the arm of the wetland.

MR PREBBLE: Do you think the line crossing the wetland could have any other implications at a biophysical level?

25 MR LISTER: Well, the only ones that I can think of are perhaps bird strike, of birds flying into lines, but that is not an area that I can comment on.

MR PREBBLE: But it is still a biophysical element of the natural character?

30 MR LISTER: Yes, and you would have to factor that in from another expert.

MR PREBBLE: Right.

35 When you did your AEE and you said the biophysical effects were limited that was before Mr Kessels was then requested by the council to produce a section 92, sorry, in answer to a section 92, an assessment on the Australasian bittern, which he subsequently provided. In that report, I do not think we necessarily need to go there, but it says that,
40 “this is an ecological site and an important habitat in the past for Australasian bittern”. That is at page 3, and he has also assessed bittern, “as being at risk from strike”, which is at page 11 of that report.

45 I find it curious that you would have had that section 92 report when you drafted your evidence-in-chief and rather than perhaps correct the limited reference to biophysical effects, you just simply took it out altogether. Did you think perhaps you could have alluded to the fact

that there was greater than limited effects to biophysical elements to natural character?

MR LISTER: No, I was not aware of that.

5

MR PREBBLE: The 92 – the report of Australasian bittern?

MR LISTER: No, I was not and it was not – in my discussions with Mr Kessels he had not drawn any issue with that to my knowledge.

10

MR PREBBLE: Right. I would like to now turn to avifauna and transient values. A slightly weighty topic. Paragraph 34 of your evidence-in-chief. You summarise the aspects of the landscape applying the Pigeon Bay criteria.

15

MR LISTER: Yes.

MR PREBBLE: Where in your evidence-in-chief from paragraphs 34 to 52 do you discuss transient values as part of your assessment?

20

MR LISTER: No, I do not. That is a good point.

MR PREBBLE: Do you agree that wildlife, including birds, make up an integral part of the transient values and should be accordingly assessed?

25

MR LISTER: Yes, they are something that should be taken into account as one of the factors.

MR PREBBLE: Can you offer an explanation as to why there is no discussion of transient values?

30

MR LISTER: No, I am surprised that I have not included it but transient values. There is an issue with transient values as a factor because it is really not a factor in itself. It is more an aide memoir to take into account transient values of the other factors such as transient visual – visual qualities that might be there only at some times or at some seasons, or natural science values that might be there at some seasons.

35

[12.05 pm]

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MR PREBBLE: Or in the words of Pigeon Bay I think, the occasional presence of wildlife for its values at certain times of the day or year?

MR LISTER: Yes, and that is a factor to take into account. But there has been a more recent discussion on transient values as a factor in the Unison case.

45

MR PREBBLE: Have you ever given evidence before the Environment Court where you have found a coastal area has high transient qualities encompassing wading birds that use an area or a harbour including migrating flocks?

5

HIS HONOUR: Given that it is a quote from a case, I am assuming we can put it – if you just tell him where he has said it then we have just sped everything up.

10

MR PREBBLE: I refer you to the South Kaipara Harbour Environment Trust v Auckland Regional Council, do you recall that case?

MR LISTER: Yes, I do.

15

MR PREBBLE: And I have got here a quote that says in your evidence you say, “Following the Pigeon Bay criteria the harbour as a whole has higher natural science values, it is recognised as an internationally important feeding area for wading birds and has a high range of recognised ecological values”. You then go on, further down the quote, to say, “The harbour has higher transient qualities encompassing the wading birds that use the harbour including migrating flocks”.

20

I put it to you that there is a rather glaring omission in your evidence-in-chief in respect of this site which has such obvious bird issues, given there is no consideration at all of transient values?

25

MR LISTER: No, I have not taken into account the migratory birds up the coast and that is a factor that should be included in landscape assessment.

30

HIS HONOUR: Well, I think the question was do you accept that is a glaring omission?

MR LISTER: It is an omission - that it is glaring.

35

MR PREBBLE: Well, it has implications for natural character I believe, as well. So I will come on to that now.

HIS HONOUR: Well, I do not know that I am necessarily with the answer you have had to date. The point Mr Prebble is making is clearly a subject that you are aware of because you have discussed it other cases in preparing your evidence. You have accepted it is omitted here. It should have been included, and the proposition is, is that not a glaring omission.

40
45

If you had gone through the Pigeon Bay criteria it is as plain as a pike staff and you would have come across it, and you know about it because you have discussed it.

5 MR LISTER: Yes.

HIS HONOUR: And I have to go back to Mr Prebble's, what is your explanation as to why it was omitted?

10 MR LISTER: Well, in the Kaipara case the area is an international area for wading birds. It has particular importance so it was a factor that is high on – you know, it had visibility to me, if you like. On this case here, you know, I am unaware that it has quite the same significance as that and I am aware that, you know, in recent months there has been a lot of
15 study going on that Mr Kessels has undertaken, but I have not sought to include in this.

MR PREBBLE: Could I just add to that given that you are saying that it is almost akin to something that has become more of an issue than when
20 you did your evidence. Have you read Mr Kessels stage 1 preproduction monitoring report which is “GK1A”, dated October 08?

MR LISTER: No, I have not.

25 MR PREBBLE: Well, if you had, you would be aware that he has stated that in his view pied stilt, banded dotterel and a number of other birds fly up the Kawhia Valley and that is an important flight, and I refer you to page 19. So I think even then, although the department's experts may not agree with that entirely, there is an obviously flag before you put in
30 your evidence-in-chief to the bird issues that were being raised with this particular site?

MR LISTER: Yes. I accept that.

35 HIS HONOUR: I assume it must follow from that, given that those values are fairly relevant to your undertaking, your assessment may alter depending on the view of those transient values, which you have not measured at this point?

40 MR LISTER: Yes, I would have to read that carefully and form a view of how significant that was in terms of the landscape values. But certainly it is a consideration I should take into account.

[12.10 pm]

MR PREBBLE: Well, I would like to now talk about natural character. At paragraph 146 of your evidence-in-chief you consider the effects – sorry, it starts actually at paragraph 142. You consider the effects on natural character of the coastal environment. My understanding of what you are essentially doing is you are considering natural character values under two broad concepts, one is the effects on the biophysical elements of natural character and the other is the effects on the perceptions or visual aspects of natural character, is that correct?

5

MR LISTER: Yes, that is correct. But in terms of biophysical aspects that is really related to earthworks and vegetation there and so I have not – once again, I have not considered effects on birds and, you know, I consider that an area of expertise that is beyond my expertise and it should be factored in separately.

10

MR PREBBLE: So are you saying it is relevant to your assessment for landscape as a matter of transient values but not relevant as a consideration under natural character. How is that so?

15

MR LISTER: Well, I would rely on other experts more for that assessment.

HIS HONOUR: I do not think he is – well, I want to check with him because I did not understand Mr Lister to say it was not relevant. He says it has to be factored. I think he said that he does not hold the expertise to value that but it does need to be factored. Mr Lister, did I correctly understand you answer?

20

MR LISTER: That is my understanding, and sometimes I make that comment and maybe I have overlooked it in this case, but I make a comment that other aspects need to be factored in that are outside my expertise.

25

MR PREBBLE: Fine. I understand the point and it is signalled in your rebuttal evidence to our planner when she raised this as an issue in relation to your evidence, where she was concerned with the lack of reference to policy 1.1.2 of the NZCPS, and you state at paragraph 81 of your rebuttal that, “Habitat aspects, particularly air habitat relating to migratory birds are outside your area of expertise”?

30

MR LISTER: That is right. I had forgotten that I had made that comment but that is exactly right. I have noted that it is an aspect that needs to be – you know, that is relevant but it is outside my area and it needs to be factored in separately.

35

HIS HONOUR: Which paragraph is that again?

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45

MR PREBBLE: That was paragraph 81.

5 HIS HONOUR: Thank you. I see, a very brief statement, essentially just what you put to the witness. Yes, so that has confirmed what I have said, which I think the witness is accepting that they are relevant to the determination.

MR PREBBLE: Yes.

10 HIS HONOUR: They impact upon landscape but landscape architects do not always consider they have the expertise to include various layers including this and tangata whenua values, cultural values, et cetera. So the point is well made and I think Mr Lister accepts that.

15 MR PREBBLE: Given that is your position, are you also aware that the avifauna experts, who I assume you would consider to be the people who are qualified to look at this issue - - -

20 MR LISTER: Sorry, I miss - - -

MR PREBBLE: I will start that again, there are a couple of questions here. Firstly, if you were to proffer a view, would you agree that the avifauna experts are those people who are appropriately qualified to provide that level of guidance on policy 1.1.2 issues surrounding the biophysical aspects of natural character that relate to avifauna?

MR LISTER: Yes, they should be experts in that area.

30 MR PREBBLE: And are you aware that the avifauna experts, in relation to shorebirds and migratory shorebirds have agreed that to adequately assess the risk to both of those categories of avifauna, more quantitative information is required at this stage?

35 MR LISTER: I am aware of that in a general sense.

MR PREBBLE: So we have a fundamental aspect of natural character that you had not assessed and that cannot be fully assessed until more quantitative data is gathered. Would you agree with that summary?

40 MR LISTER: Well, that is getting outside my area of expertise so I am not sure that I can comment on - - -

45 MR PREBBLE: In my mind at least it is quite fundamental to what you then later go on and conclude in relation to the overall appropriateness of this proposal under section 6A?

[12.15 pm]

5 Because if that is a proposition that is actually correct in that natural character has not been fully canvassed and assessed, how are you able to provide a full assessment under section 6A and conclude that this is an appropriate development?

10 MR LISTER: Well, those other things would need to be factored in and my assessment relates to those areas where I feel I do have expertise.

15 MR PREBBLE: But you are making an overall assessment under section 6A and these are matters that are also relevant to 6A, so would not your view under section 6A change once you had their concluded views on the risks to avifauna in this case?

HIS HONOUR: Can I put it slightly different – need to be re-evaluated?

MR PREBBLE: Yes, re-evaluated.

20 HIS HONOUR: Once you had the full information?

25 MR LISTER: Yes, I think that is true. But when I say I am making, you know, an assessment in terms of natural character, I guess the implicit thing is that I am not making an assessment in terms of those areas that are outside my expertise.

MR PREBBLE: Do you qualify paragraph 13 on that basis?

30 MR LISTER: No, I have not. But - - -

HIS HONOUR: Should you?

MR LISTER: Yes.

35 MR PREBBLE: So essentially - - -

MR LISTER: That would be - - -

40 HIS HONOUR: Sorry, he has just agreed that he should qualify paragraph 13, by that caveat he has added relating to the areas of his expertise.

45 MR PREBBLE: I would like to still traverse a follow-up matter to this, because at paragraph 13, I think you are saying two things. You are firstly saying that the wind farm will significantly diminish natural character but for various reasons you list that is appropriate, and you have already accepted that you have not qualified that sufficiently. But

you also refer there to taking into account the benefits of renewable energy.

5 Now, in making that assessment have you also taken into account other matters of relevance under part 2 of the RMA?

10 MR LISTER: No, I should be clear what that sentence means. I am not saying that I am making that overall judgment. Maybe a more proper way of saying that would have been to say, you know, within the context of the benefits of renewable energy as I have talked about in the conclusion of my evidence. So what I am saying is that in terms of landscape effects it is acceptable but within that context that there are benefits of renewable energy.

15 MR PREBBLE: Is that context - - -

20 HIS HONOUR: Can I say it? That within the landscape effects that you have expertise to judge, there is a number, for example cultural overlays, you have already told us you did not assess those and you have now accepted you have not assessed transient values or natural science values, at least as they relate avifauna?

MR LISTER: Avifauna, yes. Yes.

25 HIS HONOUR: Because those are landscape criteria or factors but they are not ones you have suggested you hold expertise to form a conclusion on. It is just very important to the Court given this is an issue – sorry, the Board – given that the Board is interested in how far the evidence goes also.

30 MR PREBBLE: Well, I guess I would put it to you that are you considering the context of renewable energy because it is a matter that is listed in section 7 of the RMA?

35 MR LISTER: Yes. But also because it is fundamental to the project and it is - - .

40 MR PREBBLE: Well, are the effects of the proposal fundamental to it, as well?

MR LISTER: Yes, they are an essential part of the project.

MR PREBBLE: So how do you give it the slant you have without equally considering other matters of relevance under section 7?

MR LISTER: I am not making that overall judgment; I am giving a context for my comments on landscape aspects of natural character that I have assessed.

5

MR PREBBLE: Then why consider renewable energy and section 7J, at all?

MR LISTER: Well, because without that context the project – the assessment of effects has no sense, it has no -.

10

MR PREBBLE: I just do not understand that approach I am sorry.

[12.20 pm]

MR LISTER: Well, if the wind turbines were there for no purpose then clearly it is quite a simple exercise. They have an effect on natural character and that would be the end of the story, but the Act asks for an assessment of whether it is an appropriate activity and there are a range of other things which give a context to that assessment.

20

Now, I am not making that assessment but I am providing the landscape aspects of it and, you know, noting the context.

MR PREBBLE: Are you familiar with the Genesis Power Limited v Franklin District Council 2005 case?

25

MR LISTER: Yes. It is going back a bit now.

MR PREBBLE: Are you aware that the Court stated in that case – I am slightly paraphrasing here but an analysis of what is appropriate development under section 6A must take into account all relevant matters under section 7.

30

MR LISTER: Yes, I accept that.

35

MR PREBBLE: So the Board's duty will be to include more than just looking at section 7J when it comes to assess the appropriateness of this development under section 6A?

40

MR LISTER: Yes, absolutely.

MR PREBBLE: I think I will move on now to paragraph 148. You describe there the turbines and access roads for the H block as requiring the clearance of areas of regenerating kanuka shrubland, is that correct?

45

MR LISTER: Yes, that is my assessment of it.

MR PREBBLE: Are you familiar with exhibit GK32, which is page 20 of Mr Kessels rebuttal evidence?

5 MR LISTER: I have looked at Mr Kessels evidence.

MR PREBBLE: Well, my reading of this map is that the ecologically significant area here contains areas of advanced secondary conifer broadleaf forest, small leaved broadleaf forest, small leaved scrub and there are turbine sites and roads within all of those areas. Are you familiar with that map which show that?

10

MR LISTER: I have looked at his evidence – I will have looked at that.

15 MR PREBBLE: Are you aware that Mr Kessels has stated in his evidence-in-chief and rebuttal to Mr Shaw’s evidence that Te Kotuku bush is significant and important and so are the areas of vegetation planned for removal, and I refer there to paragraph 108 of his evidence-in-chief and 45 of his rebuttal?

20

I guess what I am putting to you is that it is not as you suggest an area of regenerating kanuka shrubland?

MR LISTER: Well, it does contain a mosaic of stuff as Mr Kessels has said and he is the expert in assessing that vegetation. From my eye it is what I would call kanuka shrubland. I know that other people – I know that ecologists will drill down to a finer detail than that, but I am making a general landscape comment.

25

I have also been aware that there has been the to and fro through the rebuttal about what exactly the vegetation areas are in that group H, but that is an area that is an area of expertise which I think should be addressed to those experts rather than the more general landscape approach that I am taking.

30

35

MR PREBBLE: Can I ask, have you relied upon Mr Kessels for your assessment of natural character within the coastal environment?

MR LISTER: I have relied on conversations with him and site visits with him. The more recent material that has been exchanged is something that is between the ecologists and I have not sought to try and follow that or to incorporate that within my evidence because I think that is a specialist area that needs to be resolved between those experts.

40

45

[12.25 pm]

- MR PREBBLE: Just to clarify that point, he changed an area on that map that does not relate to where the turbines and roads go that I am referring to. His evidence-in-chief still included turbines and roads within areas that were labelled “advanced secondary conifer broadleaf forest, small leaved broadleaf forest and small leaved scrub”, so I think there is some inconsistency between that labelling and your evidence-in-chief which considers it to be manuka scrubland.
- 5
- MR LISTER: Well, when he says what are small leaved vegetation, I understand what he is referring to is kanuka and manuka. There is a different terminology. I am not an ecologist. I am more of a generalist. I look at it and it looks like kanuka shrub land. Other experts will have a finer appreciation of exactly what - - -
- 10
- MR PREBBLE: Can I put it to you this way? If, for instance, we assume that it did contain a greater value and was not just kanuka shrub land, but did include areas that were being affected which were advanced secondary conifer broadleaf forest, would that have an implication for your assessment of the natural character?
- 15
- MR LISTER: Yes, it could, and it could have an implication in terms of effects. But I would not rely on those experts for that, rather than a general landscape assessment.
- 20
- MR PREBBLE: I just want to clarify one other one in relation to your reliance on other person’s evidence. We have heard from Mr James last week and this week where a number of mapping errors with respect to indigenous vegetation removal, spoil sites and the inability to calculate how many earthworks is actually going to be required have arisen. You state in your evidence that you are reliant on his evidence and in particular the drawings from Tatuk. Is that right?
- 25
- MR LISTER: Can you refer me to that? Which aspects?
- 30
- MR PREBBLE: It is the beginning of your evidence, from memory.
- 35
- MR LISTER: The description of the project?
- 40
- MR PREBBLE: I believe it is.
- MR LISTER: Paragraph 20?
- MR PREBBLE: Yes. What I would like to put to you is if there are any errors within Mr James’ assessment of the wind farm, the description of the wind farm with respect to the biophysical aspects of natural character
- 45

that you have considered, those being earthworks and vegetation removal, could that have flow-on consequences to your end conclusions?

5 MR LISTER: It could, depending on what those errors were. But in terms of vegetation clearance, I did not rely on any evidence of Mr James for that. I measured those areas myself based on the preliminary earthworks that were shown on Tatuk.

10 MR PREBBLE: Sorry, I did not understand that. Where is that assessment in quantification of vegetation removal?

MR LISTER: Well, it is not quantification, but it is assessment of vegetation clearance which was included in my assessment of the effects of earthworks in appendix H.
15

HIS HONOUR: Give me a moment to look at that please. I do not recall you discussing in there for example soils, soil disposal sites and the removal of indigenous vegetation, for example in group C. Did you discuss that?
20

MR LISTER: Yes, I discussed soil disposal for each of the groups.

HIS HONOUR: Just give me a moment to see. In lay(**Ph**) down areas?
25

MR LISTER: So, for instance - - -

HIS HONOUR: I see. Yes, you discussed it but not in terms of how much vegetation is removed.
30

MR LISTER: No, I did not measure that.

[12.30 pm]

35 MR PREBBLE: Are you also suggesting, Mr Lister, that you have undertaken the assessment of the types of vegetation on the sites as well?

MR LISTER: In a general sense the difference between mature bush and regenerating shrub land and so on.
40

MR PREBBLE: Do you not think it appropriate to rely on your ecologist for the descriptions?

MR LISTER: Well, I carried out site visits with Mr Kessels so, we talked about what the vegetation is in those areas and what its value is, and what he told me its value was. But in a general landscape sense, I do
45

not think it would be that useful actually for me to give a detailed description of that. But a general description - - -

5 HIS HONOUR: I am struggling with your answer to the last question because
I want to go to page 51. I do not want to spend forever on this but
given that Ms Bradley spent some time with Mr James in dealing with
the C14 area, which is the one in the middle of the bush as I recall.
You say here, "C14 knolls in the cut over bush". Now if it transpires as
10 I think is now quite clear, that that is in effect not cut over bush or if it
is cut over bush it nevertheless is significant indigenous vegetation, that
must affect your views as to its appropriateness, surely.

MR PREBBLE: Yes it would if that was shown to be the case. Yes.

15 HIS HONOUR: I think it has been, but you can have a look at it on tatuk if
you want to.

MR LISTER: C14.

20 HIS HONOUR: Now, I think Mr James has deleted has since the fill disposal
sites that were earlier there but perhaps you can still toggle them, but –
were you here when Mr James was giving evidence?

25 MR PREBBLE: No, not – only for - - -

HIS HONOUR: Well I can you that Ms Bradley went through some of the fill
disposal sites which were in the bush area and it was acknowledged that
those were placed over bush in at least, was it two or three cases? I
think in fact four or five may have been removed in the end. We would
30 have to go back to the transcript. So the eight fill disposal sites you say
here have a footprint of 9.5 hectares. You are not in the bush – that is
22 area. You need to go up to 14. Yes, they have been deleted. There
were some there, around that area.

35 MR LISTER: Fill disposal sites?

HIS HONOUR: Yes, well Ms Bradley may be able to tell me whether it was
in C or A. I cannot recall it exactly now.

40 MR PREBBLE: I recall it as H - - -

HIS HONOUR: H was it? In area H. That is fine. Let us go down to H then.

45 MR LISTER: I was here during discussion on one of the fill disposal sites in
A - - -

HIS HONOUR: Was it H. I cannot recall – we moved through various areas.

MR PREBBLE: I think he removed it. From memory he removed three fill sites in block H.

5

HIS HONOUR: Block H. Let me go to block H to just see. So when you talk about the regenerated shrub land there for the fill disposal sites, again if that is significant indigenous vegetation that would change your conclusion as to its appropriateness?

10

MR LISTER: Yes, it would.

HIS HONOUR: Thank you. I was just trying to understand the answer. Sorry, you were going to add something?

15

MR LISTER: Yes, I think that is a matter for those experts – to be resolved between those experts. And I would rely on that.

HIS HONOUR: Carry on, Mr Prebble.

20

MR PREBBLE: I would like to turn page, sorry, paragraph 98 of your evidence in chief.

HIS HONOUR: Sorry, what was the paragraph again.

25

MR PREBBLE: Sorry, 98.

HIS HONOUR: Thank you very much.

30

MR PREBBLE: You talk there about cluster D turbines, D25 to D32, and I think it might be useful for these questions if we had that area on tatuk.

[12.35 pm]

35

MR LISTER: Sorry, the D2?

MR PREBBLE: Sorry, D25 to D32. Now my understanding is that this block of turbines is entirely within the coastal environment. Is that correct?

40

MR LISTER: Well, it depends whose definition you use. This is - - -

MR PREBBLE: Using your map, my understanding of the map at page 4.

45

MR LISTER: Yes, in terms of my definition of the coastal environment, all the coastal blocks fall within the coastal environment. The purple line is the Franklyn District coastal management area.

MR PREBBLE: And also within that area of coastal environment and immediately south of those turbines is a department of conservation administered reserve.

5 MR LISTER: This one here. Yes.

MR PREBBLE: You are aware of that?

MR LISTER: Yes.

10

MR PREBBLE: And that is a scenic reserve.

MR LISTER: Yes.

15

MR PREBBLE: Did you at any stage consider in your assessment here the natural character and landscape effects that constructing 150 metre high turbines on the boundary of a scenic reserve might have?

20

MR LISTER: No I did not particularly in that sense. The area has no public access to it. It is an area of bush that is essentially for natural values.

MR PREBBLE: I did not understand that access is necessarily – and people's ability to get to areas – necessarily detracts from an area's natural character value. Is that correct?

25

MR LISTER: No, that is right. It is part of its amenity.

MR PREBBLE: So being inaccessible should not necessarily be relevant to your consideration of the effects of those turbines on that scenic reserve.

30

MR LISTER: No, that is true.

MR PREBBLE: Given you have not considered this and given that, at least as I understand your map at page 4, it includes part of the reserve within the coastal environment and certainly if you were looking from outside the coastal environment in you would see it affected by those turbines. Does that not alter your end view on the effects of the development in terms of the coastal environment and the biophysical aspects of that?

40

MR LISTER: No, because I have not taken it apart to that extent. I mean that bushed hillside is quite an obvious part of the landscape and it is certainly part of the landscape that I have taken into account in assessing whether the turbines sit appropriately in that landscape. But I have not analysed it in terms of it being a scenic reserve or you know any specific thing like that.

45

MR PREBBLE: I would just refer you to discussion that occurred on the 5th of this week between Ms Bradley and Mr Manins where Mr Manins indicated that in terms of vegetation clearance for wind flow this could be dependent on topography and dependent on the height of the trees up to 200 metres out from the base of the turbine. Are you aware of that figure?

MR LISTER: I was aware of that from evidence, yes.

MR PREBBLE: If you zoom in on this reserve – could we do an exercise say for turbine number 27 of just extending out to go right in there.

HIS HONOUR: You can do a circle I seem to recall. So if you do a 200 metre circle around.

MR PREBBLE: It may be less than that given the topography.

HIS HONOUR: We can figure 250 and 150 for the ellipse. It gives you pretty much an idea impractical terms. I think the proposition is that you have got bush and go into the reserve.

MR LISTER: I would not support clearance into a reserve, quite clearly.

25 **[12.40 pm]**

MR PREBBLE: Do you think that placing a turbine in such proximity to a reserve, and especially a scenic reserve which has scenic values under the Reserves Act, is appropriate?

MR LISTER: I think it is appropriate in that instance.

MR PREBBLE: On what basis?

MR LISTER: Well the fact that a turbine is adjacent to something does not mean that it is necessarily inappropriate or that it is, you know, going to be unattractive or - - -

MR PREBBLE: Do you, given you have not actually properly considered this, do you think that it is quite possible that having such large structures could significantly detract from the natural character values of that reserve?

MR LISTER: It will detract from the natural character, yes, it will.

MR PREBBLE: Thank you. Thank you, your Honour. That is all I have.

HIS HONOUR: Mr Robinson, re-examination?

5 MR ROBINSON: Yes, sir. I have tags through my notes so I will just work through them.

HIS HONOUR: Yes, certainly.

10 <RE-EXAMINATION BY MR ROBINSON [12.41 pm]

10 MR ROBINSON: Sir William was asking you at the very start of your cross-examination, I think on Wednesday evening, about the Motorimu decision and he was discussing the Environment Court's finding that the affects on I think the local property owners were unacceptable, or
15 intrusive to unacceptable degree was the note I wrote down. How many property owners were in issue there?

20 MR LISTER: It was quite a large number. I cannot recall the numbers but it is a lifestyle area so the properties were quite dense and quite close to the wind farm.

25 MR ROBINSON: A related point which I think Mr McCabe was talking to you about – the extent to which I think – there was an audience for this wind farm if you included Raglan people. If you look at the situation at Motorimu and the Te Apiti wind farm that Sir William referred to and indeed the other Tararua wind farms, I think Mr McCabe quoted you
30 3000 people at Raglan. What is the comparable number in the Tararuas?

30 MR LISTER: Well, it would be a lot more than that but I am not sure what the population of Palmerston North is. I do not know, perhaps 100,00? And I am not sure how big Ashurst is, the township.

35 MR ROBINSON: In terms of Mr Bradley's point querying you regarding the location of turbines inhibiting his view of Mt Karoio, can you provide some quantification? You agreed they would inhibit or affect the view. To what extent? What is the end result?

40 MR LISTER: They are structures in the intervening landscape that rise part of the way up the surface of the mountain. In reality people make a distinction between things that are in the intervening landscape and the feature itself. So you would see those features and they would be seen against the backdrop of it, but you would seem them as separate from Mt Karoio itself.

[12.45 pm]

5 MR ROBINSON: Another point Mr McCabe made from this morning. He
took you through each of your criteria for assessing visual prominence
and I think the trend of his questions was to establish, given the number
of criteria which indicated prominence, why was it you still concluded
effects on Raglan were low although I do not think he ever asked you
the direct question.

10

[12.45 pm]

MR LISTER: Oh, because taking all those factors into account that is my
assessment.

15

MR ROBINSON: And, in terms of the point that Mr Kirkpatrick was
discussing with you. The cumulative effect on the Walter property, he
carefully avoided asking you to quantify the extent of cumulative
effects so I will?

20

MR LISTER: I think both the effects are – I classify them in the moderate
category. I think the effect of the wind farm is at the upper end of that
so I would say the cumulative effects, as a whole, would take it to the
upper end of that moderate or maybe in the high category. It is in that
area.

25

MR ROBINSON: No further questions, thank you, sir.

HIS HONOUR: Thank you. Commissioner Lumsden?

30

MR LUMSDEN: Yes, thank you, Mr Lister. Just turn to your paragraph 13, I
just wanted to ask you to what extent that you consider the coastal
environment has already been altered? In other words how natural do
you consider it to be at present?

35

MR LISTER: How natural at present? Well, I have done a detailed – I have
broken it up into quite small units in my appendices and assessed those
areas. I think that, as a general - as an overall comment – the
escarpment face has a high natural character.

40

MR LUMSDEN: This is the various blue shadings on one of your exhibits?

MR LISTER: Sorry?

45 MR LUMSDEN: The different blue shadings where you have - - -

MR LISTER: Yes, on the seaward side of the blue line, I think that has got a high natural character. It is certainly not pristine but there are no human structures.

5 MR LUMSDEN: Well, I guess that was the question, whether or not you do consider it to be pristine. But I sort of gathered from your assessment that the actual shoreline is in a natural state but as you go further back it is less natural, is that what you are telling us?

10 MR LISTER: Yes, that is right. The shoreline itself is essentially pristine and then the escarpment it has been cleared and grazed but it has still got a high natural character. It is rough pasture and there are areas of regeneration and so on, and the influence of the sea is really strong on that face. Once you get back up onto the hills, back up on the tops, then
15 the degree of natural character drops, I think, to a moderately high category if you take it over the wind farm as a whole. So on those hills it is more modified pasture and there is more evidence of structures and so it is - - -

20 MR LUMSDEN: All right, thank you. I was also troubled in the same paragraph, as indeed was Mr Prebble, about the fact that you consider it an appropriate use of the coastal environment in terms of 6A, taking into accounts the benefits of renewable energy. I think we have canvassed that enough but it did trouble me at the time when I read it.

25 That, in fact, it seems to me to be part of an overall balance that you would do later on, considering all the adverse effects, but it is not reasonable to take one aspect, such as landscape, out of character and just deal with it and compare it against some of the benefits of the project, particularly renewable energy which is the obvious one?
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[12.50 pm]

35 MR LISTER: Yes, I am not pretending to make an assessment, I am just really stating that is the context within which I give evidence on landscape matters.

40 MR LUMSDEN: Well, you would agree it is more of a section 5 matter where you do an overall weighing up, when coming to a decision on a matter like this, rather than taking it another stage?

MR LISTER: Rather than picking out one item, yes.

45 MR LUMSDEN: However, we do not need to pursue that, I think Mr Prebble has made that point. Mr Prebble has also pre-empted me with a question about Mr James' evidence and the extent to which, if

Mr James got it wrong, how much that might affect your conclusions. I think you said, in fact, that it could?

MR LISTER: Well, it depends what it is that is wrong. The main - - -

5

HIS HONOUR: Well, can I give you an obvious example. If there is – well, I do not think there is any calculations – if, in fact, when a formal design is done there is significant changes to the earthworks or cuts and fill batters required, which increase them, those would clearly have an affect upon your opinion, would they not?

10

MR LISTER: Yes. I have relied on this preliminary design that is outlined in yellow to - - -

15

HIS HONOUR: It was just one example. Sorry, commissioner, that was an obvious example.

MR LUMSDEN: Yes, well, there are several. In fact we tried to get out of Mr James what he considered the margin for error was in his calculations and, I think, he suggested 10 percent but it seemed to be a figure that he might have plucked out of the air. But it is very difficult to tell at this stage what, in fact, the total earthworks might be.

20

MR LISTER: Yes, and 10 percent less would be good.

25

MR LUMSDEN: Well, I guess it is fair to ask you the question, if there were 10 percent more would that significantly impact on your conclusion?

MR LISTER: I do not think I would like to give a comment just on a percentage figure. It would actually depend on what that was in actual earthworks and where it was.

30

HIS HONOUR: Can I put it in a slightly different way but the same point? You may remember the discussion about overburden. If the overburden calculation is incorrect, in other words they have to cut a lot further down, he then indicated they would actually be cut and fill, which would end up with cut batters and fill batters. For example, there are places of high visibility you have noted in your evidence, significant changes to the cut and fill batters there would make a big difference, would they not, in landscape terms? For example, in the Waikaretu Valley where you talk about the traverse across that is visible from the valley?

35

40

MR LISTER: Yes.

HIS HONOUR: Was it Limestone, I cannot remember - - -

MR LISTER: Yes, in Limestone - - -

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HIS HONOUR: The Limestone area.

MR LISTER: Yes, it would, but it would depend on the actual earthworks. In terms of cut and fill batters, I mean fill batters are easier to deal with than cut batters.

10

MR LUMSDEN: I am having a little bit of trouble of hearing you, I am sorry. It is the noise on the roof.

15

HIS HONOUR: Fill batters are easier to control than cut batters.

MR LISTER: Yes. It would depend on the actual design and where it was and whether it was affecting any vegetation or watercourses, those matters. But the fact that there might be more fill batters, in itself, does not concern me per se. Fill batters, you can actually deal with fill batters.

20

MR LUMSDEN: Is this because they are replanted?

25

MR LISTER: Because you can regrass them a lot easier if it is in pasture.

HIS HONOUR: For example, vertical batters might be more concern to you rather than laid back batters?

30

MR LISTER: That is right. And in terms of cut batters, if it is a small cut, I would prefer to actually grade it back at a more gentle grade and then top soil it and grass it, and you can then marry it back into the surface better. If it is going to be a large cut then, in those instances, it is usually better to actually steepen it as steep as you can get it so that the extent of the face is less.

35

MR LUMSDEN: And the same argument, I suppose, applies to the infill areas. I take it from your conclusions that you are satisfied that these will assume a natural look once they are revegetated?

40

MR LISTER: Yes, and most of them are located in good locations, that they are right at the head of dry gullies or up on terraces in the plateau areas, up against the steps, and that they can be regrassed quite readily.

45

[12.55 pm]

MR LUMSDEN: I am just interested in your view on whether you see this as one wind farm or a series of maybe several wind farms, given the block nature of the layout?

5 MR LISTER: Well, it is a bit of both in a way. They will read as separate blocks down the coast but I mean overall it will look like one large wind farm I think. One of the aspects that will lead it to seem as one wind farm would be the fact that they are all the same turbines, so there will be a consistency right through the whole area.

10

MR LUMSDEN: Depending on your viewpoint?

MR LISTER: Sorry?

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MR LUMSDEN: Depending on where you are viewing it from?

MR LISTER: Yes.

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MR LUMSDEN: If it is being viewed from offshore, for example, you might see distinctive blocks, would you?

MR LISTER: From offshore?

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MR LUMSDEN: Yes.

30

MR LISTER: If you are directly offshore they will be in discrete groups and there are gaps between the groups of, I think, between about one and a half kilometres and five kilometres, and they relate to particular hills or landforms. So they will appear as separate groups but I think you will see the whole coast as a whole.

35

MR LUMSDEN: The Franklin district plan indicates 60 metres inland as a guide to the extent of the coastal environment and you seem to have used this in your assessment as being an appropriate setback, is that correct?

MR LISTER: As being an inappropriate setback?

40

MR LUMSDEN: Is 60 metres a sufficient setback, in your view, for turbines?

MR LISTER: The - - -

MR LUMSDEN: According to the plan it is it.

45

MR LISTER: Yes, the setback from the Franklin district line?

MR LUMSDEN: Yes.

5 MR LISTER: Yes, I think a 60 metre setback from the top of the escarpment is appropriate. The line in plan change 14 to the plan is the line, and I do not know that I always agree that it is in the right place in reality, and I believe that the line that I have drawn more closely follows the topography.

10 MR LUMSDEN: That setback may well be – I am not sure why it was chosen at 60 metres - I assume potential erosion has something to do with it. The landscape matters, are they part of that 60 metre decision, do you know?

15 MR LISTER: I am not sure why the 60 metres setback has been used.

MR LUMSDEN: Well, setbacks are common in coastal environments and usually because of the coastal hazard.

20 MR LISTER: Yes.

MR LUMSDEN: I am not sure to what extent other matters are taken into account, I suppose it depends on the plan. But, in your point of view, a 60 metre setback is sufficient from a landscape point of view?

25 MR LISTER: Well, I think the essential thing is that the turbines will be up on the top hills rather than down on the coastal escarpment but the 60 metre setback in itself will not make much difference to - - -

30 MR LUMSDEN: Sorry, it is not?

MR LISTER: The 60 metre setback in itself will not make much difference to how the turbines are seen, from offshore say.

35 MR LUMSDEN: Whether it was 60 or 100 would not make material difference?

MR LISTER: No.

40 MR LUMSDEN: I was interested in your comment, in your paragraph 150B, where you say, “Wind turbines do not domesticate a landscape in the way dwellings do and can be seen as engaging with natural coastal processes”. I wonder if you could just enlarge on that for me, I am not quite sure what you are getting at there?

45 MR LISTER: I - - -

MR LUMSDEN: I have a certain view of coastal processes, from a technical point of view, but maybe there are other aspects that I am not aware of.

5 MR LISTER: I am just trying to be specific about what the actual effect on character of wind turbines is and it is different from other activities. If you were to subdivide that coast for lifestyle blocks, for instance, then that would have a particular effect on natural character, it would domesticate it and change - it would be a different pattern of activity on the land. Whereas with wind turbines they are not of that nature, they are huge structures but they are unoccupied and they engage with the wind, they are an expression of the coastal wind coming onshore if you like.

15 MR LUMSDEN: What coastal process are you talking about?

MR LISTER: Sorry, the wind. The wind is what I am referring to.

MR LUMSDEN: Sorry, I did not hear that bit.

20 HIS HONOUR: Coastal winds.

MR LUMSDEN: Yes, all right. I am thinking of the process, of course.

25 HIS HONOUR: You are thinking of the waves – that is what I thought too. What you are saying is it is the coastal wind is a coastal process?

MR LISTER: Yes.

MR LUMSDEN: Is it? That is interesting.

30 HIS HONOUR: No, that is your question not mine.

35 MR LUMSDEN: I am going to leave the rest of the questions to my esteemed colleague at the other end of the table. I think most of my other issues were addressed in cross-examination, thank you, Mr Lister.

HIS HONOUR: What I think we will do now is take the luncheon adjournment and return to questions, that is how it looks to me. Were you intending to call Mr Van der Leden first or second, Sir William?

40 SIR WILLIAM BIRCH: Your Honour, I think it is important to have him first.

45 DISCUSSION

ADJOURNED

[1.01 pm]

RESUMED

[2.06 pm]

DISCUSSION

5

HIS HONOUR: Commissioner Rangī?

10 MS RANGI: Good afternoon, Mr Lister. Could I just take you to page 23 of your evidence-in-chief. The final sentence there you have said that you, “Questioned a number of individual turbines on landscape and visual effect grounds”. Which turbines were those?

MR LISTER: Sorry, which page?

15 MS RANGI: Page 10 of your evidence-in-chief, paragraph 23, the final sentence. That is in respect of, I think, the C string, I am not sure.

20 MR LISTER: There were a number of turbines. Some that were removed and some that had been questioned but not removed. In the latter category it included the ones on the Tehehe headland and that had been unresolved and Mr Kessels had gone away, in particular, to do more research on that area, and that was prior to those turbines being removed from the project, those that were on the Sunset Farms land. There were turbines such as the three that I referred to yesterday that were deleted from that Limestone area.

25 MS RANGI: You have said in paragraph 24 the ones that were removed. The ones I am particularly interested in were ones that perhaps you questioned but were not removed? Were there any in that?

30

[2.10 pm]

35 MR LISTER: Well, what we did was do a green light, red light, orange light type analysis and we had applied orange lights to the ones that are along the top of the coastal escarpment as being ones that were more sensitive. Particular turbines such as D15 and the need to get the road around that pa to get to that site and, I guess, D19 is an orange light because it is on the headland. I think those were the main ones. The ones up in C block around the edge of the bush. I think, from recollection, those were the orange light ones.

40

MS RANGI: Thank you. Paragraph 110 on page 34, the last sentence. It is just a typo and I was just wondering what it was supposed to read.

45 MR LISTER: On page?

MS RANGI: 34.

MR LISTER: Yes.

5 MS RANGI: Paragraph 110, the final sentence.

MR LISTER: “Such a backdrop would increase - - -”

MS RANGI: Is that “such a backdrop”? Sorry.

10

MR LISTER: Sorry, “such a backdrop would increase”, I apologise.

MS RANGI: Thank you. On paragraph 115 in respect of your exhibit GCL35
A and B, is that viewpoint at the school or a point – you say it is west of
15 the school but I was not sure if that was actually from the school or not.

MR LISTER: That is west of the school. The reason for that being was that it
was hard to get a good view from the school itself.

20

MS RANGI: All right. If you could go to your paragraph 219 on page 60.
You make some comment in respect of particular submitters, but just to
clarify in 219(b) and that is in respect of Mr and Mrs Ball, you
acknowledge that there would be significant amenity effects on the
property but less significant effects on the house itself. What category
25 would you put the effects in from the house?

MR LISTER: I would put that in the low category because it is facing north
over the top of the ridge.

30

MS RANGI: The house faces north?

MR LISTER: Yes, well as far as we can tell from the road and from aerial
photos. On that - - -

35

MS RANGI: Sorry, could you speak up a little, please?

MR LISTER: That is house 709, which should be listed in the inventory.

MS RANGI: Okay, that is N709?

40

MR LISTER: Yes.

MS RANGI: I am sorry, I did not realise it had an N number. Could you tell
me which page that is on in your reports? 87? I did not realise that
45 there was an N number to that particular property and I can see the
assessment there.

MR LISTER: This is the house here. There is a ridge that runs through there and then this is a very steep escarpment facing south.

5

[2.15 pm]

The transmissions lines are a lot lower, like it is, you know, perhaps 80 metres below the ridge without measuring it, but it is considerably lower than the ridge, whereas the house is on a flat area on the north side of the ridge and as far as we can tell from the aerial photo, appears to be oriented to the north with the service areas behind it.

10

MS RANGI: You have not done an assessment from the Ball property itself?

15

MR LISTER: I have not been onto the property. No.

MS RANGI: Could you go down to the transmission line, please? When you say that the line is on the ridgeline below the property, is that from the highest point on those ridges?

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MR LISTER: The transmission line is a lot lower than the property is. There is quite a big basin there and there is quite a steep escarpment here. Maybe if I put up a topo plan. So 20, 40, 60, 80, 120, 140, 160, 140, 120. So the line at this point is about, say, 100 metres – the ground level is about 100 metres below the ridge on which the house is located.

25

There are a number of spurs that are – these spurs here that the line is kind of skipping across, if you like. But they are a lot lower than the main ridge.

30

MS RANGI: Just in respect of Mr Gemmell again, is there an N number for that particular submitter that you could - - -

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MR LISTER: No, there is no N number for the Gemmell property.

MS RANGI: Sorry, what was that?

MR LISTER: No, there is no number for the Gemmell property.

40

MS RANGI: What was your assessment of – have you been to that property?

45

MR LISTER: This is the Gemmell property here. I have been along the road here and assessed the effects from there. But the house is on the other side of the road and there is a – more or less flattens out into a plateau area and the ridge runs around here – it follows the road. So the line – the closest part of the line is across here but in fact the nearest part –

and that would be visible from perhaps this part of the property itself but up on the higher ridge – but from the house itself you would be looking down this valley here. These would be the towers down here that would be visible from that area.

5

MR.....: Your Honour, it is quite difficult to hear Mr Lister, especially those at the back of the room.

MS RANGI: Do you need Mr Lister to re-start?

10

HIS HONOUR: No, I do not think so as long as Mr Lister speaks into the microphone, no.

MR LISTER: Yes, I apologise for that. I am just pointing out this is Gemmell house here.

15

MS RANGI: Were you here when Ms York gave her evidence?

MR LISTER: Ms York?

20

MS RANGI: Yes.

MR LISTER: Part of the time, yes. Part of the time.

25

MS RANGI: I am sorry, I do not have the transcript in front of me but, if I could take you, do you have her evidence in front of you.

MR LISTER: No.

30

MS RANGI: I do not recall her exact words but my understanding of her evidence was that her view is that the weighting given to matters such as amenity and visual impact in the summary of impacts in her evidence, that the weighting given to visual matters was significantly greater than some of the other matters that were in that table.

35

[2.20 pm]

And the reason for that weighting was that amenity effects could not be mitigated. Is that a conclusion that you would agree with? The proposition that amenity effects cannot be mitigated?

40

MR LISTER: Yes. Well, they can be mitigated to some extent. I mean, what Ms York is talking about is the fact that those amenity effects will stay there; you cannot get rid of a line or anything. From particular houses you can mitigate the effects, you know, in some instances depending on the orientation and so on, whereas a lower weighting was given to those

45

aspects where there might be a solution to it or where the effects might be able to be avoided or overcome.

5 MS RANGI: So are you saying that – I am not sure if I understand what you are saying. So are you saying that amenity effects cannot be mitigated against or are you saying in some circumstances they can be?

10 MR LISTER: No, not completely. I mean, you can make some mitigation of amenity effects of a transmission line from individual houses but in particular you cannot really mitigate the kind of general amenity effects of a line.

15 MS RANGI: Yes, but this table is looking at assessments from individual properties.

MR LISTER: Yes.

MS RANGI: So can the effect on individual properties be mitigated?

20 MR LISTER: Yes, it can, you can in some instances and to differing degrees.

MS RANGI: Have you provided your assessment of the alternative route south of Te Umukaraka Bush?

25 MR LISTER: Sorry, in my assessment of it?

MS RANGI: Yes, the alternative route. So we have your assessment of the route through the bush, the current route – corridor. Have you provided
- - -

30 MR LISTER: No, I do not believe that is in any of the documents.

35 MS RANGI: Ms York had - I think she is providing an individual assessment so the answer may be in those documents but I was unclear from her evidence what underlay the decision, and in particular how many houses were involved in the decision to re-route the Te Umukaraka section away from its original route south of the bush into the more direct route through the bush.

40 MR LISTER: There are the score sheets and so on from that workshop but I have not carried out a separate assessment of that alternative route. But it was largely one house was the dominant one. There are views from one other but the house on the grey property that is the most significantly affected, which is N81 which is this one here.

45 MS RANGI: Sorry, N81?

MR LISTER: N81.

MS RANGI: 91?

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MR LISTER: No, 81.

MS RANGI: 81. If I could take you to page 30 of Ms York's appendices then. The comment – and that is talking about the alignment around the bush, which I understand that is the southern route.

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[2.25 pm]

The commentary in there is “small impact from visual but the total is five”. And I found that quite perplexing because my understanding was that it was based primarily on the views of the single landowner.

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MR LISTER: In terms of houses, yes. There is a second house up the valley that looks down into it as well. But there are also views from Baker Road, particularly around this section here where there are views both up and down that valley. It is quite a sculptural valley, if you like, and so there would be a visual impact from - - -

20

MS RANGI: Of the southern route?

25

MR LISTER: Of the one that follows the Kaawa Valley.

MS RANGI: So where it says, “small impact from visual”, could you explain what that means?

30

MR LISTER: Sorry, which?

MS RANGI: That is the table in Ms Yorke's evidence, page 30, “the alignment around the bush visual impact on dwelling” – and I note that it is on dwelling, rather than from roads – “visual impact on dwellings, small impact on visual”, but the total is five, which is the highest possible. So it is page 30 of Ms Yorke's attachments, appendices. It is option 1 – “alignment around the bush”.

35

MR LISTER: Yes, I have got that on page 5.

40

MS RANGI: And then in the left hand column, “visual impact on dwelling”, the note is “small impact from visual” but the total is five, which is the highest rating.

MR LISTER: Yes. So, that does not line up at all. That section of the criteria relates to the – it was divided into what was seen as the property and the social aspects, and then there was a separate category for under
 5 general visual matters, and that first section would relate to the property that is crossed, which is the Gray property, which would be the house on that property, and the impact is not small on that dwelling. It would be high.

10 MS RANGI: So it is the comment that is wrong, rather than the rating?

MR LISTER: Yes. The line from that particular house – the line would, depending on which route it would – which side of the valley you took the line along, would either be following along this toe here quite close
 15 to the house, or it would be coming along the other side of the valley.

MS RANGI: Do you have the alternative route – an overlay on there?

MR LISTER: I do not believe it is in the – not that I am aware of.
 20

MS RANGI: My understanding was it was much closer to the bush because I thought - - -

DISCUSSION RE MS YORKE'S EVIDENCE

25

HIS HONOUR: Commissioner Menzies?

COMMISSIONER MENZIES: **(INDISTINCT 2.31.25)**

30 MR LISTER: Good afternoon.

COMMISSIONER MENZIES: **(INDISTINCT 2.31.29)** Would you agree that one of the problems faced **(INDISTINCT 2.31.38)** that **(INDISTINCT 2.31.44)** such as the **(INDISTINCT)** currently on the
 35 boundary of the special amenity area is the consequence of the agreed inaccuracy of the topography and contour information that you have been given, as well, particularly with the special amenity areas, the scale of the mapping?

40 MR LISTER: Well, I think the error there is ours rather than the GIS mapping, for instance, and I think, in terms of our mapping, the fault was that it was mapped by hand and using sort of manual methods and it was never properly uploaded into the GIS system at an early stage. And that might have helped resolved things.

5 COMMISSIONER MENZIES: Well, given that, even the – Mr James said that the system that you are using is tens of metres out, at least, and needs survey and all sorts of other things to give anything more than a very preliminary proposal.

MR LISTER: Yes.

10 COMMISSIONER MENZIES: You do not dispute that?

MR LISTER: No.

15 COMMISSIONER MENZIES: Is the special amenity landscapes map included in Tatuk?

MR LISTER: No, it is not and that is my point. You know, it probably should have been, with hindsight.

20 COMMISSIONER MENZIES: And just another – a disparate question, looking at the coastal environment, do you think greater setback would minimise the impacts on the natural character of the coastline?

25 MR LISTER: Yes, I think obviously the more – you know, it is almost a moving feast, but the more that they are set back from the edge, the less the effect on that coastal escarpment.

30 COMMISSIONER MENZIES: You commented on values which are shared and recognised and said you felt – this is your 49 – that the area was likely to have relatively low recognition beyond this community.

[2.35 pm]

35 Bearing in mind Lord of the Rings, and the fact that some of this landscape has been shared around the world, how did you form that view?

40 MR LISTER: Well, partly because I spent quite a few days working in the area, and yes, the amount of traffic that one sees out in that area is very low. I imagine there are people that will travel around from the Lord of the Rings sites and visit them and that will draw some people, but not huge amounts of people.

45 COMMISSIONER MENZIES: So you were doing it on the basis of car traffic and people in the area rather than those that might see photographs or film or other things related to the area?

MR LISTER: Oh, I see. Yes, it was. It was based on people visiting the area.

5 COMMISSIONER MENZIES: Now, there has been some discussion of night time effects and I understand that it is agreed that CAA requirements would need to be complied with and that those are flashing red lights every so often – what is it, one kilometre. Are you aware of whether CAA might be requiring heating(PH) on the blades or not?

10 MR LISTER: There is no mention of that in their standards, and I am not aware of that being applied anywhere in New Zealand. I have seen that overseas, painted on blades.

15 COMMISSIONER MENZIES: And if that was required, would that make a difference to your assessment of effects?

MR LISTER: To my mind it does detract from the appearance of the turbines, you know, to some extent. They lose something of their kind of sculptural pure qualities. Yes.

20 COMMISSIONER MENZIES: Now, at 249 you mentioned that Contact Energy were negotiating with the landowner, Mr Partridge, with a view to finding a suitable outcome to adverse special effect. Do you know whether that is – or could I have an update on that?

25 MR LISTER: No, I am not aware of - - -

COMMISSIONER MENZIES: No outcome?

30 MR LISTER: I am not aware of an outcome.

35 COMMISSIONER MENZIES: Now, you talked several times about the impact – the visual impact of earthworks, and that more detailed work is required to model the earthworks and you talk about your views of that and also, very helpfully, tabulate in your appendices what you think the heights of those cuts and/or fills might be. Would it be your view that you could not give an adequate or accurate assessment of the visual impact of the earthworks until that work had been done?

40 MR LISTER: Well, I can give a – obviously give an assessment on the earthworks in their preliminary design, but if the earthworks are going to be substantially changed from that, in the final design, then obviously that is not relevant and you cannot do that. But if the earthworks are to be generally similar to that, and if that process can be controlled through a management plan process, then I would be quite content with what I have assessed so far.

45

COMMISSIONER MENZIES: And in order to know what those effects were, without prescribing in infinite detail, the Board would need to see those management plans, would they not?

5

MR LISTER: Yes.

COMMISSIONER MENZIES: Okay, and now a more – the sort of questions that none of the other Board members may wish to pursue, but I thought that it may be constructive, and that is, looking at the Pigeon Bay factors. So, starting with the initial premise which was that a landscape is composed of physical and cultural features, and you agreed with Sir William that that was the case.

10

15

[2.40 pm]

MR LISTER: Yes.

COMMISSIONER MENZIES: Then moving on to what the Pigeon Bay's factors set out, they seem to me to be a mishmash of natural science and equals, values and perceptions, but not a clear identification of which is which and how they came about.

20

MR LISTER: Yes.

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COMMISSIONER MENZIES: You do not have any argument with that?

MR LISTER: No, I have got quite strong views on the Pigeon Bay criteria in that sense. I think they comprise biophysical aspects and what I have tended to term "perceptual", but which other people have termed "sensory" aspects, and also associative aspects, so things like history and tangata whenua associations. To me, they divide into those three groups quite clearly.

30

35

So how would it be if they, instead of simply adopting those, because that is what is there and then trying to put a square peg into a round hole, so to speak, of analysing in terms of something that is a somewhat garbled in some senses or may have applied to a particular situation but not necessarily to every site that you are trying to analyse, if they were, as you say, to the – factors were to be – you need to divide them into natural science factors and then to people's perceptions and values, values because that is what the act is about, and both of those are affected by time.

40

45

MR LISTER: Yes. That would – I think that kind of rearrangement is more robust and it is clearer and it still accommodates all of those things that

have been listed in the Pigeon Bay criteria. They have still got a home somewhere within that structure.

5 COMMISSIONER MENZIES: So I value your comments on if you went further into those values and perceptions, might you include memory sensory perceptions, which would include aesthetic, smell, sound, visual.

10 MR LISTER: Yes.

COMMISSIONER MENZIES: Connections and events, people's connections to a place, events.

15 MR LISTER: Yes.

COMMISSIONER MENZIES: Cultural values, which could be everybody's, including tangata whenua.

20 MR LISTER: Yes.

COMMISSIONER MENZIES: Recreational values?

MR LISTER: Yes.

25 COMMISSIONER MENZIES: And maybe then also historical values?

MR LISTER: Yes.

30 COMMISSIONER MENZIES: Is there anything else that you think might be added to that list?

MR LISTER: I am sure that there are other factors that will come up from time to time. But I think that if you have a structure like that that is quite clear at a high level then those other things can fit in.

35 COMMISSIONER MENZIES: Okay. That is all. Thank you.

40 HIS HONOUR: Just carrying on from that, all this was discussed in enormous detail in Banks Peninsula. The approach that was adopted there was to essentially see multiple layers that affect a landscape or make up a landscape. Do you agree with that general proposition?

MR LISTER: Yes.

45 HIS HONOUR: That includes, obviously, issues of naturalness – we have talked about – and then issues of manmade or other modifications that

may have occurred like a method. Pastoral land being one type of change, significant indigenous vegetation, cultural associations both European and pre-European in New Zealand. All of these make up a landscape, don't they?

5

MR LISTER: Yes.

HIS HONOUR: Now one of the things we found in Banks Peninsula, and I wanted to see if you agree with that, is sometimes you find when you start putting these multiple layers on there are areas that you get multiple hits on, what I call hot spots.

10

MR LISTER: Yes.

HIS HONOUR: And they throw up in a number of different ways. They might be within a coastal area, they might be a cultural association, maybe indigenous vegetation. But you might get three or four things that layer up against a particular area.

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MR LISTER: Yes.

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HIS HONOUR: Would you agree that the greater the catenation of those overlays in a particular area, the more important it becomes in landscape terms?

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MR LISTER: Yes, and in practice those – if something is important in practice it tends to be important for a whole lot of reasons, not just a single reason.

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[2.45 pm]

HIS HONOUR: That is the point I am making. There are obviously going to be those that are lesser and then the question is which is the cut-off point where we say this is acceptable or not acceptable. I am not asking that question. I really now want to turn, with that general proposition in mind, to look firstly at this area around – you have called it Sunset 3A, Waikawau Valley 4 and Limestone Downs 5.

35

Now, I put this essential proposition to you to see if we can save a lot of time. I have got to say, having regard to a number of overlays you have not considered in setting up that, and that is particularly cultural and significant indigenous vegetation and wild life, but in fact Tetehe, Sunset, Waikawau Valley and into 5, all of that really is one great linked group of special amenity.

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5 In other words, areas 3C, 3D, 3E, 4F, 5 – and then the areas you have not numbered across through to the bus where the transmission line goes are in fact one area of special amenity overall. The empty area in 3C, 3D in fact ignores the cultural overlay. The areas through 4F, 5E and over way into 31 ignore the significant indigenous vegetation. Do you agree with that proposition?

MR LISTER: That it is one whole lot?

10 HIS HONOUR: Yes. I am not – I am really using your phrasing. I do not say that I necessarily agree that is what we call a special amenity. I am just saying using the framework you have talked about of recognising areas that have special landscape amenity, having regard to the cultural and significant indigenous vegetation and wild life that is in fact one linked
15 area.

MR LISTER: I think you could classify it in that way or you could define the landscape in that way. That area at the northern end does tend to have a greater concentration of values, as Sir William raises.

20 HIS HONOUR: Yes, but I am really just saying that that proposition is borne out – when we look into the area in 3C, if you go to the area around A20 I think it is. Can anyone tell me where the pa is? It is around that area. We have pulled it up a number of times. You will see a large red
25 area somewhere there. There it is. Now, that is close to A – I cannot see the numbers. You can tell me what the numbers are close to A.

MR LISTER: 18.

30 HIS HONOUR: And on the other side?

MR LISTER: 22 and 21.

35 HIS HONOUR: So when we look at that that is pretty much in the middle of 3C that you have got here. It would be fair to say – isn't it?

MR LISTER: Yes, I accept that. But with - - -

40 HIS HONOUR: Well, it is fair to say that in a cultural overlay that pa site represented a significant centre of pre European civilisation, didn't it?

MR LISTER: Yes.

45 HIS HONOUR: Because we have talked about the limestone cuttings for housing, which I have got to say are rare, if not unique. There is quite significant earthworks in that area which show it was a substantial pa.

MR LISTER: Yes.

5 HIS HONOUR: We have a whole series – move to my left – to the west and go down to A17. Zoom in on that. Not surprisingly we see that being a headland area there is a substantive cultural site there also. Do you see that?

10 MR LISTER: Yes.

HIS HONOUR: If you – you can take my word for it or you can scan through the string as a whole, but there is a significant number of archaeological sites all through this area.

15 MR LISTER: Yes.

HIS HONOUR: As would be consistent with being a major area of population.

20 MR LISTER: Yes.

HIS HONOUR: Now in landscape terms that is a matter we have to take into account as to whether it constitutes something of special value, isn't it?

25 MR LISTER: Yes, there is the archaeological aspects of it and there is the tangata whenua part of it.

HIS HONOUR: Yes, well there are two aspects, both of which are important matters in the overlay of the landscape.

30 MR LISTER: Yes. As I say, I do not feel I have sufficient information to talk about the tangata whenua matters in this instance.

[2.50 pm]

35 HIS HONOUR: Nevertheless, we can even see from the archaeological sites that the area is going to be of some significance. We are not surprised when we look at the cultural assessments that that is the case.

40 MR LISTER: I could not pick that out from the cultural assessment particularly.

HIS HONOUR: Couldn't you? Let's say that the Board concludes that the area is of cultural significance. You would agree that that should be reflected in the landscape overlays?

45

MR LISTER: Yes.

5 HIS HONOUR: Now, the second thing is we look at this area here, perhaps A27 might be a good example, if you move down to A27. I want you to turn over to your maps 4 and 5. Shall we start at A17? Sorry, you were there and I am sending you back there again. We need to look at this.

10 Now, our understanding from the evidence Mr James gave is Mr James did not consult you about the coastal setbacks or escarpment lines and that he put them in the plan himself, in Tatuk himself. You did not – if you have a look at the line there the green line is his coastal line and it seems to be obvious that is not the same line you have put in.

15 MR LISTER: No, that line is his line, yes.

HIS HONOUR: The blue line is the line you put in, is the top of the escarpment, isn't it?

20 MR LISTER: Yes.

HIS HONOUR: So that extent you disagree with Mr James about where he has put the 60 metres back from the top of the escarpment.

25 MR LISTER: Yes, he has taken a different approach.

30 HIS HONOUR: I would have thought you would be the expert on that issue. Mr James did not purport to hold an expertise. I would have thought that normally I would expect the landscape architect to be somebody who can understand where the first ridge line or escarpment is, so I would have normally expected that blue line to represent the top of the escarpment. That is certainly your position, isn't it?

35 MR LISTER: That is my position of where it is. I can understand Mr James' approach. He has taken a more – I have taken a more conservative approach, if you like. But in this instance - - -

40 HIS HONOUR: I do not really want to discuss Mr James because he does not hold any expertise to form a view on the matter. So I would rather discuss it with you, who does have that expertise. Now looking at that blue line, the Franklin district plan requires any site to be 60 metres back from that position. Do you understand the plan in that regard?

MR LISTER: Yes.

45 HIS HONOUR: And, of course, A17 would immediately hold the problem there.

MR LISTER: Yes.

5 HIS HONOUR: But even just looking at that in general terms about its position and where it is in an escarpment. In landscape terms that is likely to be an area that has higher values because it is only a headland close to the water with a commanding view down to the water, isn't it?

10 MR LISTER: Yes.

HIS HONOUR: So it is not surprising in a sense that that might be an area that the council might seek to control, given that they are trying to preserve natural character of the coastline.

15 MR LISTER: Yes.

HIS HONOUR: A house built there, for example, would be a matter on which we might spend many a day arguing about its appropriateness.

20 MR LISTER: Yes.

25 HIS HONOUR: Now, you have already told us that a structure such as the turbine would be dominating in that type of position and I take it that there is – not only would it be dominating but if it fell towards the sea it might also constitute a hazard as well.

MR LISTER: I do not imagine it would reach the sea.

30 HIS HONOUR: Coastal areas. I do not want to get into that. No sorry, I do not really need to explore that with you. It is not really necessarily an issue in a landscape sense. Now the question I am asking myself is given that Franklin district says it has to be 60 metres back and you have told us there is no magic in 60 or 100, what is an appropriate distance for a turbine 150 metres high to be back from the coastal escarpment? I have got to say that given it is required to be 147 metres back from a boundary, why should it be any different in respect of the turbine? In other words, the same height back from the boundary. Does that seem a reasonable approach to you?

40 MR LISTER: Yes, but in terms of – I am not sure if that would make much difference in terms of dominance and so on on the coastal environment.

45 HIS HONOUR: Well, we would have to go back a kilometre before – which would, of course, wipe out almost all of your turbines if we did that. I agree that the Board may very well decide it needs to be a kilometre back but I am saying it seems difficult for me to imagine it being

feasible that it be any closer than 150 metres, given the size of the object. I agree it may still be dominant from the coast, but given that it would be at least 300 or 400 metres back at this position at least, one would have thought that it may be not quite as dominant as it would be if it was right on the edge of the escarpment.

MR LISTER: Yes, I agree with that.

[2.55 pm]

HIS HONOUR: Given the size of the objects – you have already discussed this at length and I agree that scale is – it is your distance to the item that establishes scale because they are not scalable to anything else really.

MR LISTER: No.

HIS HONOUR: So how far you are from it determines how big you think it is essentially.

MR LISTER: Yes.

HIS HONOUR: Now, I am looking at your maps 4 and 5, and I not going to spend forever on this. But it is true to say that the A block is situated in an area that you have described as moderately high.

MR LISTER: Yes.

HIS HONOUR: Now, if the Board considers that that is unacceptable it may very well delete the entire string. I am not asking you to comment on that but it may very well do that. When we turn to the Umukaraka bush area there are other issues which obviously relate to significant indigenous vegetation and the proposition I ask there is it is possible that either part of the string or the whole of the string may be considered to be too close to the bush and delete it also, given you have already accepted significant indigenous vegetation is landscape overlay, I assume. Depends on what rate you give to that overlay as to whether that would be appropriate or not. Is that right?

MR LISTER: Yes.

HIS HONOUR: Now, then the next string is D. Now you have shown that as to be in a moderate area so it is not – most of it in a moderate area. Some have come foul of the same escarpment issues that we have just discussed, so I will not re-discuss those with you. So it is possible, if the Board reached a view in respect today it may reach the same view

along the whole coast, say, 150 metres back from the escarpment as appropriate. That would leave a lesser number in the area of 5C, a little further back. Do you see those ones? And then the next group is the D25 to 32 strings we have just discussed.

5

Now, assuming that there might be only 10 or 15 turbines left in that area, the question I have to ask you, and I suppose the \$20 million question or \$1 billion here is if the Board reached that conclusion and we were left with only, say, 10 or 15 turbines from the area of Ohuku(ph 2.57.35) Creek North, it is possible, isn't it, that it would be more sensible to run those turbines to Matira and do away with Limestone Downs and the transmission line? In other words, take the central corridor, given that you have now lost 50 or 60 or even more turbines in the north?

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MR LISTER: Well, you are talking about transmission matters, which - - -

HIS HONOUR: You cannot comment on?

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MR LISTER: I cannot really comment on.

HIS HONOUR: Right. Okay, well, put it another way. If those were deleted, then it must be said at least the question of the necessity of the transmission line must arise and the landscape effects then become more important, don't they, in respect of the transmission line?

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MR LISTER: Sorry, repeat that again. I did not - - -

HIS HONOUR: Well, I am trying to put it in a way – if there are no turbines to run the power from, then the problem is that you are struggling to justify the transmission line, aren't you?

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MR LISTER: Yes, I guess.

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HIS HONOUR: Well, because you are talking about – you are accepting there are effects on the transmission line?

MR LISTER: Yes.

40

HIS HONOUR: But you are saying the benefits of the power, in a way, become an issue that it should be granted. If you are doing away with some or all of the turbines then there may be a point at which you say, “well, actually the effects are not justified by the works anymore”.

45

MR LISTER: Right. Yes, you may reach that - - -

HIS HONOUR: That is the problem that we get into when we start weighing things up.

MR LISTER: Yes.

5

HIS HONOUR: Now, the reason I am asking that is because my understanding is you were involved in the evaluation for central corridor versus the northern corridor, weren't you?

10 MR LISTER: I carried out my own valuation of those corridors.

HIS HONOUR: I am assuming that part of the justification for the northern corridor related to the fact that there were a lot of turbines in the north of the area?

15

MR LISTER: No, I assessed the corridors just on their own merits. So - - -

HIS HONOUR: So you would consider, even if there was no turbines in the north, it is still worth using that corridor?

20

MR LISTER: Yes, I would. I would still use that one.

[3.00 pm]

25 HIS HONOUR: I just want to be sure. I think there has been – I may be a minority of one here but I am still not exactly sure what your meaning by “cast”. Can you tell me?

30 MR LISTER: It is just limestone country with caves and fluted rocks and pancake rocks and that sort of stuff. I have listed it in the glossary in my evidence but it is land that is formed by solution rather than, you know, rather than physical erosion by water.

35 HIS HONOUR: I see. Thank you. Now, I want to look at paragraph 65 to 68, and this gets us into another major problem that – and I think I am merely repeating what Commissioner Lumsden put to you that the adverse landscape and visual effects have to be and have been based on a particular scenario, ie the estimated earthworks and roading displays you have seen.

40

MR LISTER: Yes.

45 HIS HONOUR: So you cannot estimate a worst case scenario because it is not really your place, nor is it possible for you to imagine what might be the worst case earthworks which could occur on the site>

MR LISTER: No, I have to rely on the design that is done.

5 HIS HONOUR: So when it was said to the Board that you could perform –
and you go on to later discuss worst case, essentially you cannot,
because you do not know what actually is the worst possible outcomes
in terms of earthworks, whether that might involve a 50 metre high
bridge, what its visibility is or changes of road routes that might affect
other people, because you have to rely on the information you are
given, surely.

10

MR LISTER: That is what I would do, yes.

15 HIS HONOUR: Yes. And so to that extent it is difficult for you to actually
understand what the worst case configuration of the turbine consent
area or roading and earthwork(PH) network is until somebody supplies
you with a possible configuration.

MR LISTER: Yes, that is true for the civil engineering aspects. But in terms
of the - - -

20

HIS HONOUR: Sorry?

MR LISTER: Quite happy to do a worst case for a turbine appearance and
turbine location.

25

30 HIS HONOUR: Well, we will move on – it bears out – I do have a point here
– 66, you talk about such disposal sites avoid watercourse, areas of
native vegetation and – I have got to say to you, as I noted at the time,
and has now been confirmed by Mr James – that is clearly not the case.
There are areas which are at the heads of gullies, there are areas which
constitute native vegetation and there are areas where there is changes
to the landform patterns, shown on the diagrams that you have seen.

35 MR LISTER: Yes, that is right, but in those – and they generally relate to
specific sites. It is not a general description of those works, and where
that is the case I have referred to them in my appendix.

40 HIS HONOUR: Well, again, to be fair to you, you seem to have assumed that
all the gully heads are dry, but you are not an expert to be able to
ascertain whether that is the case, or not.

MR LISTER: No, but in the instances where there is clearly – you know,
riparian vegetation or, like the juncus reads and so on, then I have noted
that and those are the ones that I assume to be - - -

HIS HONOUR: Yes, but until you have undertaken a full study you do not actually know. That is the point of my – because you know that the Act discusses ephemeral streams - - -

5

MR LISTER: Yes.

HIS HONOUR: And unless you have been there in heavy rainfall, you do not know where the ephemeral streams might be.

10

MR LISTER: No, but if you are right at the head – if you are right at the head of a gully and there is no evidence of rushes or that sort of vegetation, I think that is a reasonable assumption that it is a dry gully head.

15

HIS HONOUR: Well, we have already been – I think Ms Bradley, again, went through a number of sites where there were rushes et cetera, which was a disposal site, so to the extent that the Board concludes that any areas involve those areas, then your paragraph 6 cannot be correct, can it?

20

In other words, if there are areas of seep, or reeds, areas of native vegetation and areas of changes to landform pattern, then 66 is no longer correct, is it?

25

MR LISTER: Well, I have said that most occupy those places; that there are some that I recognise that they do encroach into vegetation and they do encroach into wet areas. And I have noted that in my appendix, and in the appendices, and places noted where they should be – those sites should not be used.

30

[3.05 pm]

HIS HONOUR: You said at 73, that remediation and mitigation measures will be included in the EDMP for each turbine lot consent area. Well, given that here is no information, or diagrammatic information supplied to you in this information as to how they are going to control stormwater, sediment, erosion, dust et cetera, how are you able to confidently say these matters can be addressed?

35

MR LISTER: Those are standard issues that come up in any civil project and there are reasonably standard solutions to dealing with soil erosion.

40

HIS HONOUR: I am fascinated to know what they are. I have never come across any standard solutions. In fact there have been a number of major prosecutions relating to non-compliance with such conditions. So what standard procedures are there that address all these issues?

45

MR LISTER: Just the technical procedures for soil erosion and sediment control such as in the ARC technical publications.

5 HIS HONOUR: The problem is complying with them. How can you be sure that they can be complied with, given you do not even know the methods that would be adopted?

10 MR LISTER: No, I cannot be sure. That depends on the authority that administers that management plan.

15 HIS HONOUR: Now, 76F, you say, "Proposed to remove the plant" – this is relating to the quarry, "Following the construction of the windfarm and rehabilitate the yard area itself. This will be set out in the quarry management plan." Well, what does that mean? What will be set out in the quarry management plan?

20 MR LISTER: How that area would be rehabilitated; I would imagine it is stockpiling of topsoil and returning those yard areas to pasture.

25 HIS HONOUR: So what is the condition – is the condition to read something like "The area will be rehabilitated to the same contours as original" or are you suggesting some – I mean I cannot understand what conceivable condition you are asking us to impose that would relate to rehabilitation. The only ones I have seen sort of occupy 20-odd pages and are very, very complex.

MR LISTER: Yes.

30 HIS HONOUR: So, how can it be rehabilitated, given it is a quarry site and it is rock? Are they intending to backfill with soil or something?

35 MR LISTER: No, you cannot – no that refers really to rehabilitation of the yard area after that occupation is gone. But a quarry face, you cannot hide that or remove it.

40 HIS HONOUR: Are there any questions arising? Thank you, Mr Lister, you are free to go, and we may as well see if we can deal with Mr Van der Leden, at least, and we can be in a position to assist Ms Peake then.

<THE WITNESS WITHDREW

[3.08 pm]

45 SIR WILLIAM BIRCH: Thank you, Your Honour. Once Mr Van Der Leden has been sworn in. I understand his technology is ready to go.

<ERNST JOHN VAN DER LEDEN, sworn [3.10 pm]

<EXAMINATION BY SIR WILLIAM BIRCH [3.10 pm]

5 SIR WILLIAM BIRCH: Your full name is Ernst John Van Der Leden and
you hold a Bachelor of Science and Civil Engineering and a Bachelor
of Science in Forest Engineering from the Oregon State University.

10 MR VAN DER LEDEN: Yes, that is true.

SIR WILLIAM BIRCH: You have had a long experience in forest
engineering, computer programming and management, and you are a
shareholder and director of Data Interface Technologies Limited and
15 you have developed the programme that we are now about to see on the
screen.

MR VAN DER LEDEN: Yes, that is correct.

20 HIS HONOUR: Now, you have prepared a brief of evidence. Is there
anything you want to change to that brief, Mr Van der Leden?

MR VAN DER LEDEN: No, sir.

25 HIS HONOUR: Thank you. We have already been shown generally around
the system. Now, who had questions beyond Contact? Was there
anyone? I think Contact was the only one who notified that they had
questions. Mr Robinson.

<CROSS-EXAMINATION BY MR ROBINSON [3.11 pm]

30 MR ROBINSON: Mr Van der Leden. We had the demonstration but I ask
you to do one thing for me. Would you go to the Sunset Views'
property. That is a principal focus of – one of the principal focuses of
Ms Peake's evidence.

35 MR VAN DER LEDEN: So it is in the front lawn of the property. The
owner's home.

40 MR ROBINSON: And that is the A block turbines that you are looking at?

MR VAN DER LEDEN: Yes, it is. That is the first most northern block.

45 MR ROBINSON: And if you pan round to the left. Can you just go 360
degrees.

HIS HONOUR: That is looking south, fairly much, is it? Due south.

MR VAN DER LEDEN: Almost. There is a bearing indicator at the bottom of the screen there.

5 MR ROBINSON: And just for illustration, can you go 360 degrees back to the A block.

HIS HONOUR: Just keep going round.

10 MR ROBINSON: Just keeping going round.

HIS HONOUR: We have already heard about this intermediate ground. Just pixel resolution issues. So we are looking at north now, pretty much.

15 MR ROBINSON: And in terms of Ms Peake's evidence. Can you just hold there for a second? Just back a little. In terms of Ms Peake's evidence, when she talks about the gateway, you may not be able to answer that, but I think she is referring to coming through that gully there.

20 MR VAN DER LEDEN: I suspect it is this one here, just a track leading up to the two houses. The owner's house here and the manager's house just across the other side of the little ridge there.

MR ROBINSON: Thank you, and if you would just keep going.

25

HIS HONOUR: So that road we can see in the distance, is that the Waikato/Waikaretu Road?

MR VAN DER LEDEN: Yes, it is.

30

HIS HONOUR: And so this is the turn off to the house, here.

MR VAN DER LEDEN: Right there.

35 HIS HONOUR: And we appreciate it flattens off vegetation so it is essentially a flat.

MR ROBINSON: Thank you, Mr Van der Leden for that demonstration.

40 HIS HONOUR: Thank you.

MR ROBINSON: Have you read Mr Lister's rebuttal evidence on your evidence?

45 MR VAN DER LEDEN: Yes, I have.

MR ROBINSON: Mr Lister identified certain, what he called, limitations of the K2BI model and I just want to put each one to you and get you to either confirm or not as the case may be. I suspect these are not in dispute but we will just confirm. The model represents the landscape as a smoothed surface.

MR VAN DER LEDEN: Well it is smoother than it is. The model is smoother than it is in real life, yes.

MR ROBINSON: A smoothed, rather than a smooth.

MR VAN DER LEDEN: Smoothed.

MR ROBINSON: Rather than smooth, a smoothed surface and it does not show any relief in terms of vegetation or structures other than the turbines.

MR VAN DER LEDEN: That is correct.

[3.15 pm]

MR ROBINSON: And so the extent that such things as vegetation or structures may alter conception of a view, the model cannot give you that impression.

MR VAN DER LEDEN: I believe there is some impression of vegetation. I mean you can see the vegetation there.

MR ROBINSON: But in terms of depicting reality, it is a limitation that it cannot do so accurately.

MR VAN DER LEDEN: Well it could do. We could have planted vegetation models in all those areas that have vegetation on them, but we chose not to for a couple of reasons. One of the was that when we went out and did the field visit and assessed the views we decided that there was no real need to model vegetation in order to fulfil the purpose of this model which was to show so that people could understand the visual impact of the turbines in that landscape. And the second reason was that it cost money to do that and the budget was not unlimited.

MR ROBINSON: So the model might have been improved but the decision was made not to?

MR VAN DER LEDEN: That is correct.

MR ROBINSON: Mr Lister also says that any image you present, such as the one we are looking at right now, with one exception – he does not make this exception but I will – has the same inherent shortcomings as a photograph, and the exception is you can show movement, would you accept that? We have talked a lot about the limitations of photographs to depict reality in this hearing.

MR VAN DER LEDEN: Yes, that is correct.

MR ROBINSON: And in Mr Lister's montages he gives a nominated reading distance to get the correct scale. I assume that the same would apply to the model presentation, is that right?

MR VAN DER LEDEN: No, it is not, actually. That is because a photograph, I guess, relies on a viewing distance in order to give an impression of size. Through geometry really, I guess, to give an impression of size and distance through geometry so that things – so that in real life, for instance, when you look at something that is straight ahead and then in real life, say you look 30 degrees to your left and there is a building, a photograph at the correct scale, viewed from the correct distance, will show that same building at 30 degrees. So that is how a photograph tries to give a human brain the impression of size and distance.

However, this model is designed to be viewed while moving and so to fulfil the purpose of this thing, which is so that people can understand, so that they can understand how big these turbines are and how they sit in the landscape, then you move around to do that. And because it uses that technique, in order to show size and distance and relationships, then it does not need to be viewed from any particular distance.

MR ROBINSON: But to understand the scale properly then you have to keep firmly in mind the data that is provided on the bottom, that at any given moment how far you are from it?

MR VAN DER LEDEN: Well, you can also make a judgement based on exactly this, objects of known size and scale right next to other objects in the landscape. You know my experience has been that when you show people this, just ordinary members of the public – not necessarily trained professionals – that they can very quickly understand just how big these turbines are from this kind of a presentation.

MR ROBINSON: But as soon as you get outside a range where you cannot scale the turbine to a particular known object, like a vehicle or a sheep standing next to it, you need to know exactly how far away you are?

MR VAN DER LEDEN: I do not accept that. I contend that people, once they have figured out how big these things are in their mind, then they have got it pretty well fixed and that is my contention. I mean you can form your own opinion on that too by just seeing how we go.

5

MR ROBINSON: I was interested also, Mr Van der Leden, at the colouration. The turbines seem very starkly white to me, certainly whiter than the off white to grey that has been specified. Is that fair?

10

[3.20 pm]

MR VAN DER LEDEN: It also depends a little bit on lighting conditions and I can show you - - -

15

HIS HONOUR: Can I ask you is it possible - I thought you could toggle the colours. Is it not possible for the - - -

MR VAN DER LEDEN: For the turbines?

20

HIS HONOUR: Yes.

MR VAN DER LEDEN: No, I cannot actually, no. We can make them any colour, I mean - - -

25

HIS HONOUR: Well, I thought you could change them, if you cannot then Mr Robinson's question, I suppose, remains valid as to why were they shown that particular colour?

30

MR VAN DER LEDEN: No particular reason. These were turbines we have actually used on other jobs and it is a pretty common colour for turbines from what I have seen.

MR ROBINSON: It is not off white, is it?

35

MR VAN DER LEDEN: It depends on where you are looking at them.

MR ROBINSON: Well, let me put another question. I know that it is a fine piece of country but the sky seems very starkly blue, is that fair?

40

MR VAN DER LEDEN: Yes, that is fair.

MR ROBINSON: And the end result is a combination of vivid white and stark blue, is that the turbines are more prominent than you would expect them to be in a normal range of weather conditions. Is that fair?

45

MR VAN DER LEDEN: Yes, that is fair, yes.

MR ROBINSON: Can you tell me why you presented the model on a basis that it is more prominent than you would expect in the normal range of conditions?

5

MR VAN DER LEDEN: Well, apart from introducing some haze into the system, which make things a bit hazy in the background, we do not have facility to put in things like cloud and other things, and mist, for instance, in the background, which might hide them a bit. So I guess I would say it is a technological limitation. I can assure you that it was not done with any intent to try and make the turbines stick out more than they really do.

10

MR ROBINSON: So your characterisation is that that is another inherent limitation in the modelling process?

15

MR VAN DER LEDEN: It is a function of the capability of the technology.

DISCUSSION

20

MR ROBINSON: No further questions, thank you.

HIS HONOUR: Thank you. Sir William?

25

<RE-EXAMINATION BY SIR WILLIAM BIRCH [3.22 am]

SIR WILLIAM BIRCH: Your Honour. Mr Van der Leden, the technology that you are using today is widely accepted as a useful tool in other circumstances. Could you perhaps give us some examples of where you are currently providing information of this sort?

30

MR ROBISON: Excuse me, sir, is that a matter arising.

HIS HONOUR: Well, no, not really. I think, Sir William, no it does not really arise out of that. Can I say to you I am experienced with it because we had it on Banks Peninsula. Its design, as I understood it, for landscaping use, it is a very good 3-D digital terrain and showing structures and things on them. I think it is – windfarm, is just the reality of where the world has developed, and that is why we probably do not have the sky switches and everything at the moment. No doubt somebody will come up with them in the next few months. But I do not think we need - - -

35

40

SIR WILLIAM BIRCH: I think the doubt has been raised about the acceptability, and I just wanted to - - -

HIS HONOUR: I do not think there is doubt about its acceptability in practical terms. I think Mr Robinson is just making a point about its limitations and I think you really are going a bit far in re-examination.

5

SIR WILLIAM BIRCH: Sir, the Board might be interested to know that Contact is using it in other - - -

HIS HONOUR: Look, I have seen it – as I say, I have seen it before. I mean it is – and in fact you see it quite often used for the mock-ups for the photographs et cetera. I do not think Mr Robinson is not saying that it is useful. I think what he is saying is you have got to keep in mind its limitations. It is a different issue.

10

SIR WILLIAM BIRCH: I accept that, sir. Could I just also confirm, Mr Van der Leden, that the information on which you based the presentation was in fact information supplied to you by the applicant in terms of the size of the turbine and the terrain?

15

MR VAN DER LEDEN: Yes, that is correct. The model used, as I explained in my evidence, the model used digital terrain, five metre contours, for the area where the turbines are located and they supplied the aerial photography which covers the terrain.

20

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[3.25 pm]

SIR WILLIAM BIRCH: Thank you, Your Honour.

HIS HONOUR: Thank you. Commissioner Lumsden?

30

MR LUMSDEN: Yes, Mr Van der Leden, what diameter did you use for the base of the towers?

MR VAN DER LEDEN: I did not use an exact diameter because we were not supplied that. What I did was, I took an exact model of the Vespa V90 turbine tower – which is a 90 metre tower, and scaled it up to a hundred metres, and then scaled the base up to a little bit more because I figured that that was - - -

35

MR LUMSDEN: It just seemed to me, looking at your Ford Explorer, I think it is, at the base of the tower, the red truck, seemed to me to be about two metres wide, it is probably a bit more than that – it looked like the base of the tower is around eight metres wide.

40

MR VAN DER LEDEN: It is something like that – seven or eight metres, 6.9 or something like that I think it is – seven metres.

45

MR LUMSDEN: Yes, you may be right.

MR VAN DER LEDEN: Vespa I think is 5.9 is it or - - -

5

MR LUMSDEN: I do not know. I have been inside one or two of them. I do not remember them being that big, but maybe they are.

10

You say that you did not feel that it was necessary to include the model of vegetation to make the visual assessment - make the landscape assessment, that may be a bit of a stretch for some of us, but I accept what you say. Nevertheless, there is some vegetation shown on the model, how was that put in, is that representative or is it just diagrammatic, if I can use that word.

15

MR VAN DER LEDEN: That is from the aerial photography, the vegetation shown from the aerial photography. I possibly should have qualified that statement about the vegetation. The brief that was given to me was to model the views from three places, that is the owners house, the managers house and the farm workers cottage, and from those places there is no intervening vegetation to speak of, and so that is why I did not feel there was any need to model the vegetation.

20

MR LUMSDEN: But the vegetation that is shown there is from the aerial photographs, so it is a reasonable representation of the vegetation.

25

MR VAN DER LEDEN: It is some kind of a vegetation, yes, it just does not have any relief.

30

MR LUMSDEN: It is textureless, is it?

MR VAN DER LEDEN: Yes. It is quite textureless.

MR LUMSDEN: Any views from offshore or not?

35

MR VAN DER LEDEN: You can take a view from any location whatsoever.

HIS HONOUR: We just go offshore?

40

MR LUMSDEN: We go offshore and look at the coast, look down the coast?

MR VAN DER LEDEN: Offshore at an altitude or offshore down at sea level?

45

MR LUMSDEN: This is essentially block A we are looking at, is it?

MR VAN DER LEDEN: I beg your pardon?

MR LUMSDEN: Essentially block A we are looking at?

5 MR VAN DER LEDEN: Yes.

MR LUMSDEN: Yes.

10 MR VAN DER LEDEN: This is the top turbine. That is A17 there, the one that we just discussed.

MR LUMSDEN: And can you go down to sea level?

15 MR VAN DER LEDEN: I will just jump down. The distance - in the brackets there is the distance to where the mouse cursor is, so that is just a bit over a kilometre away from that tower.

MR LUMSDEN: I think that is all that I wanted to ask you, Mr Van Der Leden, thank you.

20

HIS HONOUR: Commissioner, no questions. Do you have any questions, Commissioner? I have none, thank you very much, Mr Van Der Leden. Now I understand you are going to be here to operate the system when Ms Peake is here also?

25

MR VAN DER LEDEN: Yes, your Honour.

HIS HONOUR: Thank you.

30

<THE WITNESS WITHDREW

[3.29 pm]

35 HIS HONOUR: We are going to take the adjournment now. We are obviously taking the adjournment until the 18th of May and at that stage I understand we are going to complete the two remaining landscape witnesses, and then move back to an order that Mr Robinson will advise us all on Monday or Tuesday, hopefully as close to the original order as possible to avoid inconvenience.

40

Are there any other matters that need to be attended to?

MR ROBINSON: Sir, I have noted jobs I have for the intervening week, being the first point your Honour just made, advising all parties, including the Board, of course, of order of witnesses. The second, sourcing and circulating copies of the source sheets with Ms Yorke.

45

HIS HONOUR: Evaluation sheets, yes.

[3.30 pm]

5 MR ROBINSON: Evaluation sheets. And the third point is that I, of course
have ringing in my ears, the points that the Board have made clearly
about the inadequacy of - as the Board sees it - of the engineering plans
that have been provided and I am going to be discussing that very
intently with my client over the coming week with the objective that I
10 will be in a position to advise you on Monday the 18th exactly what
Contact is going to do about that.

HIS HONOUR: And I have got to say, at the rate we are going I am now
beginning to suspect we will be still sitting the week of the 8th of June
at the very least, and I am just giving the people that are here a bit of a
15 heads up.

At this stage I have told the manager, Ms Morgan, that I do not want to
abandon all hope of a site visit in the week of the 8th, but I am
beginning to think it is very unlikely the way things are progressing,
20 however I think that is a matter we will review in the week of the 18th.

So I look forward to seeing everyone here in the week of the 18th, we
will be starting at 10 am on the Monday and I am just saying it is
deferring the site visit. I think, given the way things are going, the
25 original five weeks I think indicated we see it as priority to get the
hearing completed, if we have no other choices, and if that means we
have to undertake the site visit after the hearing is completed that is
more realistic than trying to organise all the counsel and all the
witnesses at new dates to be fixed, because it is hard enough me getting
30 the Board together, never mind getting all the lawyers and witnesses
together at the same time.

So that is my logic. I am open to argument as to what should occur, but
let us not panic, we will see how things are progressing in the week of
35 the 18th of May.

Thank you everyone.

40 **MATTER ADJOURNED AT 3.32 PM UNTIL
MONDAY, 18 MAY 2009**