

DUCK CREEK NORTH HEARING

Wednesday 6 April 2016

Porirua City Council Chambers, 16 Cobham Court, Porirua

Commissioners: McArthur, Sweetman, Mark-Brown, Paine

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9.02AM HEARING RECONVENES

Sweetman No matters to raise. Results of engineers caucusing not yet available.

9.02AM SUBMITTER: GUARDIANS OF PAUATAHANUI INLET

Tony Shaw - Chairperson & Lindsay Gower. Community & environmental group focused on Pauatahanui Inlet. Lindsay Gower speaking to written notes titled "Duck Creek Hearing GOPI Proposals".

Submission is neutral. Accept urban development will happen in this area sooner or later but wish to make sure conditions ensure effects on Duck Creek Scenic Reserve Wetland

and on the Inlet are minimised or mitigated to greatest extent possible. Would like to see conditions that closely manage stream edges, stream bed, riparian vegetation, existing areas of natural vegetation. In particular conditions that have a zero effect on the wetland and minimise sediment and contaminants. One of only 4 wetlands in the Inlet. Protection of condition of wetland is very important. Wetland acts as sink for harbour.

Suggested number of items as conditions. Officers reports cover a number of these conditions. Would like all proposed conditions to apply to the development. From general perspective would go a long way towards protecting values. Couple of things need further attention: remnant bush areas and how much is included in esplanade reserves.

Have seen in planning practice previously that when residents have access to riparian habitat they appropriate areas for own use. Mow them, degrade values. Would like specific conditions restricting & prohibiting incursions into areas set aside for riparian management. Would help reduce weeds and pests as well as stormwater.

Low-impact urban design very important to the group.

Another issue with small sections is people cover them with hard surfaces. This needs to be closely managed. Hard surfaces create contaminant sources and limiting them helps reduce contaminants/sediments. Would also like prohibition on unpainted zinc rooves.

Sweetman **Can you make the notes you're reading from available?**

Gower Yes. [Copies to be made for all parties]

Paine **Do you have any experience of other stream care groups being set up for these sorts of situations?**

Gower I know of one in Auckland where Commissioner Dunlop is involved in it. Very successful, gets residents involved in managing stream and riparian vegetation. Limit is that these things are voluntary. People that don't join are the ones that want to mow into the riparian area.

McArthur **Heard yesterday from Mr Holmes that there was agreement from applicant that all rooves would be of low-polluting nature. Have you read evidence of Dean Miller? Do you have any comment on the effects on coastal areas from that evidence?**

Gower I have identified some of those in these notes. He seems to be saying that the effects will be managed successfully but he also recognised the importance of the Duck Creek Scenic Reserve. One of the things we're not clear about is the degree to which the road access into the development, how much is bridge and how much is embankment. We

don't want to see any major or even minor impediments to stream flows because of that structure. [Indicates on map entrance adjacent to reserve]. We are pleased there are no properties on the reserve side of that bridge but also means this area should be carefully managed so it doesn't become a rubbish dumping area.

In addition, area is low lying and we have relative certainty of sea level rise and storm surge increases. Freshwater coming down and salt water coming in need to be managed to avoid a dam.

McArthur **So you would like flows of salt and fresh water to continue largely as they do now?**

Gower Yes, taking into account possible increases in flows caused by climate change events.

McArthur **The officer's reports largely meet your requirements regarding stormwater? Anything outstanding?**

Gower Didn't see a lot about potential effects of climate changes given its location. Would like to see that emphasised. Both water quality requirements & monitoring seemed thorough. Adaptive environmental management approach seems the way to go. Would like to see that be a requirement.

Mark-Brown **Regarding abutting residents mowing into riparian area - conditions limited to tenure of applicant subdividing. Any comment on that?**

Gower You can only set starting date. Would hope that the council would pick those up. In my view stream care groups are not compulsory requirements but it would be nice if the developer would think about that. Have seen some successful examples formed by developer that grew successful and took off on their own. [Waitakere?]

Sweetman **Clarify status in terms of submission? Here as lay witness?**

Gower Yes, here as committee member of the Guardians. Not here in planning capacity.

Sweetman **Recommend consider limitations on pervious surfaces?**

Gower Would think some proportional restriction on how much can be sealed around properties, particularly the small ones. Can have surfaces that would be pervious that you can park cars on and so on.

Sweetman **Expect council officer from Porirua and applicant to respond in right of reply. Would also like both to comment on restrictions around remnant bush areas and riparian areas.**

Gower Note that applicant has a lot of that in the proposal but is question of having a closer look at that.

Sweetman No further questions. Thanks submitter for their time.

9.25AM SUBMITTER: NEW ZEALAND TRANSPORT AGENCY

Angela Penfold here as representative & Caron Greenough here as safety expert. Take evidence as read.

Procedural matter: Trevor Roberts questions if written evidence is available? Has not seen it.

Sweetman Evidence was pre-circulated 5 days before hearing. [Directs Sonia Baker to check NZTA evidence was pre-circulated; directs copy to be given to submitters]

Sweetman We will adjourn for 20 minutes to give submitters opportunity to read that. Apologies to NZTA for the delay.

9.38 Adjourn

9.55 Reconvene

Sweetman Ms Baker has confirmed evidence was made available by way of an email. Obtaining screenshot of email now. Pleasing to see NZTA talking to submitters.

Mark-Brown Could you confirm you are satisfied that construction access can be made onto state highway subject to details of that alignment being developed through traffic management plan that would require NZTA approval?

Penfold Yes

Mark-Brown Have you visited the site?

Greenough Yes. I live in Whitby and know site well. Have been working with applicant on this.

Sweetman Concerns in submissions with intersection of James Cook Drive and state highway & safety & traffic volumes. Is NZTA satisfied with degree of effects on SH58?

Greenough Normally assess safety risk based on sight distances. Satisfied they meet criteria. Slight increase in volumes - figures taken from applicant's model. May be a queue on James Cook Drive - may cause delay but won't cause safety risk.

Penfold Agency has taken overall a more cautious approach to that intersection as delays shown in model. Happy to accept reduction in efficiency as interim as Transmission Gully planned. Nervousness that with increase in delays might be increases in crashes. Have asked applicant to put in review condition to review safety performance of intersection throughout. Applicant has accepted that. Until such time as TG is operational and removes congestion.

Sweetman **Anticipated date that TG will be operative?**

Penfold 2020-2021 we're expecting it to be operational.

Sweetman **In terms of review conditions is that part of agreed conditions of consent between agency and applicant [It is condition 4].**

Sweetman **No further questions.**

10.01AM SUBMITTER: DAVID WYATT

Lives at 4 Shoal Place. Not opposed to development but has concerns about impact on nearby community. Reads out written notes distributed to all parties. Surprised not more assessment of impact on community with technical evidence. Will impact on daily living not only during construction but afterwards.

Impacts of concern: construction noise especially on Saturday and workday evenings. Storage of infill material and machinery and visual effects of that on nearby homeowners. Huge amounts of dust - cleaning costs. Wind will spread dust widely.

Increasing footprints, reduced front yard setbacks, reduced road widths - this part of consent should not be given in his view.

Wants to know what view will be like post-completion. Concerned about impact on property values.

Concerned no public recreation areas put aside and is maximum high-density development. Walkways along stream are a requirement, not for benefit of the community.

Has not had time to go through all evidence. Notes vehicle movements are 80-100 daily. NZTA are not sure of turning circles of the trucks/trailers and if they will be able to get out or cross median. What has been done to mitigate this and who will monitor any damage to the road? Will developer lodge bond or will ratepayers pay for this?

Where is fill coming from? Impact of this traffic combined with construction traffic for Transmission Gully? Has not seen assessment of that. Will there be covers on trucks to mitigate dust when transported?

Traffic management - what is that? What is it on the temporary access road? Does not feel has been adequately assessed. Concerned about additional trucks impact on existing travel delays. Frequency of truck movement. Concerned at lack of detail.

Waiving financial contributions - lack of transparency around this. Pumping station - surely caveats should be placed so that future owners cannot complain to council. There will be smell and noise.

Erosion near his house has increased as has days of flooding and number of days with discoloured sediment in last few years during development of Duck Creek South. Very concerned at high-density of development.

Would like to see consolidated document. Feels impact on wellbeing on surrounding people has not been considered.

McArthur **How long have you lived at your property in Shoal Lane?**

Wyatt We built the house around 3 years ago.

McArthur **Can I ask your expectations of what residential development in this area would be like?**

Wyatt Similar to existing surrounding development and not of such high density.

McArthur **So key aspect that disturbs you is the density?**

Wyatt Yes and the subsequent issues that will bring. It's not been clear. Impact of what will be left there when they're gone hasn't been explained.

McArthur **Visual impact?**

Wyatt Yes and impact on the value of our homes. I think it's something that needs to be considered. There's been no impact assessment on wellbeing of the community and I believe there should have been.

McArthur **Mentioned you had noted an increase in changes to stream since Duck Creek South development? Stream banks adjacent to your property - what have you seen?**

Wyatt Half-metre chunks slide into creek after heavy period of rain. Bank would be about 1m from base of stream to the top. Quite often creek overflows.

McArthur **Just a grassed vegetated area?**

Wyatt Yes

Sweetman **You were aware of the zoning of the site when you bought the property? Would you be happy with a proposal that complies with all District Plan rules?**

Wyatt Not familiar with what permitted activity rules are. Opposed to development to put maximum amount of houses in as not for benefit of people living there; to maximise profit.

Sweetman **Do you accept any development of that land would involve earthworks and construction effects?**

Wyatt Yes, it has to.

Sweetman **Lack of parks as concern. Any parks within walking distance of this piece of land?**

Wyatt Believes there is park to the south of development that is quite a long distance for children to walk.

Sweetman **Will expect officers to respond to the issues you've raised in terms of traffic, amenity and the stream. Thanks submitter for attending hearing.**

10.30 Sweetman requests Sonia Baker to make screenshot of pre-circulation email available to all parties. Adjourn.

10.55 Reconvene

10.55AM SUBMITTER: FOREST & BIRD

Peter Anderson, General Counsel & Amelia Geary, Lower North Island Regional Manager. Take evidence as read. Document "Submissions for the Royal Forest and Bird Protection Society of NZ Inc".

Anderson F&B's position is that application should be declined based on diversion & reclamation of Duck Creek. In yesterday's statements from Gardner-Hopkins around offsetting, Para 15 of his evidence refers to King Salmon case. Mr Gardner-Hopkins stated in his evidence this case didn't really change much - disagrees with GH's interpretation. [Reads from Para 16 of evidence].

[Reads Para 18 of evidence]. Thinks policies need to be evaluated in terms of directive policies given greater weight.

Second point from Mr Gardner-Hopkins around offsetting. Policy 41 in Proposed Natural Resources Plan. Given significant values of site, Policy 41 applies. Directive policy - uses "avoid". F&B's submission is that this ecosystem and habitat can be avoided. Site can be subdivided without need to divert & reclaim Duck Creek.

[Reads from Policy P41 in terms of offsets and Schedule G with particular emphasis to 6. No net biodiversity loss]. Believes assessment against principles in Schedule G does not come out well for the proposal. Mitigation and offset is not clear from proposed conditions. [Refers to Para 51] Conditions do not say what offset is and are not enforceable, especially regarding riparian planting. Decision making left to manager of environmental regulation at GWRC, which is unlawful delegation of decision making power. Not appropriate.

Refers to case law around management plans. Management plan needs condition that specifically talks about what kinds of plants, where etc. And management plan should set out how to achieve that and what is to be done if something goes wrong. Mr Lowe said in his evidence that we needed an environmental compensation plan and we support that. F&B's submission is that current offset conditions are inadequate and do not meet minimum legal criteria for conditions. SEV stuff needs to be in the environmental compensation plan not the monitoring plan.

Without that information is really difficult to assess whether proposal meets requirements of Schedule G. Current proposal does not meet the criteria especially "5. Long-term outcomes" and "6. No net biodiversity loss". Mr Gardner-Hopkins is incorrect to say there is no policy directive for no net loss.

Significant stream with significant values and no consideration given to avoiding. Where is analysis of avoid? F&B's submission is that current proposal should be declined on this basis. Accepts that policy P41 is proposed but has been notified and should be given reasonable amount of weight. If Hearing Panel does not agree then the proposal needs more work around robustness of offset conditions.

McArthur **In showing us this Schedule G, if an environmental compensation plan was put together that followed that, F&B's concerns would be adequately covered?**

Anderson No. Policy P41 has a clear hierarchy that says avoid first, and that hasn't been adequately considered. Why can't it be subdivided without diverting a large portion of Duck Creek? It could be avoided but the developer does not want to.

McArthur **Is scenario that you're giving us, avoid the diversion & reclamation, mitigate using Schedule G?**

Anderson Effectively. There is a concern around Policy P39. Evidence points to ongoing risk of sediment to Pauatahanui Inlet. Those effects haven't been avoided consistent with the policy. I don't know if the effects of sedimentation are minor and transitory. Don't think Policy P39 has been met. Refer to this in submission. In answer to your question, the site can be subdivided, but why do you need to interfere with a significant stream to do that?

Mark-Brown **You're saying to us you think the subdivision can be done without doing that diversion? I fully expect the applicant to come back and say that cannot be done without that, so what would your response to that be?**

Anderson I can't respond to that hypothetical situation. I guess it's all a bit late in the piece. My submission is that the proposed subdivision is not consistent with the policy framework.

Mark-Brown **The weight we should give to the Proposed Natural Resources Plan?**

Anderson Further submissions closed quite recently so it is still early in the process. There have been submissions on this policy. What is in that policy around offsetting is kind of standard and is popping up in plans all around the country to meet minimum requirements. They are coming through in all the plans coming through now. Older plans didn't make provisions for them. This provision is consistent with best practice and what other plans are doing, so you might want to give it slightly more weight than otherwise. It's not telling you to do anything outrageous; it's just telling you to follow best practice.

Sweetman Question regarding s104 of the RMA. To grant consent do you need to be satisfied that a proposal is consistent with a planning document?

Anderson In King Salmon hierarchy of documents - have an obligation that follows all the way down through that. Can have situation where all the national, regional planning direction can be thwarted at resource consent level. Matter that hasn't really been resolved. Supreme Court says decisions aren't made under Part 2, but they are subject to Part 2. The question would be when the SC made this decision, did it intend for it to apply to resource consents? I think that there will be cases where policies are so directive that you have no choice but to give them effect.

In context of scheme of the Act, would it be right for us to grant consent despite direction from higher planning instruments? Until the SC decides the question, the way to deal with it is to look at the policies in that way. If you have a directive policy, why wouldn't you follow that policy?

So the answer to your question is not clear-cut but I think if you have directive policies they should be given more weight. Otherwise incomprehensible that you can ignore the framework.

Interpretation of s104 in light of purpose and principles of the Act and I think that's where the King Salmon case sits.

Sweetman In terms of the issue of weight, hearings have yet to start on the PNRP. Should we be giving more weight to the PNRP in terms of the timing of the NZCPS?

Anderson Yes. The obligation under s104: if you've got an obligation under NZCPS and a conflict with a lower level planning document then you should follow what the NZCPS says.

Sweetman Policy 41 - looking at the wording. [Reads from policy]. Are we required to consider the use of biodiversity offsets? Is this a mandatory consideration for us?

Anderson The starting point is an offset has been proposed, so how do you assess what has been proposed. That's different to where there has been no offset proposed. [Reads from policy]. Obligation is to consider the offset that has been proposed in accordance with the principles.

11.32AM SUBMITTER: TREVOR ROBERTS

Speaking to written submission "Submission by TA and LM Roberts Dated 4 April 2016".

Roberts

Finds it difficult following submission of David Wyatt. His pain as a typical resident of Whitby is similar to other residents in previous developments he has seen such as in [Abbotsford?]. That was result of some poor decision making in Dunedin City [refers to Abbotsford landslide]. Refers to 11 years as director of the Insurance Council.

Material in written submission has been made hopefully redundant by progress of Hearings Panel. Crucial matters might be dealt with by imposition of robust conditions with all parties having access to a consolidated set of conditions.

Unfortunate planning history has led to situation where errors, laziness have coalesced to result that has affected one particular plot of land: Duck Creek North. Nature of mistakes you can see from his submission and Mr Johnstone.

Gives history of Whitby Village Plan. [Talks to submission Paras under "Background"]. Gives history of conflict between vision for Whitby and later planning decisions. Highlights difficulties facing the Panel.

One suggestion has been addressing difficulties through management plans. He would suggest that in practical terms a lot of the issues can't be dealt with in this way. Lack of resources. GW's basis for conditions is a good start.

States that in reality no one will be completely happy with ideal compromise. Engineering and environmental conditions will be most straightforward part of it.

Issue 1: what should be done in respect of the CDP? My view is that the PCC should have been very firm in saying that was the deal that was done and that we are going to support the inclusion of the basis of that CDP into the way in which the subdivision takes place. That hasn't happened, though it has happened to a commendable extent as far as the developer is concerned. The PCC plan is pretty clear as to what subdivision standards are required and it is difficult to see why those should be departed from to produce a medium density subdivision where the 90 imagined in the CDP go to 140-odd without a great deal of thought. PCC should have been involved in that. Probably a result of a conflict of interest in that they want the development and they want the residents off their backs and they're involved from an economic point of view. Relieved that the exercise is monitored by the regional council and not by PCC. Commend GWRC for picking it up.

Suggest requiring redesign of the subdivision to import into the consent the bulk and location requirements in the present district plan or much closer to it. If PCC wants to do medium density housing then that should be done separately and subject to total public

scrutiny and done in a way that does not affect interest and expectations of existing residents.

Other matters of detail to consider: walkways are crucial to Whitby development. For relatively minor cost and improvement of accessibility, several things could be done. [Indicates on map his property on 12 Observatory Close]. Considers this subdivision will not particularly affect his property except for traffic disruption and comparatively minor noise/dust. People on other side of Observatory Close are majorly affected.

[Indicates walkway running down eastern side of the area that would be improved by putting an extra entrance from the Duck Creek North site. Walkway comes from Endeavour Park.] Walkway through to Marsden College also needs to be considered. Needs more certainty at this point. Have been discussions between PCC and Marsden College where the school wants the walkway through the school closed. Probably need a condition that puts an exclamation mark on in respect of that area.

One of the real problems with this development is the single access point: emergency services, 149 residents. Extremely difficult to put in double-access. If starting from an earlier point in Whitby's development would not have done it in this manner but now have few choices.

The idea that you can engineer your way out of problems or put in a cosmetic solution and people will learn to put up with it doesn't work. Not convinced that flood protection work that needs to be done is adequate. Huge problem with culvert under SH58. Has experienced three 100-year floods in time living on the property.

In summary: pleased with Panel's progress so far. Conditions will have to deal with ecological issues, engineering issues, and in particular with whether the extensive engineering is going to work in the long-term or whether it will be a re-run of flooding problems elsewhere where everybody involved are going to be subject of enormous public criticism. The inhabitants of Shoal Place are already experiencing flooding. The local authority are aware of that history. Liquefaction through that area resulted in designation as earthquake hazard zone. Lots of sawmill waste from previous sawmill operating there. Recently demonstrated with excavations in development of Shoal Place. This will be replicated later in Duck Creek North. Strong possibility of liquefaction and sawmill waste. In Shoal Place it got worse because they changed the course of the creek to make the golf course. When it was excavated a huge amount of material had to be taken out and put in. Expensive but unsatisfactory subdivision. Already subject to flooding in places. Want to avoid repetition of those tragedies.

Mark-Brown In your discussion about sawmill waste you say you think there may be some left, presumably adjacent to Shoal Place?

Roberts Not necessarily. I know some drilling has been done. I don't know but certainly the development consortium in the 1960s decided it was going to be too hard to develop the site for that reason.

Paine Density housing - Mr Cooney was talking about trends and the way people thought about housing had changed. Medium density for you is 90 lots and you consider this 148 high density?

Roberts If PCC wants high density housing it should be reviewing its district plan properly and making proper provision to avoid the nonsense Auckland is going ahead with at the moment where there is huge conflict between reasonable expectations of existing homeowners - like Whitby where it was sold on the basis of that open space and amenity and on the development of a coherent community. There are some small areas where the original consortium actively supported a higher density in Whitby, but if you bought a house in Observatory Close and your expectation was that the Golf Course would remain and you would live in a conventional suburban area, you would take the view that what is proposed here is not appropriate. Hobson Point in Auckland, where my brother is a recent occupant, is a different matter altogether. It is an area which is planned on that basis. People know what they're getting and can see that those expectations are being met. People don't want to purchase on the basis of what they're told about the community they're moving into and then find that it has all changed partly because the local authority has a brainstorm.

Sweetman Can you show us where you were proposing another walkway?

Roberts [Existing walkway runs parallel to road]. Proposal is to give people within Duck Creek North a separate access to the existing walkway through to Bridge 3 through Reserve Area 3.

Sweetman Shackle Lane as an alternative entry?

Roberts Could be investigated, but probably now too hard.

Sweetman We have been provided with a copy of the CDP. What, in your opinion, are the differences between the CDP and what is proposed by Jagger?

Roberts Number of sections, width of roads, bulk and location requirements, parking requirement. Those are the principle ones.

Sweetman Seems to me that the road alignments are pretty consistent?

Roberts Pretty much the same and in fairness the applicant has done a pretty reasonable job in respect to that sort of stuff except that the density is too high and compromises have had to be made in the detail simply because you result in an overdeveloped site.

12.22PM SUBMITTER: ASH JOHNSTONE

Has been involved in residents association and interests of Whitby for 18 years. Lives at 23 Observatory Close. Speaking to written submission. Most important point from first part of written evidence on history/background is that residents did not know there was going to be housing down there until 2000 after the district plan was operative. That resulted in the CDP.

Reads from Para 32 onwards of written evidence.

Additional comments to written submission: Is an affected party but also interested in Whitby residents getting fair and proper housing. Cumulative adverse effects of site coverage, number of lots, decreased front yards mean development doesn't fit with Whitby.

Keep in mind that photographs are what another 100 residents would also be seeing, not just submitter. Photo 8 - density of Brookside would be higher than the Staithes Drive photo shown. A lot of trees won't be possible because there won't be space for it. Less green.

Roading - from Para 52 onwards

Sweetman Request copy of Table 3.1 from Code of Land Development that is referred to.

Johnstone Lots 1 to 6 - from Para 54 onwards

Lots 1 to 6 not included in CDP deliberately for natural hazard reasons. 2090 horizon is a very short horizon when talking about housing. To allow this now is a degradation of that CDP.

[Para 67] Flood prone areas. Fail to see value in calling it a "reserve" as could never be built on. Needs to be a review of that. Wetlands ponds are one of the features of the Banks development. Broke up the esplanade reserve into pleasant open space. Effect very aesthetic. Should be looked at as part of this development's design. Also ecological benefits.

Sweetman We now have Table 3.1

Johnstone Roading [Para 52 onwards] - Does not know where the 7m width figure comes from. Don't think it's enough width for risk with flooding and people needing to get in and out during emergencies because there's only one way out. Would ask for independent review of that figure.

District Plan changes [Para 79 onwards]. If this development goes ahead then has set template for District Plan changes without allowing consultation from wider Porirua community. Should be discussed in District Plan changes not in this consent.

As resident at Observatory Close [Para 81 onwards]: No discussion with applicant as to whether macrocarpas removed. Will not accept their removal as in a southerly wind provide shelter. Loss of privacy also.

2 of his trees are less than a metre from the boundary. Motor scraping would cause a lot of root damage and weakening of their anchors and could make them a danger. Concerned that the Property Law Act means future neighbour at Brookside can ask for trees to be removed and he thinks they would as they would be a danger to below property if developed.

House was designed to face the valley. Two plans shown to him of development: one with houses backing on to his property and one with a road. Would rather have houses than road. [Refer to photo 15 and 16 for water runoff from sections on hills surrounding Duck Creek].

Privacy. One of the main reasons he would not like to see infill development onto his property. Would like a screen between him and the development. Replan how developer is going to treat a no-fill solution. Would like to see what mitigation factors going to be incorporated into a no-fill plan to give existing residents shading from development. Has to be foliage rather than fencing given the higher ground.

Overall, agrees with Mr Roberts with treatment of Duck Creek but thinks it is the 'economy version'. Thinks needs wetlands added and reduced number of lots. Has talked to residents of Whitby who didn't make submission.

McArthur **Interested in differences you see between the CDP version and current proposal and the advantages/disadvantages in there?**

Johnstone Number of lots, sizes of lots was well discussed with us. Was to ensure it fitted in with rest of Whitby development. The Banks development was sympathetic to that.

McArthur **With the specific location of your house and the 2 plans, what is the different between the 2 plans there?**

Johnstone 2 wetland ponds, one to the right and one to the left [of his house in the CDP].

McArthur **Appears they are across the road - point me to your house again?**

Johnstone [Indicates on map; copy of CDP map is provided to submitter]. Is a bit of a change from when we had the charette process but the effect of it was a wetlands area that would break up that area. I would see great amenity value in having some sort of wetlands area

up around that area because it's always boggy and damp up there and lends itself to the meandering nature of the creek.

McArthur **As far as proximity of the road - if screening was adequate?**

Johnstone Is it the only way you could do it. In the best of both bad worlds, yes, we would need something that was screening us off that area for privacy reasons to stop people looking into our house. Trees would be the only way of doing it and they would have to be trees of adequate size and density.

McArthur **Can I ask how you took that elevated photo?**

Johnstone There's an old green off the golf course that you take the view with a long lens.

McArthur **Opinion on realignment of the stream?**

Johnstone Saw what was done on the Banks development and saw the sense in it. Developed a whole new area from scratch better than what was there. Only view on that is that it has to be done right. There are places where it's straightened up too muc.

McArthur **Original plan also didn't have riparian planting to same degree as this one does. Advantage or disadvantage?**

Johnstone This plan talks about getting a high canopy very quickly, but to do that you've got bigger trees that catch more sediment and can actually block flow. I am not a horticultural expert but you've got to have the right sort of plantings and I don't think they'll be able to get 100% cover in 5 years. The only way you could do that would be with non-natives, and you have to do it with natives.

Mark-Brown **So not enough room between your house and your boundary to plant trees that will screen you?**

Johnstone If there was an infill I think it would be quite difficult. I want to look at the design feature with a batter on the side and how that would be constructed because my thought on construction is they've got to have a 1 in 2 angle on it, but that gives us something to work with that could be planted as well as the bottom area where our house bounds. If you've got a bottom area you can put in trees that love water you can put them there.

Mark-Brown **So it might be possible to plant trees on your property depending on the final design?**

Johnstone I already have trees, but they're not growing fast enough.

Mark-Brown **Might be an opportunity to plant fast-growing trees to cut down once the natives get higher? Not enough space?**

Johnstone I think so, yes.

Sweetman Thank you for putting together your statement for us. How did you undertake your study of lot sizes in the different subdivisions? Where did the information come from?

Johnstone An Excel spreadsheet and I took the Banks development design plan and fed it into that. I've done the same for this one. Staithes Drive, I went onto the council website and got the data from there for each property.

Sweetman The issues you've raised in terms of development in the Whitby area recently that I will expect the council officer to respond to, particularly around Staithes Drive and the Banks and density/coverage. Photo 4, is that at projected ground level?

Johnstone Yes. My understanding is that the green is a raised green. You can only approximate the level.

1.05 Adjourn

2.05 Reconvene

2.05PM SUBMITTER: NGĀTI TOA RANGATIRA

Sweetman: Understand Lianna Barriball from Ngāti Toa Rangatira available. Understand no statement but happy to answer questions.

Paine Tena koe. Looking at Ngāti Toa submission and position that Ngāti Toa is objecting to this application. Is this still the position?

Barriball Yes.

Paine Primary concern environmental rather than cultural?

Barriball Taking into consideration effects of other activities happening in the area, there's huge concern about mahinga kai values in Pauatahanui Inlet as well as Duck Creek will be impacted by any more development in that area. The fact that we haven't done any cultural monitoring is also a concern because we don't know how degraded it is currently and what the future impacts might be.

Paine Way forward with applicant to find out this information?

Barriball Potentially. Baseline assessment of current state and historical records of what areas were utilised by our tupuna as well as being involved in monitoring plans developed for the future.

Paine Looking at [email chain from Mr Holmes evidence] - suggestion he has put forward about Ngāti Toa being involved in active management plan. You aware of those suggestions?

Barriball Did receive emails from some GWRC people. Has not had chance to look at info yet as is new to position.

Paine Would this be something you would be keen to see?

Barriball Definitely. I know with Ngāti Toa there is a definite need to look at how we become more involved with resource consent processes within the region as well as being involved in the management phase.

Paine One of Mr Holmes's other suggestions was about cultural monitoring and remuneration. I will leave that there because of your newness. PCC reporting officer talks about providing reports to Ngāti Toa, monitoring reports, and thinking they fulfil that kaitiaki responsibility for Ngāti Toa. Is it about provision of reports or more than that?

Barriball If we're taking kaitiaki role into consideration more of a need to be involved than just receiving monitoring reports. Have to be able to observe environment, be in it, understand it. So paper report through mail is not going to cut it. As well as observing and being in the environment it's also making decisions about taking away the way you react to the environment. It's the plan, develop, monitor, review cycle from a Pakeha perspective. Can't do that with a report.

Paine Council has put in accidental discovery protocol. Had a chance to look at that?

Barriball Not specifically but do know Ngāti Toa likes to see that protocol in large developments. Standard practice for Ngāti Toa.

Paine Email chain mentions CIA done for Transmission Gully that provided some studies around Duck Creek.

Barriball I need to go back and check where it is to see if that will cater for a CIA for Duck Creek.

Paine Anything else you'd like to tell the Hearing about Ngāti Toa's perspective on this application?

Barriball Can't speak around this specific application but general approach we would like to see more of is about the front-end work that needs to be done rather than the Rūnanga being required to comment on every single resource consent in a reactive manner. Try to be as strategic as possible, having communications early. Having that relationship about aspirations and values the Rūnanga and Ngāti Toa have. From an iwi perspective there is little to no resource to have to be constantly be looking at every single resource consent. Having a bit more effort up front, having a relationship if it's huge, having a view that we're on a longer journey.

McArthur Do you know about the stream diversion and reclamation as part of the application?

Barriball No. I don't specifically but the Rūnanga probably does.

McArthur Ngāti Toa perspective on shifting streams?

Barriball Can't give you an answer on that one.

Sweetman Have been provided with plan from HTP. It refers to a burial ground. Do you know anything about the location of that or the history of this map?

Barriball I can inquire but I do not know.

Sweetman Thanks Barriball for appearing.

2.18 End of Submitters wishing to be heard

2.20 Break to circulate engineer's report.

2.43 Document received: "Joint Statement of Flood and Erosion Experts"

Sweetman Panel won't adjourn to read it. Will just take a few minutes to read through it. Panel would like to hear particularly from regional council afterwards in terms of ecological matters.

2.49PM RESULTS OF ENGINEERING CAUCUS

Thomas Joseph of Mott McDonald presenting results of engineering caucusing with Mr Kyle Christensen. Highlighted 2.2 m/s velocity figure. KC walked Joseph through reasons for raising it to 2.7 m/s based on Ciria criteria and vegetation on banks. Discussed other standards available and concluded that KC's methodology was acceptable and in most areas could revert from original proposal.

[Refers to attachment to s42A report. In original plan with everything above 2.2m/s velocity with no erosion control highlighted. First area outside of development: visited lower bend at southern edge of site. Area upstream of bridge 3 already had protection in latest plan. Upstream of bridge 2 - modified plan to add bank protection. Final runoff to harbour - visited & happy to that protection not required. Took these areas out of peer review statement.]

Existing planting quite effective erosion barrier. Risk in some of those areas depending on how quickly planting returns.

Mark-Brown That last matter at top of site with existing vegetation and care needed to re-establish vegetation. Can you give thought to what kind of conditions/requirements might be needed in those particular areas? If there are particularly crucial areas we need to know.

Joseph I could guide on crucial areas although how you would do that is beyond my expertise. Slew of standards that say these velocities can cause erosion on unvegetated surfaces. But methodology on how to manage that beyond my expertise.

McArthur What kind of vegetation are you talking about?

Joseph When we went out to site, some kind of a grassy substrate that goes all the way down to the stream. Definitely evidence of matting and acting as a barrier when the waters come up. Don't know what you would call that vegetation. Definitely want covered substrate. It's probably an order of magnitude more susceptible to erosion without vegetation on top of it.

McArthur Seems to overlap very closely with inanga spawning site. Inanga have reasonable specific vegetation requirements. These conflict?

Joseph The existing right now is long grass. There are existing places with trees and long root. Understands these wouldn't be removed.

McArthur What in your opinion is enough of the right kind of vegetation?

Joseph Long grass there at the moment is working quite well. Happy with that sort of coverage. Especially [indicates top part of map] where there aren't trees, just tidal grassy sort of vegetation.

Sweetman Can you provide us with an updated statement tomorrow with any amendments to your recommendations in terms of plans?

Joseph I don't know if that was intended any more than was provided in existing document. Updated plan to be available shortly [printing issues]

Sweetman Before we proceed through to PCC, the Panel is concerned around relationship between erosion and flood protection works and ecological matters and how they are linked. Statements made by Mr Miller about not having had input into landscaping plan - Panel concerned. Would like regional council to consider how best to proceed and applicant to consider that matter.

3.05PM PORIRUA CITY COUNCIL EVIDENCE

Andrew Jones, Senior Resource Consents Planner intends to give brief summary and introduce colleagues to speak on specific matters.

As things stand, currently stands by s42A reports subject to refinement of conditions. Additional matters raised during pre-circulation.

Omissions in s42A: confirm that proposal is consistent with s5 of RMA. [Reading from evidence]. Satisfied adverse effects, subject to residual matters, can be avoided, remedied, mitigated. Duck Creek riparian corridor key part of CDP plan. Residual matters riparian planting and erosion protection.

[Reading from evidence].

Liquefaction discussed in report but not followed up in report. Speaking to that point: reasons for concern, elements of liquefaction can be improved but not known at this stage if they can fully improve the site. Condition 102 of his s42A report - further geotechnical engineer report to confirm site satisfactorily mitigated. Accept advice note is not correct in Condition 102 but still believe where report may raise issues that may be ongoing, council may need right to impose consent notices in relation to those.

Mark-Brown **Condition 102 - is that not a double up? My understanding is council is not going to give approval until it gets this geotechnical report. If that's the case, doesn't that cover the council and cover future landowners in that a house cannot be built until a geotechnical engineer says it's ok?**

Jones Later on if people wish to develop additions onto the property, how can we be certain they are aware of limitations? I do accept these are smaller lots and the chances are smaller there will be further development but not impossible. Only looking really at northern part of site, potentially just top six lots. Some will be up to 45% but some won't. Reason I imposed that advice note to be part of the condition was to address that.

MB **Potential possibility of developer selling lot without geotech report being done? My understanding is s224 required before sale?**

Jones People do potentially buy lots before s224 completed, but s224 is still required. The other point raised was differences between Building Act and RMA. This helps with condition 99. The reason we put these on as consent notices. Relies on applicant to provide info in terms of building consent. If it's on the title helps link between RMA and Building Act. Part of approval of subdivision. Most risk-free way of being satisfied is having it on title.

Didn't put in condition areas subject to liquefaction. Don't think it's necessary to specifically identify any lot other than what identified in condition 102.

Next point in NZCPS. Mr Holmes didn't believe it was relevant. Mainly because Policy 1(2)c, salt marshes are considered part of coastal environment. Know Scenic Reserve and paper road contain salt marsh. Proposal taking place on fringe of the coastal environment. That's the reason why I undertook NZCPS assessment.

Defining coastal environment. Other than referring to Policy 1 of NZCPS or MHWS wouldn't be able to draw a line on a map.

Mr O'Callaghan referred to Condition 53, which related to services plans. Never intended to incorporate storage tanks. Happy to refine it to make that point clear.

Heritage - hasn't been raised during hearing but received correspondence from submitter. Discussed with Mr Holmes last week. Refinement to condition 12 to remove wording 'accidental'.

Ecology - note Mr Miller proposed condition related to monitoring and capture of lizards with particular regard to along salt marsh habitat and along ecological site. In absence of herpetologist's advice, recommend condition to that effect is imposed.

Infill planting in Duck Creek Salt Marsh - accept Mr Miller's recommendation for top of cut batters within the site. Condition 33 of s42A report.

Pumping station - reverse sensitivity addressed through consent conditions. Do accept that it is WW and PCC's responsibility to make sure these works take place. Noise issues. Would not comply at boundary with District Plan standards. Odour issues. That was basis of recommended conditions. Have requested WW confirm when works done. They're in programme for 2016/17. Note they have been programmed for last three years. There is still risk should title be given to properties and they suddenly be occupied before works being done, so would still recommend that a consent notice be provided if works haven't been done.

Query about where the map/burial site/waahi tapu was from: [Provides Report document dated 1996; was originally prepared in consultation with Ngāti Toa]. This information put on LIMs by council.

Query about NZTA traffic condition who responsible for culvert: Generally GWRC matter and issue. This culvert within tidal zone.

Query about land stability in response to Ms Amos' submission: When proposal first came to council were very concerned. Asked earthworks to be redesigned. Are now satisfied with size and that there is more room should during the construction phase problems arise - subject to conditions of consent. Original proposal had much steeper batters.

Duck Creek corridor in response to Nobles submission: Concerns over bank stability and safety. In "Pocket Park"/"Brookside Park". Would not want steep banks in open amenity space. [Plan C251]. Would have to add condition to that effect.

Protection of riparian margins and terrestrial ecological areas - will leave to GWRC officers to comment further.

Mr Johnstone's concerns about macrocarpas & stability not addressed - in Para 61? Regarding boundary filling. Mr Gray, my colleague, will be able to confirm that.

Other issues: development agreement, site coverage & visual effects, road widths. Colleagues to deal with these issues.

3.39 Adjourn

4pm Reconvene

Jones One further matter on appropriateness of conditions around impermeable areas on lots: In my opinion the lots are generally restricted in terms of size. Quite significant impermeable area - have to recognise that. Will be outdoor living area standard. Don't think necessary to have impermeable condition and would also be difficult to enforce.

Sweetman Burial grounds - able to shed more light?

Jones No. Only info is from document shown. Requested info previous but Ms Smeaton did not have any further knowledge. Later confirmed via email that cultural concerns no longer there.

Sweetman You or Mr Gray commenting on matters raised by Mr Johnstone in terms of density?

Jones More Mr Gray's area of expertise. Staithes Drive does have some development exceeding 35% - usually around 37% to 40% maximum.

Sweetman Has PCC granted other subdivisions of this ilk with changes in yard setbacks/site coverage etc?

Jones In terms of yards, yes: Duck Creek South, later stages of the Banks development had 3m yard setbacks. But not in regards to coverage. May be some areas in Aotea - stage 13.

4.00PM PCC: LANDSCAPE ARCHITECT ANDREW GRAY

Andrew Gray - written evidence provided "Response Andrew Gray to Evidence submitted Brookside hearing".

Gray General agreement with planting up the stream. Concerned about conflict between stormwater treatment and canopy shown at same places on different plans - can't have both at the same time. When ecological compensation is in metres of stream corridor. There are places not known if this can be achieved. Needs greater certainty.

Terrestrial compensation planting - areas on boundary with council reserve planted. Would need another consent condition that that vegetation was covenanted so it could not be removed.

Rip-rap often needs topping up - not a "once only". If rip-rap does need topping up, there may be other implications in terms of vehicle access later. So how effective can planting be behind the rip-rap if that needed?

Silt ponds are very geometric - from amenity perspective jars with river corridor. More natural design possible?

Single story - do note also that on Aotea site most houses are single story.

Site coverage - which sites would be over and by how much? Not broken down by applicant. More open space around site than within subdivision. Within subdivision 25% open space. [Refers photo 19 of his report]. Site coverage for internal houses less important than edge houses. Seven houses with more impact should be single story and up to 40%.

Sweetman **Condition 38 - opinion changing on that?**

Gray I think in fairness to the applicant, in some ways having every house at same level makes it very uniform. Having a few houses at other levels can break that up and is kind of amenity already anticipated under District Plan.

Sweetman **So Conditions 38-40. Condition 40 still hold to?**

Gray I think it would be beneficial on those ones, particularly the three towards Shackle Lane.

Sweetman **Have there been other areas within Porirua or Whitby where similar amendments to the District Plan have been consented?**

Gray Stage 13 of Aotea there has been a few lots between 35-40% and 40-45%. Definitely not on the majority.

Sweetman **Recommended changes to conditions?**

Gray Yes, just to cover arguments on Condition 39. On the Covenants, could use similar to QEII covenants. Needs to be clearer on how address what happens if vegetation removal does occur.

McArthur **Rooves - things that are not reflective - does that fit with non contaminating materials?**

Gray I would think so.

- McArthur** Looking at final figure. Restriction in condition 40 on some of those lots. 27-29 appear to me to be internal to the subdivision?
- Gray The ones in the condition refer to Lot numbers applicants have used. On my figure these are: 9, 10, 11 in the top left and 55, 56, 65, 66.
- McArthur** Having heard Mr Johnstone's submission today about his property. Does appear that his view is onto more dense properties?
- Gray Yes. I would concur that out of all the sites they are probably one of the more sensitive ones due to elevation. Is a bit of a buffer from the house to the boundary and across the road. There is some softening within the streetscape. Narrowing the street probably reduces the impact. Also looking down stream corridor. Biggest visual change for anyone adjoining is going from greenfield to developed site.
- Mark-Brown** Conditions 40 and 41. Can you just reiterate why those ones are 40%?
- Gray I think visually that most people would have trouble identifying the difference between 35 and 40%. It is noticeable between 35% to 45%.
- McArthur** Is Banks fair representation given the lot sizes are smaller?
- Gray Wanted to show that even with normal subdivision view becomes first house and then mosaic of rooves.
- McArthur** Mr Johnstone showed us some photographs on Staites Drive? Drive with fencing. Is fencing an issue that becomes cumulative?
- Gray It's part of the urban fabric. Is part of anticipated effects under District Plan. Only comment about photo is probably taken from higher elevation than most houses would experience.
- MacArthur** Is that the only reason the District Plan manages site coverage for the purposes of visual effect?
- Jones General amenity. Looking at bulk and size of development, which can have dominating feelings. Part of residential character. Principally related to visual.
- McArthur** Size of house also sits in amenity?
- Jones Number of standards: yards, setback, height. In this development is also request for reduced yard setback as well as site coverage.
- McArthur** Does reduced setback have an effect in combination with the site coverage?

- Gray Yes. However also movement towards medium density. Good urban design is to allow living areas to come forward of the garage. So have requested garages set 5m back. Areas within Whitby with lower threshold setback.
- Mark-Brown Condition 40 allowing up to 45% site coverage abutting existing development [repeats earlier question by McArthur regarding numbering]**
- Sweetman Submitters concern about prejudicing any plan review in terms of changes to site coverage etc.?**
- Jones Does not compromise that in my opinion. District Plan anticipates need for resource consent and that permitted activity standards act as guidelines in those instances. Assessing it on a site-specific basis.
- Sweetman Porirua s42A report template misses opportunity for you to set out qualifications and experience?**
- Jones Employed with PCC since 2008. Eight years experience as a planner. Qualification in MSC in Environmental Monitoring from Coventry University

PCC: JULIA BATES, SENIOR RESOURCE PLANNER - PARKS

Bachelor of resource and environmental planning from Massey. Been with PCC just over a year.

- Bates Regarding walkway potential opposite Bridge 3 through Reserve Area 3. Have looked at feasibility. Quite a gradient change and no earthworks proposed by applicant. Other options applicant has shown on landscape concept plan Sheet 1 shows two accesses to the walkway with not much gradient change, so would meet required gradient. Those two connections provide that link to existing walkway network and would allow access through to neighbourhood parks in area. Underpass under James Cook Drive goes to Endeavour Park. Shared pathway to Marsden. Through there is access to another playground. Brookside Park will also provide some open space amenity.
- Update on development agreement: not yet finalised. Outstanding issue will take a few days of officer time but confident will reach agreement with developer.

McArthur Encroachment into reserves and parks areas - in terms of handover of this area to council, can you tell me how that would occur?

- Bates That is the outstanding matter of discussion with the developer and we haven't reached resolution on that. When council does accept responsibility, council will take over the maintenance. Duck Creek will be a shared asset between Drainage and Parks. That would have to be dealt with.

- McArthur** **Schedule G looking at biodiversity offsetting principles. Perpetuity - need consideration of degree of perpetuity of any offset once council took over.**
- Bates Once asset handed over we would be responsible for meeting consent conditions imposed by GWRC consent. One of the questions is around what that would look like, which is difficult not knowing the extent of riparian planting.
- McArthur** **Consent condition vs. management plan. Where should line be drawn for PCC's comfort around that issue of perpetuity?**
- Bates Note that reserve land will be vested as local council reserve. Purpose of reserve is for drainage, ecology and pathways - kept ecology in there. We would manage that land in accordance with that reserve classification.
- McArthur** **Do you have reserves that sit within that classification now?**
- Bates Duck Creek South would be but has not yet been handed over. Can't think of others. Kenepuru Stream.
- Gray Comment on Aotea block.
- McArthur** **Is that classified as ecological under council's reserve management?**
- Gray Yes it will be.
- McArthur** **Capacity to maintain significant ecological values? Does council have that capacity in perpetuity?**
- Bates At the time of the asset management plan for last LTP did take into account increase of land from Duck Creek subdivisions and consequent increase in expenditure so has been some consideration for next 10 years but not beyond that.
- Sweetman** **Will stop questioning here. Understand Mr Miller and Mr McLean's evidence is now available and will be circulated.**
- Other matters for consideration tomorrow:
- McArthur** **Specifically want GWRC to bring information around:**
- **Intersect between erosion control and ecological effects and offsetting, intersects with landscape management plans and amenity - what will the actual plan look like with all of those things taken into account?**
 - **Understanding of bank profile modifications, where they will occur and why for habitat, erosion or amenity purposes?**

- **Been alerted to Policy P41 and Schedule G approach - like some commentary on offset in relation to that approach. F&B discussed whether ecological compensation management plan was required - like GWRC comment on that. Hopefully Mr Miller has provided better idea of quantum of riparian mitigation, otherwise that is an outstanding matter to resolve.**
- **How do those things fit with concept management scheme specifically for diverted stream but also over whole of site?**
- **Boulder cascade within diversion - would like some coalescing of opinions on that across landscape, erosion and ecology.**
- **Mr Gray raised issue of rip-rap topping up and potential for need for vehicle access - info on that and whether it would affect any of the above.**

Sweetman Any comments on that, Mr Gardner-Hopkins [No comments].

Mark-Brown would like Mr Young to address erosion of stream channel due to existing urbanisation of the channel separate from erosion control for flood events. Low flow stream influenced by catchment impervious surfaces. How that is to be addressed in proposed stream works or stream rehabilitation. Comment on need or otherwise for some need for a minimum impervious area or total impervious of lots within development to assist with that issue.

Sweetman Highlight change of venue for Thursday. Signalling that hearing may not be completed tomorrow, particularly for applicant's right of reply. Continual conferencing between planners - unlikely to be produced by end of tomorrow. Would want those available to all parties to review. Our preference is that occurs before applicant's right of reply.

Gardner-Hopkins Applicant supports enabling development of conditions including input from submitters. Where we were heading was looking to deliver closing tomorrow on substantive matters but with anticipation that you would not close the hearing. Planner's tracked changes circulated. Applicant keen for process not to take too long. If not delivered tomorrow when could panel reconvene?

Sweetman Will hear further in the morning.

5.04 Adjourned until 9.15 April 7 2016.