

Hearing 15A Transcript Afternoon Verbal Right of Reply

James Witham:

Thank you, Mr. Chair.

Look, we might do this slightly differently, obviously.

We might start for relative simplicity if there are any questions for Chloe Mackay regarding open space zones. If you had any questions?

Robert Scott:

No, we don't have any questions, but this obviously shows the S42A report was obviously extremely well prepared that no evidence to the contrary was received.

Congratulations.

Also too, I just want to make a general comment about the whole opt in process. We raised this at Hearing 4 a year ago and we put it to you guys, you iterated it into something workable and which we turned into a minute and I just want to say, you know, with regards to 15-A and the evidence we've read for hearing B&C I'm about to look at is that it looks like it's been, you know, really, really helpful.

It's certainly been really, really helpful to us and that's the feedback from other panel members for the upcoming hearings. Good news is that the whole opt in process has been really successful.

James Witham:

I can't underestimate what you're saying. I guess the complexity of running it and all. There have been some parties who have done really well with it. There are others who have not, but no doubt you'll see that as that rolls out through the rest of the process. But thank you for that as noted.

I might lean a little bit on Mr. Wyeth for this one, other than to say we've heard some very interesting submissions I guess today that we'll look at quite closely that have raised some particularly fundamental issues around the way we have approached these zones.

So, I think, yeah, absolutely recognise that you will have questions and that as a starting point, obviously we'll respond to all points that have been raised in evidence as per usual.

So, I think one, we go through starting with Waiaua Bay Farms, I think one of the big things, big questions really, question to submitters, is essentially, you know, how do you include and at what point do you include cultural impact assessments, and how does that work? So we'll think about that and take that away.

There are obviously, again some 'ins and outs' around some of those provisions. And Mr. Wyeth will clearly look at a response to those as well.

I guess the key with this is whether you wanted us to respond or whether it was for the submitter, I guess, to make those statements.

Note that the question of the submitter around the relationship with the master plan and master plan being it's a living document, we might have a view on how that's managed. But feel that probably sits in the realm of the submitter to answer rather than us to come up with solutions for them. Unless you had specific direction for us on that.

Robert Scott:

Well, I'll be interested in hearing from council officers as they've been modelling what's going to be administered in the special purpose zones. As to whether you think there is merit. From a consenting point of view of having some reference to the master plan as that sort of touchstone document.

If you have the same view as well, of the master plan, then you know I'll have regard to that that and it's not in contention, but we thought it was really worth exploring anyway.

It pops up in a lot of other jurisdictions and is an ongoing debate about whether the master plan should be referred to or not.

What I think is the question I was really wanting to explore is, is there some ground that avoids that? It becomes the default rule. To it being ignored, everything completely and it may be either party may want to make reference to it when there's potential issue at consent time, and then the other ones say, well, that's not relevant anymore.

James Witham:

I mean, I missed that.

I will defer to Mr. Wyeth on it, but my point of understanding of the purpose of it was to help demonstrate the suitability of the broad development concept as opposed to fundamental way of directly guiding it. Initial view is that was really trying to

highlight feasibility of development in those locations and then just have you seen they are not locked into that? You know in my view you could in a way that it's quite high level sort of reference, like this, to which it's consistent with the Master plan in place at that time.

Robert Scott:

I would even say the extent to which it's consistent with it is almost it would be more like you know, to consider having regard to or even perhaps even in the overview statement might be enough. Yeah, I don't know. I mean, if you come to the view and you reason, and it ends up complicated I don't want to make consent processing hard.

James Witham:

Thank you, Mr. Chair. And I guess one of the other keystone issues here is a matter of essentially the CIA, as certainly there was a discussion around how we use or highlight certain TWP 6 that was talked about previously. Spoken about by each group slightly differently. You know the remainder of the problem was standard zones. Had that consideration policy that we're having more of a reference.

And I think Mr. Wyeth will have a look at how that might work.

Robert Scott:

Yeah, well I think the issue certainly is mirrored and linking it to the tangata whenua chapter. But I think that was as you know, as you say, you've done it in previous chapters, so that makes sense.

I suppose the question is with you what to actually make specific reference to CIA and any of the provisions and how to take care of the cultural values.

Felicity Foy:

Yeah, because objective one had conservation environmental values and cultural values.

Robert Scott:

Yeah, that's what I've heard.

Objective or policy safe cultural values, then that may be a problem. Let me look here, yes. Thanks.

James Witham:

Thank you, Mr. Chair.

That's probably the larger ones for now. Usually some of the question decided about integrating those values. So, probably, I don't have any in particular.

Jerome Wyeth:

I can respond to the extent that we can do through the PDP, we can actually provide greater public support consideration of values.

Yeah, CIA is appropriate relationship issues, I guess.

Robert Scott:

I think it's clearly outside his provisions of the plan. I think it's outside the scope of the Planning provisions, but I think that what we were hearing from them is that they wanted to participate. But in order to be participate, there needs to be resourcing and they're not going to be obligated. So it seems to me that I think there is a a clear sort of opportunity to to assist in resourcing to get a really good informed response.

James Witham:

I think, Mr. Chair, what we see, what we saw is we probably have seen two different sorts of relationships today. I think there's one where you can still pop over the fence and have a bit of a chat if you want or needed.

So I think yeah, I think there's a will and a want but there is probably a conflict somewhat.

But I guess the question I guess one of the big questions at the heart of the submission is if you're aligned and it seems to me is a difficult decision.

We have scope around a decision on whether you want look to have a cultural impact assessment, and if you remain one way, we might need additional processes.

Robert Scott:

Well, we received, you know, evidence and submissions. And sorry, I don't think I can let you speak Miss Buxeda because the context that we're in, but I'm happy for you to specifically hear.

Nicole Buxeda:

I agree.

Robert Scott:

Yeah, I mean, I asked the question about, you know is CIA relevant to zone consideration because zoning decision was really about subdivision development. We heard the evidence back and submissions back then, subdivision development is where you should be focusing, and I think I'd be interested in hearing what Council

officers say about whether a CIA is necessary to justify the zoning changes or whether it's sufficient to allow that process to be part of the subdivision and development, or whether something else potentially higher level might come in at that point.

Whether that gets enshrined in the provisions is another question. Because I was sort of thinking that if you had that tangata whenua link and possibly a policy or something like that then gives enough prompting for those provisions to answer that question.

OK. Have you come up with or do you have any preliminary thoughts on this?

Jerome Wyeth:

Firstly having a look at it consistently. And I do talk about cultural to a high level, but not to the same extent as those others, and I'll put in input on that. So I think there is a there is a potential issue there. You know, these things might not be able to be incorporated, but having those conversations, those considerations are front and centre. Moving forward, we probably might think of a way to go rather than relying on what they did in the past.

Robert Scott:

Well, I think we'll just leave it there and let you consider it more.

And thank you. Happy

James Witham:

So for Carrington Estate we've again had some discussions around that we probably are probably thinking and perhaps don't want to talk about them. We probably want to think them through to report on them.

However, we feel like there, there may be some options for us to look into to respond to in part and some of those options might resolve other issues raised in their evidence today. So that's in terms of perhaps having a review of the extent. Perhaps a look at mechanism and again responding to each question, the provisions that have been in any minutes as well those that have been amended.

Robert Scott:

There's a big picture question that Jason Pou had, you know, special purpose zone objectives mostly. But I mean if you take that quite rigid legal interpretation and apply it to the plan that puts the integrity of a lot of special purpose zones that haven't been contested. And sort of in many respects came from the operative plan.

And I'd be really interested to hear your response to that. It sounds a little rigid to me.

Jerome Wyeth:

Yup I guess it's one of those, you sort of write in these things in which some of these cases are largely being rolled over and maybe that it's rigid, as you say.

Robert Scott:

Unless you say, I mean, look, it tends to carry what's under question.

James Witham:

There's a number, and we are reconciling some of the implications of going down that route, yeah. We've been down this road with the horticulture precinct and I think we're over the issues and are well understood by us. I would note that, although there are tests set out around special purpose zones. How do you determine what is, you know? Is there a specific criteria about what is significant? And how?

Again, yeah, that's up to particularly those requesting zones to make their case and for us, I guess we should be able to state what we believe those tests commit.

I mean, we've got a very limited or much more limited range of tools or zones to work with than what we originally had. And you'll see that's, you know the further we go through this process, you'll see how that kind of creates tension between designs that we do here and heritage development.

Robert Scott:

It creates a huge one, if we find that potentially a whole lot of special permissions can't be looking at variation, which the government has said you can't do.

Jerome Wyeth:

It seems like kind of natural justice issues.

Robert Scott:

Yes, that's right I don't think we would have the scope to go there and reopen hearings. You would have to go down the variation process and you can't do that.

Jerome Wyeth:

Yeah, I guess that means that I've looked at it as we are expected, it wasn't until evidence that it's been directly challenged. And we need to really look at it.

Robert Scott:

But as I say, I think my this is just my my initial response that it's kind of rigid.

Let's see here what you've got to say.

James Witham:

Probably in part agree and you'll see next week, for example, like if you contrast perhaps Carrington Estate and Waitangi they are a little bit chalk and cheese, but it's not to say necessarily significant.

Its something we'll deal with. Yeah, those are probably the heavy hitters.

Robert Scott:

Have you got anything to respond to the evidence presented about the purpose of the zone isn't to implement resource consents.

James Witham:

In the response of the IPS.

Robert Scott:

Do you want to think about that? That is what is for the plan to implement the higher order documents not existing consents.

I think I would like some response and if the issue is eventually existing use rights issue.

James Witham:

Yeah, that's that's it's a complex situation where I think even that's difficult to unpack.

The submission on Carrington both relies on, both appears to rely on both protecting the development and I think that creates an inherent tension and trying to manage it in an efficient and effective manner. It is complicated.

Robert Scott:

Yeah, well, that's right.

Well, I think we had the alternative position which was and I think I was trying to go there in questioning which is in many respects, it's not just, it's not about a resource consent. It's about activities that are part of the existing environment.

And I think legal submissions will sort of say, well, there are two components to it, but they're not necessarily conjoined. There are consents, but there are established activities and accordance with they stand in line when they're up on the road.

That was that that seemed like an answer to them to the first question.

James Witham:

At least in part.

Robert Scott:

What do you think about that?

James Witham:

Yeah, and I think Mr. Sanson has conceded the car parking.

There was, I think there was a question from Felicity on vegetation

Jerome Wyeth:

Some of that is overstated as well. Like, I'll respond to that and show the proportions that will apply to that and then existing development plan is no mention of each section here whatsoever. So that's he's just seeking it to be permitted controls apart from regional planning. I'm saying that, you know, he can be defaulted to the rule reduction vegetation.

Robert Scott:

There's nothing wrong with doing that. There's nothing wrong with saying oh well on these matters. You know increasingly I've seen other jurisdictions they rely on plan wide rules. A lot like specific stuff about buildings and activities.

Jerome Wyeth:

In next week, some of provisions we have developed that specifically, modify those district wide.

James Witham:

On the whole, we've still relied on district wide to do so. I guess, a very principled approach to that as we move forward, yeah. It was submissions around, why is the development plan the best tool to guide development? That's possibly not a question. It just goes back to how old this thing is, you know, and you know the consent conditions. And for development and then use, you've got your development plan, but it's sort of, I suppose, to give an answer as well. But I think what we might get, Mr. Wyeth to do is we'll probably better conceptualize where we land with it. I think we'll land with something that I guess more clearly identify the purpose of the provisions. I guess what we're saying is here is that we've framed at least the earthworks and vegetation clearance. So that's that's up to date.

I think we might answer some of the questions around coastal environment and other matters as well with what we might be thinking about so that might be resolved and essentially what it leads to is a density and development layout range of

issues. So the issues that remain probably fairly narrow is that a good characterization? So in terms of the key issues around the updated NPSUD guidance and probably in the natural environment, taken care of by their conceptualisation. What we come back with you on and say put it that way and say look, maybe the layout and density that might be slightly different. I'm sorry or it might stay the same, but everything else would be a modern regulatory requirement.

Jerome Wyeth:

Yeah, because he did make the comment around the he said something about the extent. Yeah, Mr Percy had made reference to refine the extension, but is so large when it's approved by government, which is much more geographical in some of its larger group. Geographical extends into the coastal environment with some of the more sensitive issues, particularly pulling that back.

Robert Scott:

Issues are to really to make components of the estate and to make an extent.

James Witham:

Well we consider the third leg is the development plan right?

Robert Scott:

Is that it? I want to just see whether we've got some other questions we need to that'll come out that haven't been addressed.

Felicity Foy:

I mean, maybe after the site visit is done?

Robert Scott:

Yes there may be something that might come out of the site visit that we need to get further questions, whether that ends up being direct. Essentially, we've got into the habit now that if we want clarification from Council officers via an e-mail, but if it's potentially involving other parties contributing, then we probably have to make that a minute.

James Witham:

And they will go on the website anyway for the community. Yeah, that's right.

Robert Scott:

Even the emails. Yeah, yeah. Yeah. So that's sort of like little mini minutes.

James Witham:

Yeah, I think it's OK.

Robert Scott:

So we will see how we go tomorrow. Yeah who knows what we might observe?

James Witham:

Excellent. Thank you, Mr. Chair. Yeah. Look, thank you again it's been quite helpful.

A thoughtful day with some good evidence.

Robert Scott:

Yeah, it's been a really interesting hearing.

Really interesting hearing again.

It's really pleasing to see the amount of agreement that has occurred between reporting officers and civilians. It certainly makes our job a lot easier.

And we're really pleased to see how the opting in and I'm not tempting fate by saying this. Hopefully all goes as well as today. If the other hearings go as well today, then we'll be very pleased.

Felicity Foy:

I think I have a solution, all the hearings can be held here at Te Ahu

Jerome Wyeth:

I'll just bring up the reply time, depending on where you what comes out of your site tomorrow, but for my purposes it may be better to integrate 15 A and B together because there are some overlap in.

Robert Scott:

Good point. That's why I'm on all four hearings. Because they they all have some degree of overlapping. We want some consistency, so that's fine. If you want to suggest a date to AK

Jerome Wyeth:

I think we'll probably do that at the end of the hearing next week.

Robert Scott:

Well, if you want to leave that decision till end of next week, that's fine that it's.

James Witham:

Just a note that next week I will be available online attending remotely and Tammy will be there in person.

Robert Scott:

Good, Where are we next week?

AK Taihia:

Kaikohe

Robert Scott:

Well, thank you very much again everybody will adjourn now until Tuesday.

AK Taihia:

Monday, I'll just close us with a Karakia

Karakia