

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

**Opening submission by Alan Michael Johnson
2nd May 2011**

Thank you for this opportunity to make an opening submission to the Board of Inquiry. My name is Alan Michael Johnson and I am employed by The Salvation Army in its Social Policy and Parliamentary Unit as a senior social policy analyst. The Army made a brief submission in opposition to the requirement by the Department of Corrections to build and to operate a men's prison at 20 Hautu Place Wiri. In support of this submission I provided a brief of evidence to the Board of Inquiry on 10th March 2011.

In this opening submission I hope to briefly outline the overall intent of my evidence and to offer Board members some framework for reviewing the evidence of the Department of Corrections staff and in particular that of Mr Boles and Mr Wales.

Extent of time required

1. I expect that the Board will take my evidence as read so I don't expect to take or to be given time to rehearse this evidence. I would like a brief opportunity of perhaps ten minutes to discuss Mr Bole's rebuttal of my evidence and then would be happy to answer any questions the Board may have either of my evidence or of The Salvation Army's submission. I understand that the Department of Corrections wants an opportunity to cross-examine me and I am happy to respond to any questions the Department and its counsel may have of me.
2. I do not expect to take more than one hour of the Board's time unless of course the cross-examination by the Department of Corrections is exhaustive - which I do not expect it to be. I appreciate that I and The Salvation Army are taking a very minor role in this inquiry and because of this, I do not expect to be present for a great deal of the hearing. I respectfully ask that the Board allocates me a specific time to appear before it so that I am able to plan other responsibilities to my employer around this. I understand that precise scheduling is not feasible in an exercise such as this so an indication of the morning or afternoon of my appearance would be appreciated if at all possible.

Overview of my evidence

3. My evidence has dealt solely with the need for the proposed prison and I do not expect to delve into such questions as the physical or environmental impacts of the prison. These issues in my opinion are being well considered by other submitters and other witnesses.
4. In my evidence I have however briefly canvassed the question of the social impacts of the prison and I am prepared to offer any advice to the Board which it might see as relevant to the question of social impacts. In my opinion this dimension of the Department of Correction's proposal is very inadequate and it appears to me that the Department's witnesses have failed to even grasp this

question of social impacts let alone deal with it adequately. I am unsure of the emphasis the Board will place on social impacts but feel that I am able to offer some advice to it on such issues on the basis of my professional background and local community involvements.

Framework for viewing the Department of Correction's proposal

5. As Board members will be aware the issue of proving need is rarely a relevant issue in most applications, hearings and appeals under the Resource Management Act. It is of course not the purpose of the Act to judge the social or economic merit of a development or resource use but to assess if any adverse environmental impacts, however broadly defined these are, are tolerable. The question of whether or not the proposed development will meet its intended use or even if the intended use is a valid and worthwhile activity socially, is left to the applicant to decide. This is certainly the case in requirements under section 168 of the Act. In requirements by requiring authorities the practice has, at least until recently, been that the merit of the proposal, for say a public work or infrastructure project, is left to the competence and discretion of the requiring authority. I suggest to the Board that this approach should be re-considered in this proposal by the Department of Corrections for at least two reasons.
6. The first reason the Board should have greater scrutiny of the merits of the project is that a prison is an expensive and very specific facility which will involve the investment of several hundreds of millions of dollars of public money and which cannot easily be turned to an alternative use should the demand for the facility not be warranted. It is, in my opinion, not simply the role of elected politicians and unelected officials to decide the relative merit of public expenditures. These expenditures have a host of environmental impacts and one of these not being considered here is that of what else could be done with money which the Department of Corrections expects to spend on this proposed prison over the next two or three decades. That money could for example be spent on additional schools in the local areas and on community based offender programmes as a way of reducing rates of criminal offending and incarceration. Such questions are clearly very broad but they should in my view be given some attention in such a forum as a Board of Inquiry
7. The second reason for closer scrutiny by the Board is in my view the questionable competence of the Department of Corrections and its staff. They cannot in my opinion be relied upon to give objective and reliable advice. For example, I expect that other submitters and experts will offer evidence of how the Department has more or less completely ignored many of the conditions set down for the operation of the women's prison. The Department does not have a record of acting responsibly and this cavalier attitude should in my view be taken into account by the Board in terms of any conditions it may decide for the prison should it be approved. Furthermore, in my evidence I have identified how the

Department's planning did not change despite the revision downwards of the forecast prison population. Mr Boles' evidence in rebuttal has in my view has not addressed this clear pre-judgement of the need for a prison in Wiri. His inability to do so offers some reason, in my opinion, to call into question his ability to offer free and frank advice as a public servant. I suggest to the Board that many of the witnesses for the Department of Corrections are the proverbial "man (or woman) for all seasons" and have an opinion to support any prevailing political position regardless of the evidence. While there is nothing wrong with taking such a position, such a position should be seen for what it is - that of an advocate and not an objective and expert public servant who can be relied upon to give the best advice possible without fear or favour.

8. Finally there is a deep contradiction in the Department of Corrections' argument for the prison which it appears to be unaware of. On one hand Mr Boles is arguing that there is a solid business case for the prison on the basis of future forecasts of prisoner populations and on the other hand Mr Wales is arguing that the new facility will introduce amazing new rehabilitation programmes which will radically reduce rates of re-offending and re-imprisonment. If Mr Wales's argument is correct then the need for the prison of the size being proposed will disappear. If Mr Boles' argument is correct then much of Mr Wales' evidence and advice is fanciful. I intend to address this issue in my response to the rebuttal evidence offered by the Department.