

In the matter of the Resource Management Act 1991

And

In the matter of a Board of Inquiry appointed under section 149J of the Resource Management Act 1991 to consider a notice of inquiry by the Minister of Corrections for an alteration to a designation to provide for the construction, operation, maintenance and upgrading of a men's prison at 20 Hautu Drive, Wiri, Manurewa

**Further evidence of Alan Michael Johnson
18th May 2011**

Introduction

1. My name is Alan Michael Johnson and I am employed by The Salvation Army as a senior social policy analyst in their Social Policy and Parliamentary Unit. I have already provided a brief of evidence to be considered by the Board and I understand that this evidence will be taken as read. My further evidence to be presented today will be in response to the rebuttal evidence provided by Mr Bole to the Board on 25th March 2011. In addition I appear today to answer any questions which the Board may have of me and to offer it any advice you may require to assist you in making your decision.

Issues in dispute

2. Mr Bole in his evidence of rebuttal disputes my original evidence on three grounds which are as follows:
 - that I am simply incorrect in my claim that planning for the proposed men's prison at Wiri by the Department of Corrections was based on out of date forecasts of prisoner numbers;
 - that the current forecasts of the future prison population remain entirely consistent with the Department's claim that the proposed prison is needed;
 - that the Department's estimate that around 3,200 prisoner will come from the Auckland region by 2020 is correct.I plan to deal with each of this issues separately in the following evidence.
3. Mr Boles has claimed that I am incorrect in my suggestion that planning for the prison was based on out of date prison forecasts of prisoner numbers. I stand by these claims and draw the Boards attention to the sequence of events which I have listed in my original evidence in paragraphs 11 and 14. These events demonstrate the gradual development of the case for a major new prison in South Auckland and that this case was based on the proposition that there was an imminent and significant shortfall of prison beds. This shortfall is not materializing yet the case for a major new prison in South Auckland remains the same. In particular the Board should note the public statement made by the Minister of Corrections on 14th April 2010 and presumably on the advice of Department of Corrections staff that *"an additional 2,270 prison places would be needed by 2019 to cope with forecast growth in prisoner numbers and the need to replace aging existing prisons"*. This statement was made on the occasion when both she and the Minister of Finance announced the proposed new men's prison at Wiri which would contain at least 1,000 beds.
4. It is difficult to trace the pedigree of this claim that an additional 2,270 prison places are required to cope with forecast growth in prison numbers although this figure closely corresponds with the figures offered by Mr Bole in paragraph 11.1 of his rebuttal evidence. Here Mr Bole claims that based on the 2009 Criminal Justice Forecast the initial business case for the proposed Wiri prison used " a

- predicted rise from 8,685 prisoners in October 2009 to 10,972 prisoners by June 2019”* In other words an expected increase in the prisoner population of 2,287.
5. On any account the announcement by the Ministers of Corrections and Finance in April 2010 of the Government’s decision to build a 1000 bed prison in Wiri preceded by six months the release of the 2010 Justice Sector Forecast at the end of September 2010.
 6. It seems, on the evidence available, that the decision to build a 1000 bed men’s prison at Wiri was based on 2009 Justice Sector Forecasts. While it may be true that a second business perhaps based on the 2010 Justice Sector Forecasts was presented to Cabinet in November 2010 the fact remains that the scale and location of the proposed prison remained unchanged despite these new and lower forecasts. Mr Bole in any of the evidence he has provided has not explained why this should be.
 7. The second of Mr Bole’s points of rebuttal relates to the actual numbers at stake in the various forecasts of prisoner numbers and in the business cases based on these. For clarity it is worthwhile summarizing the numbers presented by Mr Boles in paragraph 11 of his rebuttal evidence. Mr Boles claims that the business case for the Wiri prison was originally based on the 2009 Justice Sector Forecasts which only went to June 2017. The forecasted prisoner population in June 2017 from the 2009 Forecast was for 10,314 prisoners (see Appendix 1 for the complete forecasts). Mr Boles then claims that the Department of Corrections extrapolated this figure to June 2019 and cites a figure of 10,972 as being the figure used in the Department’s planning. This figure includes an allowance of an additional 333 prisoners to take account of the uncertainty always associated with forecasts. This would put the actual expected figure for the number of prisoners incarcerated by June 2019 at 10,639 which seems a reasonable extrapolation from the June 2017 forecast of 10,314. In paragraph 11.2 of his evidence Mr Bole goes on to say that the second business case was based on a forecast prisoner population presumably also in 2019 of 10,306 prisoners. He notes as a footnote that this figure includes an allowance of an additional 290 prisoners to take account of uncertainty. This would put the actual expected number of prisoners which Mr Boles claims is from the 2010 Criminal Justice Forecast at 10,016.
 8. The actual forecasted number of prisoners from the 2010 Justice Sector Forecast is 9,890 with a maximum expected figure of 9,963 (see Table 7 p17). These differences are in my opinion material. On one hand the original business case for the Wiri prison was based on an expected forecasted prisoner population by 2019 of 10,639 prisoners and on the other hand the revised business case was based on an expected forecasted prisoner population of 9,890 prisoners - a difference of 749 prisoners or 75% of the capacity of the prison which is the focus of the business case.
 9. The third of Mr Bole’s points of rebuttal concerns demand for prisoner places in Auckland. I have three responses to make to Mr Bole’s claims set out in

paragraphs 12 through 15 of his rebuttal evidence. Firstly in addressing the question of demand for prisoner places from Auckland Mr Bole says *“I did not state in my original evidence the percentage of those going to prison that would be from Auckland.”*. (paragraph 12). While this might be strictly correct, Mr Bole in his evidence did say *“The following maps illustrate the forecasted prison population by location across New Zealand in 2016 and 2020. These figures illustrate that the vast majority of prisoner demand comes from the Auckland region, which currently has a population of some 1.4 million (36% of New Zealand’s population)”*. (paragraph 45) My response to these claims are twofold, Firstly Auckland’s population of 1.460 million people is 33% of New Zealand’s population of 4.368 million people (Statistics NZ sub-national population estimates). Secondly the numbers offered in Figures 2 and 3 show anything but the claim made by Mr Bole that *“the vast majority of prisoner demand comes from the Auckland region”*. The figures simply illustrate that the expected numbers of prisoners from the Auckland region are more or less in line with the proportion of the New Zealand population which lives in Auckland.

10. My second point with respect to the question of prisoner numbers from Auckland is that Mr Bole is in fact correct in his claim that the figures I have derived in Table 1 of my original evidence overstate *“the percentage of those going to prison that will be from Auckland”*. This is an error on my part as I have used the numbers provided in Figures 1 and 2 and divided these by the forecast prisoner population taken from the 2010 Justice Sector Forecasts. Mr Bole states in his rebuttal evidence that the numbers provided in Figures 1 and 2 are actually from the 2009 Justice Sector Forecast. I overlooked this fact as I assumed that because he cited figures published in 2010 that they were from the 2010 Justice Sector Forecast. The question I ask however is that if the business case for the Wiri men’s prison is based on the 2010 Justice Sector Forecast, as Mr Bole would have us believe, why has he based part of his argument for the prison on the 2009 Justice Sector Forecast?
11. The third and final point I would like to make in response to Mr Bole’s comments on Auckland’s prisoner numbers is around his unsubstantiated claim in paragraph 15 that *“prisoner population demand for the Auckland region in 2020, is approximately 3,200 prisoners (31% of the national prisoner population of 10,306 prisoners)”*. In making this claim Mr Bole completely ignores the evidence I presented in Table 3 of my original brief which uses Ministry of Justice reports of custodial sentences for the last five years to estimate that perhaps 24% or 25% of sentenced prisoners come from Auckland. This difference, 24% to 31%, equates to around 600 to 700 prisoners which once again is material to an argument for a 1000 bed prison.
12. In summary my responses to Mr Bole’s rebuttal evidence are as follows:
 - 12.1 there is evidence that the business case for the Wiri men’s prison was already approved and publicly announced before the 2010 Justice Sector

Forecast became available and that from this evidence it is reasonable to speculate that the second business case was simply a post hoc justification for a decision already made and announced;

- 12.2 the differences between the 2009 and 2010 Justice Sector Forecasts in terms of the number of prisoners that we, as a national community, should be planning for are material to the justification or not for a new prison in Wiri;
- 12.3 the evidence to support a case for a new 1000 bed men's prison to cater for "local demand" is also weak.

Broader questions

13. The business case for the proposed Wiri men's prison is not of course based entirely on "local demand" for beds in the prison but on the need to replace smaller old prisons elsewhere in New Zealand. Mr Bole has admitted as much in paragraph 17 of his rebuttal evidence. This being the case the justification for the prison needs to take account of the wider social impacts of the prison and the question of alternatives such as the rebuilding and replacement of old prisons on their existing sites and under their existing planning consents.
14. If, as seems likely, the Wiri men's prison if built will hold prisoners from out of Auckland it seems feasible that their families will follow them to Auckland and settle or at least attempt to settle in the communities around the prison. While there is no evidence of such relocation with the prisons cited in the Department of Corrections case studies, the circumstances and context of the Wiri men's prison create a different set of dynamics. Specifically a prison at Wiri will be first major prison built in a closely settled residential area perhaps with the exception of the Auckland Central Remand Prison which of course holds prisoners for relatively short and uncertain periods. Furthermore most families of prisoners are likely to have contacts in Auckland and particularly in South Auckland which will make settling in an easier process than simply turning up in a new town with little money and no friends. The Department in my opinion has done a very poor job at recognizing and assessing the potential social impacts from the resettlement of prisoners' families into the South Auckland communities around the proposed prison site. These impacts, in my experience as someone who has been active in the local community for over two decades, may include additional demand for health and community services and problems with children fitting into local schools. With respect to demand on local schools there is the likelihood that children of prisoners will require additional care and attention from staff who are already stressed to meet both the pastoral and educational needs of their students. As far as I can see the Department of Corrections has given no attention to such problems and has merely assumed that the community will accommodate these needs from within its existing resource base. This resource base in my experience is limited and stretched.

15. While the replacement of existing prisons in situ may have been an option considered in the business cases for the Wiri men's prison, there has to my knowledge to date been no public discussion by the Department of Corrections of alternatives to the proposed prison. Clearly in reaching its short list of one prison on one site the Department, most likely through its business planning process, has applied various criteria and weightings. The great shame with such a process is that this has not been a public process despite the fact that it is public resources being used and that it is acknowledged as being of significant public interest. The Board in my opinion should be asking for greater transparency in the decision making process before accepting the Department's case that the prison is justified and so should be built.
16. The final point I would like to raise with respect to the justification for the proposed men's prison at Wiri is the contradictory nature of the Department of Corrections argument. On one hand Mr Bole is arguing that the forecasts of prisoner numbers require the Department of Corrections to build a new 1000 bed prison at Wiri and he has used the top end of these forecasts to make his case. On the other hand Mr Lightfoot makes a case for the new prison on the basis that it provides the opportunity to introduce new programmes for prisoner rehabilitation and reintegration which will reduce rates of re-offending and re-imprisonment. Essentially Mr Bole's argument is based on the status quo in terms of prisoner recidivism as there appears to be nothing in the 2010 Justice Sector Forecasts, either in terms of the base case or in terms of alternative scenarios, which considers or assumes any change in re-offending and re-imprisonment rates. If Mr Lightfoot's argument is valid the actual prisoner numbers will eventually be lower than those currently being forecast. The question for the Board to consider is which of these competing arguments are more credible? I have attached as Appendix 2 a table summarizing rates of prisoner re-offending and re-imprisonment which shows that recidivism rates have remained stubbornly high. This suggests strongly that the Department of Corrections is simply not competent in rehabilitating and reintegrating prisoners so that they are less likely to re-offend. While this should not reflect on Mr Lightfoot's competence the Board should, in my opinion, make its own assessment of the credibility of his claims on the Department's behalf that a new prison on a physically restricted site and in a community with a shortage of jobs will have demonstrably better results at rehabilitating and reintegrating prisoners.



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Alan Michael Johnson

Appendix 1

Prisoner forecasts from the 2009 Justice Sector Forecasts

Table 2: Quarterly values for the 2009 prison forecast

| At end of quarter | Lower limit | 2009 forecast | Upper limit |
|--------------------|-------------|---------------|-------------|
| June 2009 (actual) | | 8,373 | |
| September 2009 | 8,321 | 8,521 | 8,721 |
| December 2009 | 8,265 | 8,489 | 8,713 |
| March 2010 | 8,363 | 8,593 | 8,822 |
| June 2010 | 8,462 | 8,706 | 8,951 |
| September 2010 | 8,681 | 8,940 | 9,199 |
| December 2010 | 8,598 | 8,869 | 9,141 |
| March 2011 | 8,655 | 8,946 | 9,237 |
| June 2011 | 8,741 | 9,039 | 9,336 |
| September 2011 | 8,947 | 9,251 | 9,555 |
| December 2011 | 8,808 | 9,125 | 9,442 |
| March 2012 | 8,813 | 9,145 | 9,478 |
| June 2012 | 8,960 | 9,293 | 9,626 |
| September 2012 | 9,146 | 9,508 | 9,870 |
| December 2012 | 8,999 | 9,370 | 9,741 |
| March 2013 | 9,057 | 9,446 | 9,834 |
| June 2013 | 9,168 | 9,572 | 9,975 |
| September 2013 | 9,325 | 9,761 | 10,197 |
| December 2013 | 9,198 | 9,631 | 10,063 |
| March 2014 | 9,238 | 9,697 | 10,157 |
| June 2014 | 9,325 | 9,791 | 10,257 |
| September 2014 | 9,506 | 9,973 | 10,439 |
| December 2014 | 9,327 | 9,811 | 10,296 |
| March 2015 | 9,360 | 9,873 | 10,386 |
| June 2015 | 9,417 | 9,961 | 10,505 |
| September 2015 | 9,608 | 10,147 | 10,686 |
| December 2015 | 9,420 | 9,985 | 10,550 |
| March 2016 | 9,430 | 10,003 | 10,577 |
| June 2016 | 9,553 | 10,149 | 10,745 |
| September 2016 | 9,721 | 10,338 | 10,956 |
| December 2016 | 9,544 | 10,182 | 10,821 |
| March 2017 | 9,592 | 10,246 | 10,900 |
| June 2017 | 9,633 | 10,314 | 10,996 |

Downloaded from <http://www.justice.govt.nz/publications/global-publications/f/forecast-2009-2017-criminal-justice/main-results>

Appendix 2: Rates of prisoner re-offending and re-imprisonment

Recidivism Index

SOURCE: Department of Corrections Annual Reports

| Year ending June | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
|---------------------------------|-------|-------|-------|-------|-------|-------|-------|-------|
| TOTAL PRISON POPULATION | | | | | | | | |
| 12 month reimprisonment rate | 23.4% | 28.0% | 28.9% | 27.7% | 27.6% | 27.2% | 27.6% | 28.4% |
| 12 month prison to reconviction | 39.7% | 42.3% | 42.6% | 41.1% | 42.3% | 43.5% | 47.6% | 47.5% |
| 24 month reimprisonment rate | 34.6% | 38.2% | 37.2% | 39.2% | 38.8% | 39.7% | 36.8% | 37.9% |
| 24 month prison to reconviction | 55.1% | 56.5% | 55.4% | 56.4% | 55.4% | 57.6% | 58.7% | 61.9% |
| MAORI PRISON POPULATION | | | | | | | | |
| 12 month reimprisonment rate | | 31.9% | 32.0% | 29.9% | 31.2% | 30.5% | 31.0% | 32.6% |
| 12 month prison to reconviction | | 47.6% | 47.0% | 44.9% | 47.6% | 47.9% | 52.3% | 52.2% |
| 24 month reimprisonment rate | | 42.9% | 41.6% | 43.3% | 42.5% | 42.1% | 41.5% | 43.3% |
| 24 month prison to reconviction | | 62.7% | 61.1% | 61.5% | 60.3% | 62.4% | 64.4% | 68.2% |