

THAMES-COROMANDEL DISTRICT COUNCIL

REPORT FOR INDEPENDENT COMMISSIONER

APPLICATION REFERENCE:	RMA 2013/184
HEARING DATE:	27 April 2016
PLACE:	Thames-Coromandel District Council Chambers Thames
APPLICANT:	Serenity Retreat Ltd
LOCATION:	206A Silverstream Falls ROW, Tairua Hill
LEGAL DESCRIPTION:	Lot 17 DP 401573
LOT AREA:	Approximately 16.38ha
ZONING (OPERATIVE DISTRICT PLAN):	Rural Zone (Outside All Policy Areas)
ZONING (PROPOSED DISTRICT PLAN):	Rural Zone (Amenity Landscape Overlay)
PROPOSAL:	To establish and operate a purpose built traveller's accommodation, conference and wedding facility
ATTACHMENTS:	A Site Plan & Development Plans B Application and responses to further information requests C Submissions D Recommended conditions
RECOMMENDATION:	Grant consent subject to conditions

Karl Baldwin from KTB Planning Consultants Limited has prepared this report under section 42A of the Resource Management Act 1991 for the Thames-Coromandel District Council. The report has been prepared to assist the Commissioner in his consideration of the resource consent application. The report and recommendation has no status other than as a report on the application. The conclusions and recommendation in this report are not binding and it should not be assumed that the Commissioner will reach the same conclusions and make the same decision after having considered all the evidence presented at the hearing.

1.0 THE APPLICATION

- 1.1 As stated in the resource consent application, the applicant has purchased two neighbouring allotments within the Silverstream Falls subdivision - Lots 17 and 35 DP 401573. It is the applicant's intention to live on Lot 35 and develop Lot 17 into a function facility for weddings, business retreats, family reunions, eco-tourism accommodation and other similar activities.
- 1.2 It is proposed to create an all-purpose function facility that is able to accommodate a variety of activities such as weddings, conferences and team building retreats. Details of the proposed buildings, access and overall concept of the proposal is found in attachment A to this report. The applicant has requested a 10 year lapse period for this consent.
- 1.3 By way of summary the applicant proposes to establish the following:
- Fourteen traveller accommodation units with two car parking spaces per unit, apart from Unit 12 which it is understood gains its access via a pedestrian access track. The units are all two-bedroom with the exception of Unit 12, which is a one-bedroom unit. The traveller accommodation units have been designed to accommodate approximately 54 persons.
 - Reception centre including kitchen, chapel and associated car parking with a maximum capacity of 120 persons plus staff.
 - A chapel, which the applicant has indicated can seat approximately 40 guests. However, the design concepts for the proposed chapel which were provided as further information in April 2015 appear to show seats for more than 40 guests.
 - An outdoor swimming pool with a maximum area of 60m². The location of the pool has not yet been confirmed.
 - The hours of operation of the reception centre would be from 7.30am to 12am (Thursday to Sunday including public holidays) and 7.30am to 10pm (Monday to Wednesday).
 - It is proposed to restrict the number of weddings to 24 per year. There are no proposed restrictions on the number of business retreats, family reunions and other persons/groups wishing to utilise the facility throughout the year.
 - The car parking and manoeuvring areas for the reception centre would provide for 26 car parking spaces and a mini bus drop-off bay. Two car parking spaces would be available for each accommodation unit, with the exception of Unit 12 which will have no vehicle access. As such, a total of 52 car parking spaces plus one mini bus bay will be available on-site.
- 1.4 The applicant states that the proposed buildings would be constructed within existing clearings where possible. However, from site visits it was evident that a number of the clearings appear to have re-grown with some native and exotic vegetation, particularly given the time that has passed since the application was first received by Council. Accordingly, the application includes the removal of native vegetation from the site.

- 1.5 There is a consent notice (Instrument 7933512.10) registered on the title. Condition C1 requires houses and any accessory buildings to be located within a 'defined building area'. The applicant has requested that consent notice condition C1 is cancelled so far as it relates to Lot 17. This cancellation is sought to allow structures in areas other than the defined residential building site. Section 221(3) of the RMA provides for the cancellation of consent notice conditions.
- 1.6 A detailed description of the proposal can be found in the application and supporting documents prepared by Planners Plus Ltd. A copy of the application and responses to the further information requests is provided as attachment B. The application includes the following documents:
- Resource Consent Application prepared by Tracey Lamason.
 - Site Plan and Accommodation Units Plans prepared by S & L Consultants Ltd and Mamaku Design Architectural Services.
 - Reception Area Plans prepared by Mamaku Design Architectural Services.
 - Traffic Planning Assessment prepared by Traffic Planning Consultants Ltd.
 - Assessment of Noise Effects prepared by Hegley Acoustic Consultants.
 - Landscape and Visual Assessment prepared by SOUL Environments Ltd.
 - Consultation information.
 - Recommended Conditions of Consent.
- 1.7 A request for further information was sent on 19 September 2013. Further information was provided as follows:
- Letter from Neverman Bennet Lawyers regarding the Right of Way.
 - Planners Plus Ltd Response dated 26 March 2015
 - Amended Chalet Plans prepared by Mamaku Design Architectural Services.
 - Design Concept for the Proposed Chapel prepared by Andrew Kimber
 - Resource Consent Application for Wastewater Treatment and Disposal prepared by Planners Plus Ltd.
 - Boffa Miskell Landscape, Visual Effects and Ecological Response.
 - Information of neighbour consultation and updated written approvals
 - Acoustic Consultant Response prepared by Hegley Acoustic Consultants.
- 1.8 Upon receipt of the further information listed above, Council determined that the application required limited notification. All landowners within the Silverstream Falls subdivision were served notice of the application on the 7 August 2015.
- 1.9 A total of 12 submissions were received in response to notification. Once these submissions were reviewed, an additional request for further information was sent to clarify a number of the matters raised. This letter was sent on the 14th of September 2015. The following further information has since been provided:
- Letter from Planners Plus Ltd dated 14 March 2016
 - Letter from Boffa Miskell dated 16 December 2015
 - Stormwater and Water Supply Report prepared by Thames Civil Engineering dated 22 March 2016

2.0 SITE AND LOCALITY

Location Plan

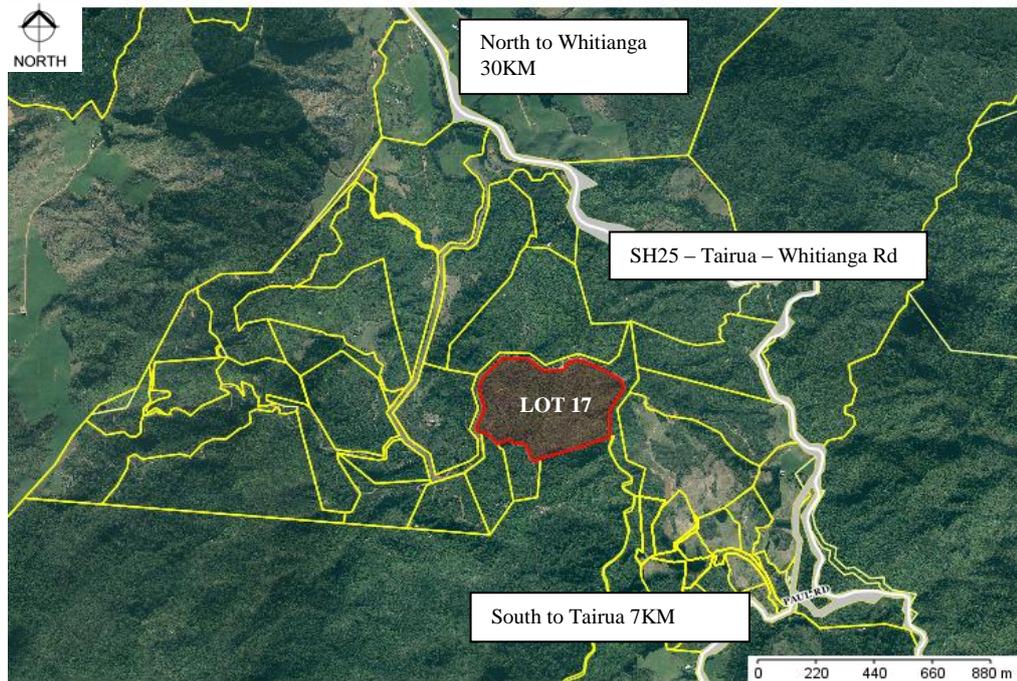


Figure 1: Aerial photo showing subject site (Lot 17) and neighbouring allotments within the Silverstream Falls subdivision.

- 2.1 The subject site is located approximately 7km north of Tairua, comprises 16.386 hectares and is covered in regenerating indigenous vegetation. There are existing power lines that run west to east across the property. These are maintained by Powerco.
- 2.2 The majority of the eastern portion of the site - 10ha in total - is protected by two QEII covenants (see Figure 2 below). This area is made up of Covenant A (7.86ha) and Covenant B (2.14ha). An approved 'building area' which was selected as part of Stage III of the Silverstream Falls subdivision is also located within the covenant area and shown in Figure 2 below.
- 2.3 The western portion of the site is generally outside of the covenant area and contains several existing vehicle tracks and regenerating vegetation. The tracks and approved building area are becoming overgrown with regenerating vegetation and a mixture of exotic weed species such as gorse and pampas and native species. The surrounding area appears to be in good quality regenerating bush with a mixture of native species such as five finger, manuka, punga and rewarewa.

Figure 2 below shows the existing subdivision layout and the subject property.

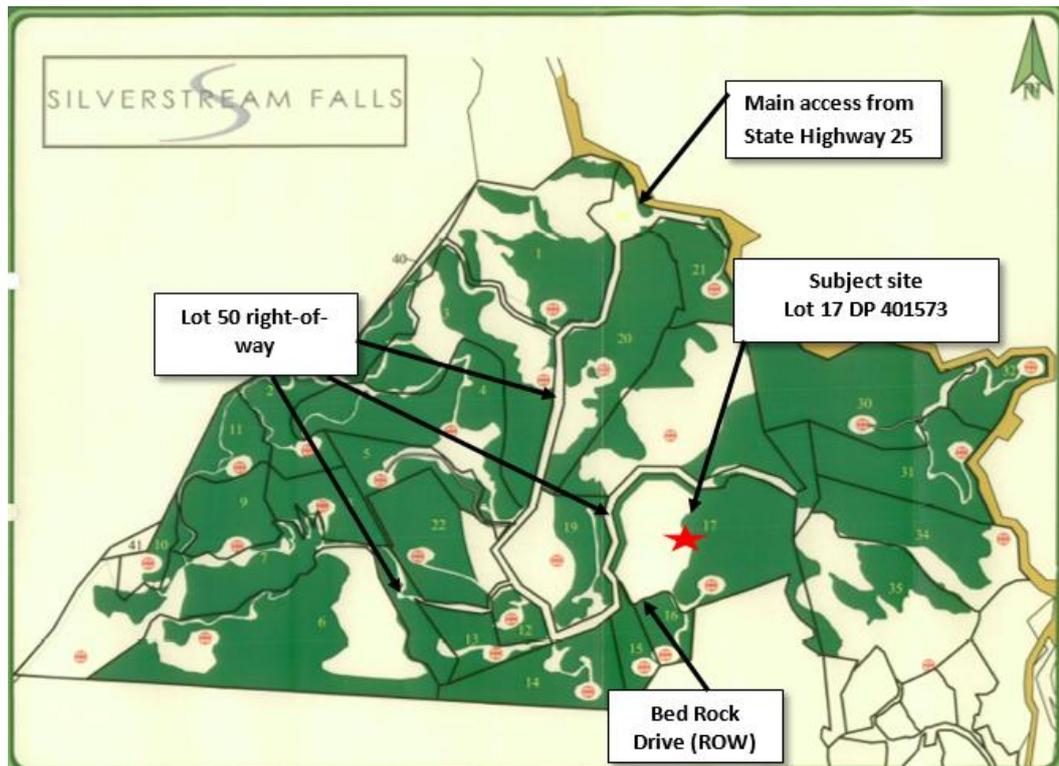


Figure 2: Silverstream Falls Stage 3 subdivision layout showing subject site (lot 17) and Lot 50 right of way. The green shading generally indicates those areas subject to QEII open space covenants.

- 2.4 Houses/structures on neighbouring properties can be glimpsed from various locations within Lot 17, however, the intervening scrub, much of which is approximately 2–4m in height, prevents expansive views of neighbouring properties.
- 2.5 The subject site gains access from State Highway 25 via the Silverstream Falls ROW (Lot 50) and Bed Rock Drive. A majority of allotments within the Silverstream Falls subdivision gain access from Lot 50. The formed vehicular accessway within Lot 50 commences at the SH25 Silverstream Falls entry and terminates just north of Lot 17.
- 2.6 The remainder of Lot 50, east of the road terminus, features a grassed picnic area, an unsealed vehicular track leading to adjacent Lot 35 DP 401573 (owned by the applicants) and pedestrian tracks along a stream. This eastern end of Lot 50 is subject to a QEII covenant.
- 2.7 Bed Rock Drive (private right of way easement) runs off the Lot 50 accessway near the common boundaries of Lot 16 and 17. It provides vehicular access to Lots 15, 16 and 17 (the subject site).
- 2.8 The Silverstream Falls subdivision contains several common amenity areas, most of which are also located within Lot 50. These mostly align to the streams running through the site and include picnic areas and walkways to a swimming hole, several waterfalls and a historic kauri dam.

3.0 SITE HISTORY

3.1 The Silverstream Falls subdivision which was created over three stages as follows:

- Stage I (RMA/2002/475)
Subdivision of Lot 3 DPS 91564 to create seven additional allotments - Lots 1 to 7, 17 and 18.
- Stage II (RMA/2003/25)
Created nine additional allotments - Lot 8 to 16 and Lots 20 to 23. This stage was completed in four sub-stages.
- Stage III (RMA/2006/410)
Created 18 additional lots from the nine lots of Stage II, and thereby resulted in a total of 27 lots. This stage was a conservation lot subdivision under the provisions of the District Plan.

3.2 Stage III of the subdivision (granted on 20th December 2007) resulted in approximately 180 hectares of regenerating indigenous vegetation being protected subject to a number of QEII covenants. The objective of covenanting large parts of the site was to establish a defined 'mountain to sea' corridor from the Coromandel State Forest Park and Te Moata QEII block (located to the south-west of the Silverstream Falls site) and to the Coromandel State Forest Park located to the north-east of SH25. See Figure 3 below.



Figure 3: 'Mountains to Sea' corridor through the Silverstream Falls Development (From Kessels 2006)

3.3 It is noted that the applicant's planning report, provided as part of the application for the stage 3 subdivision, described the areas outside of the proposed covenant areas as having lower ecological values. The report went further to state that these areas outside of the covenant "will provide future owners with options to undertake rural activities in accordance with the PDP. These activities may be permitted or subject

to future resource consents, but will be free of the terms and conditions that apply to the covenanted areas”¹. This shows that although the original intention of the subdivision was to protect native vegetation and provide a number of covenanted areas, the applicant wanted the flexibility to enable other activities to occur within the site without the restrictions of the covenants.

4.0 NOTIFICATION AND SUBMISSIONS

4.1 The application was limited notified in accordance with section 95B of the RMA. The resource consent was notified on the 7 August 2015 to parties that were identified as potentially adversely affected by the proposal. The closing date for the receipt of submissions was 9 September 2015.

4.2 A total of 12 submissions were received which can be found in attachment C. Of these submissions, four were from landowners within the Silverstream Falls ROW and were in full support of the proposal. Eight submissions were from adjoining landowners and other landowners within the Silverstream Falls ROW and these parties opposed the application.

4.3 In summary the issues raised in opposition to the proposal include:

- Noise - noise pollution unacceptable and inconsistent with the expected amenity values of the area, incorrect reading of the district plan noise standards
- Traffic and safety - increased volume of traffic on Silverstream ROW, roads currently have no centre lines, road markings or lighting - not intended for large volumes of traffic
- Visual Amenity – the proposal will be inconsistent with the expected visual amenity of the area, impacts on views, proposal is contrary to rural character and natural amenity aspirations of landowners within Silverstream Falls
- Biodiversity – protection of natural landscape - removal of bush, effects on biodiversity, kiwi protection,
- Surface water and wastewater management
- District plan integrity, precedent issues, exceedance of permitted baseline
- Legal - covenant issues, contrary to consent notice and property easements, right of way, costs to maintain right of way
- Concerns over 10 year lapse period - uncertainty
- Uncertainty about certain aspects of the application - number of “other events”, possibility of chalets being owned independently

4.4 The items raised in support may be summarized as follows:

- Increasing demand for eco-tourism, more income generated for the area, increased employment opportunities

4.5 The aerial image below shows the location of the submitters in relation to the subject site and indicates whether they support or oppose the proposal.

¹ Quote from Section 5.0 - The Proposal, Silverstream Falls Application for Resource Consent under Section 88 of the Resource Management Act 1991, Received 16 May 2007

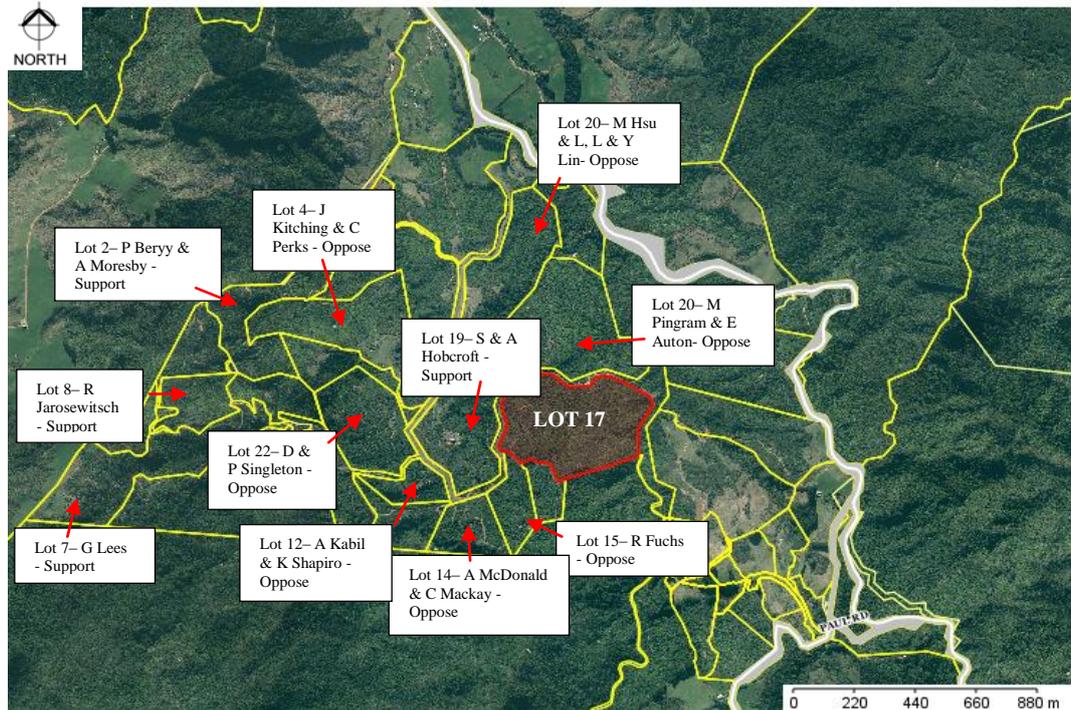


Figure 4: Aerial photo showing the location of the submitters' properties in relation to the subject site (Lot 17)

5.0 DISTRICT PLAN PROVISIONS

5.1 Planning Framework

There are currently two District Plans. The Thames-Coromandel Operative District Plan and the Thames-Coromandel Proposed District Plan.

The Proposed District Plan was notified by Council on the 13 December 2013. Section 86B(3) of the Act requires rules relating to biodiversity and historic heritage to have immediate legal effect from this date. An application to the Environment Court under section 86B(1) of the Act requesting that Rule 4 and Table 2 in section 34 of the Proposed District Plan (Natural Hazards: Flooding Coastal Erosion, Tsunami), and the proposed Flood Hazard Maps which identify flood hazard areas to which Rule 4 and Table 2 apply, to have immediate legal effect upon notification, has been granted ([2013] NZEnvC 292).

The following rules in the Proposed District Plan have immediate legal effect when the Plan was notified:

- Section 29 Biodiversity - Rules 1-4
- Section 31 Historic Heritage - Rules 1-18
- Section 34 Natural Hazards - Rule 4 and Table 2
- Section 38 Subdivision - Rule 8 and Rule 10

Submissions closed on the 14 March 2014 and further submissions have also closed. The submissions have been summarised and the whole of the Proposed District Plan has been submitted on either directly or indirectly. Therefore no rule can be treated as being operative and only those rules with legal effect shall be considered when assessing this application.

Thames-Coromandel District Plan – Operative 30 April 2010

5.2 Zoning

5.2.1 The site is zoned Rural Zone (Outside All Policy Areas) in the TCDC Operative District Plan (ODP)

5.2.2 The ODP provides the following definition for ‘*Travellers Accommodation*’:

‘means places where transient residential accommodation is provided.

For example, travellers accommodation and accessory activities include:

(i) Motels

(ii) Retreats or conference centres

(iii) Motor Lodges

(iv) Holiday flats

(v) Daily tariff accommodation in a house where the homestay standards are not met; e.g. where more than 12 people are accommodated’.

It is considered that the accommodation, retreat and conference facility aspects of the proposed activity fall within the definition of travellers accommodation.

5.2.3 The ODP provides the following definition for ‘*Non-residential Services and Facilities*’:

“a generic term that includes a wide range of services and activities and includes gatherings indoors and out of doors and means buildings or places where people gather together, but where overnight accommodation is not involved.

Activities which are included under non-residential services and facilities are:

(i) Cemeteries

(ii) Churches, Halls and Clubrooms

(iii) Education and Leisure Activities

(iv) Health Centres

(v) Marine Community and Club Activities”

The wedding function aspect of the proposal falls within the definition for non-residential services and facilities.

5.3 Reasons for Consent

Operative District Plan

5.3.1 Rule 522.5.1 (Table 2 – Visitor Accommodation, Community Health & Recreation Activities in the Countryside) states that travellers accommodation in the Rural Zone is a **non-complying** activity.

5.3.2 Rule 522.5.1 (Table 2 – Visitor Accommodation, Community Health & Recreation Activities in the Countryside) states that non-residential services and facilities in the Rural Zone is a **non-complying** activity.

5.3.3 It is noted that both travellers accommodation and non-residential services and facilities are permitted activities in the Town Centre Zone, discretionary in the Housing Zone and non-complying in all other zones.

- 5.3.4 The indigenous vegetation clearance for the tracks, roads and chalets are permitted activities pursuant to rules 4.22.1.8 (clearing indigenous vegetation to form a track less than 2.0m wide), 4.22.1.13 (clearing indigenous vegetation within the building footprint for a house and up to 5m away from any building on all sides and for an access way to a house) and 422.1.19 (clearing indigenous vegetation to form an access road less than 3.5m wide and no longer than 50m). However, the clearance of vegetation for the conference/wedding function building does not meet the criteria of these rules. Section 422.1.19 states that “Clearance of indigenous vegetation beyond that provided for as a permitted activity and not listed as a non-complying activity” is a **discretionary** activity.
- 5.3.5 The proposal involves widening of the existing right-of-way carriageway and the establishment of a number of on-site car parking spaces. Roading, parking, loading or access accessory to a non-complying activity shall be assessed as a **non-complying** activity in accordance with Section 472.4.3.

Proposed District Plan

- 5.3.6 The Biodiversity provisions of the Proposed District Plan have immediate legal effect and are considered relevant to the proposal.
- 5.3.7 Under the Proposed District Plan the clearance of vegetation for the wedding facility and accommodation units do not meet the permitted criteria of Section 29 – Biodiversity – Rule 3 - Clearing indigenous vegetation in the Rural Zone. The proposal is a **restricted discretionary** activity under rule 3.2.
- 5.3.8 The proposal is therefore a **non-complying activity**.

5.4 Development Standards

- 5.4.1 Section 523 of the District Plan sets out the Development standards for travellers accommodation and non-residential services and facilities in the Rural Zone.

Plan Standard	Proposal
All yards for rear lot - 0m	Complies
Height – 8m	Complies
Daylighting 2m and 45 ^o	Complies
Earthworks	Complies - will be kept to a minimum to comply with permitted activity standard
Noise	Complies - refer to the Assessment of Noise Effects and Acoustic Consultant S92 response
Parking, loading and access S470 of Plan - S 473.2.1 – <i>all activities shall provide adequate on-site vehicle parking.</i>	Complies - 52 car parks provided - refer to Traffic Planning Assessment.
Signs	Complies - applicant has confirmed signs will be in accordance with Councils Bylaw No.21 Signs and Hoardings.

5.5 Designations and other District Plan limitations

5.5.1 The site is not affected by any designations or other District Plan limitations.

6.0 OTHER RESTRICTIONS AND LIMITATIONS

6.1 There is a consent notice (Instrument 7933512.10) registered on the title (provided as part of the resource consent application) which requires on-going compliance with a number of conditions of subdivision consent RMA/2006/410. These are set out briefly below:

- Condition C1 – Requires houses and any accessory buildings to be located within a ‘defined building area’
- Condition C2A – Limits the clustering of houses
- Condition C2B – Prohibits removal of native vegetation over 3m in height
- Condition C3 – requires recessive exterior building colours
- Condition C4 – prohibits use of mirrored glazing
- Condition C5 – Requires a suitably qualified engineer to prepare a detailed foundation, effluent and stormwater disposal design
- Condition C6 – Requires all dogs kept on site to have been subject to kiwi aversion training
- Condition C7 – Disallows cats to be kept on site
- Conditions C8 and C9 – Restricts buildings and activities in close proximity to the power lines crossing the subject site.

6.2 As stated in section 1.5 above, the applicant has requested that consent notice condition C1 is cancelled so far as it relates to Lot 17. This cancellation is sought to allow structures in areas other than the defined residential building site. Section 221(3) of the RMA provides for the cancellation of consent notice conditions.

6.3 Furthermore there is an open space covenant (Instrument 7933512.32) pursuant to Section 22 Queen Elizabeth the Second National Trust Act 1977 registered on the title. The area of Lot 17 that is subject to this QEII covenant comprises approximately 10ha.

6.4 The QEII covenant covers a large proportion of the site. However, all components of the proposal (wedding facility, car parking areas, access ways and chalet 1-14) are located outside of the covenant area.

7.0 STATUTORY PROVISIONS

7.1 A land use consent for a non-complying activity is determined pursuant to Sections 104, 104B, 104D(1) and Part II of the Resource Management Act 1991.

Section 104D(1)- Particular restrictions for non-complying activities

7.2.1 As a non-complying activity, pursuant to Section 104D(1) of the RMA, Council must first be satisfied that:

- (a) Any adverse environmental effects of the proposed activity will be minor,
or
- (b) The proposal is not contrary to the objectives and policies of the District Plan.

7.2.2 If either one of these two tests is passed Council is then able to consider the application on its merits pursuant to Section 104 of the RMA. This test is known as the threshold test. It is understood that neither of these two tests have primacy.

7.3 Section 104 – Consideration of an application

7.3.1 Section 104 sets out the matters that the Council shall have regard to in assessing the proposal. Briefly, the relevant matters are:

- (a) Any actual or potential effects on the environment of allowing the activity.
- (b) Any relevant provisions of
 - (i) a national policy statement;
 - (ii) a New Zealand coastal policy statement;
 - (iii) a regional policy statement or proposed regional policy statement;
 - (iv) a plan or proposed plan;
- (c) Any other matters the consent authority considers relevant and reasonably necessary to determine the application.

7.4 Section 104B of the Act

7.4.1 For a non-complying activity, section 104B of the Act states that Council may grant or refuse the consent, and (if granted) may impose conditions under section 108 of the Act.

7.4.2 Consideration of these matters is subject to Part II of the Act (refer below).

7.5 Part II of the Act

7.5.1 Part II of the Act embodies the purpose and principles of the Act. Part II has primacy in considering applications. Part II of the Act encompasses:

- Section 5 - Purpose and Principles of the Act;
- Section 6 – Matters of National Importance;
- Section 7 – Other Matters: and
- Section 8 – Treaty of Waitangi.

7.6 Conditions of consent

7.6.1 If consent is granted, conditions may be imposed on the consent pursuant to Section 108 of the Act.

8.0 RMA SECTION 104D(1) ASSESSMENT

8.1 Section 104D(1)(a) - Consideration of Environmental Effects

Landscape and Visual Effects

8.1.1 As part of the initial lodgement of the application, the applicant provided a landscape and visual assessment prepared by SOUL Environments Ltd dated 17

November 2011. The author, Kathryn Holyoak found that the scale of the proposed facility can be accommodated within the subject site without compromising the dominant vegetation framework and spatial qualities of the wider Silverstream Falls site.

- 8.1.2 On request of Council pursuant to s92 RMA, further information was provided with regards to a number of landscape and visual matters such as: the viewing audience from Paul Road; the potential cumulative and landscape effects of the proposed facility; details of proposed visual mitigation of the north-facing facades of buildings; identification of viewshafts from building platforms; and clarification on the height of proposed buildings.
- 8.1.3 The applicant then engaged Boffa Miskell Ltd to address this further information request as it is understood that the initial author (Ms Holyoak) was no longer available. At this time a revised concept plan prepared by Boffa Miskel (see attachment A and B) was provided to Council which now forms the basis of this application. As part of the applicant's s92 response to Council, Boffa Miskell's Principal Landscape Architect, Rebecca Ryder provided further information in her letters dated 17th December 2014 and a further letter dated 8 July 2015. The consideration of landscape and visual effects is therefore provided in three documents in the application.
- 8.1.4 In terms of building height, Ms Ryder clarified that *'the height of the chalets are shown as approx. 4.0m in height, with the proposed function centre being an approximate 5.0m in height'*. Ms Ryder also identified that *'to avoid disruption to the bush patterns it is recommended that a 6m building height is provided to enable piling and the single storey buildings to sit amongst the native bush'*. In conclusion Ms Ryder states that buildings would *'largely become screened from view'* over time.
- 8.1.5 The issue of building design and colours is detailed in the initial assessment by Soul Environments in section 6.0 (page 23) Change Management + Design Controls. This is further elaborated on by Ms Ryder on page 5 of her letter dated 17 Dec 2014. Ms Ryder summarises that the initial assessment provided a sound approach to the assessment of landscape and visual effects. She largely supports the original assessment with some recommendations as detailed in her letter.
- 8.1.6 Whilst reviewing this land use consent application since it was first lodged with Council in 2013, I gave some thought to the concept of requiring a peer review of the application in terms of the proposals impact on the surrounding landscape and rural character of the area. However, when reviewing the original Landscape and Visual Assessment (Soul Environments) it was acknowledged that the author, Kathryn Holyoak was a registered landscape architect with the New Zealand Institute of Landscape Architects. It is also noted that Rebecca Ryder is also registered with the institute. Given that the conclusions reached by these two landscape architects were similar, I determined that a peer review was not necessary to make an informed recommendation with regard to the level of visual effects that this proposal will create.
- 8.1.7 Based on the conclusions reached in the landscape assessment referred to above and having carried out a number of visits to the site, it is my opinion that the visual effects of this proposal will not undermine the rural character of the local environment to any significant degree. I believe that as the surrounding vegetation continues to regenerate and the supplementary planting around each building becomes established, it is expected that the buildings will eventually be largely

screened from view from most vantage points. At this time I believe that the buildings would have minor visual effects in the context of the surrounding landscape.

- 8.1.8 It is also noted that although Ms Holyoak concluded that on balance the anticipated landscape and visual effects are assessed as no more than minor, provided the development is implemented in accordance with the details of the application, she did raise concerns over the loss of vegetation in creating the access to Chalet site 12. She suggests relocating this chalet within the western portion of the site. She also suggests further bush protection by extending the existing covenant area along the western boundary of Lot 17 to create a larger protected buffer system.
- 8.1.9 I had similar thoughts with regard to this application and believe that there is the ability to contribute significantly to the covenanted areas of Silverstream Falls by adding large areas of the site to the QEII covenant. This has not been volunteered as part of the application.
- 8.1.10 The proposal also involves building outside of the defined building area controlled by Condition 1 of the consent notice registered on the certificate of title. It is considered that the adverse effects associated with not complying with this condition relate predominantly visual effects and effects on the landscape. These have been adequately assessed in the Landscape and Visual Assessment Report. Ms Holyoak concluded that *'the existing bush context affords an immediate degree of visual integration for the proposed buildings and access ways'*. When combining the building controls and recommended native mitigation planting surrounding each chalet, the *'buildings in time will become screened completely from view'*.
- 8.1.11 Having said that, if the Commissioner is of a mind to grant consent to this application, a number of conditions of consent would be required to ensure the visual effects can be adequately avoided, remedied and/or mitigated and maintained over time. These suggested conditions can be found in attachment D. The conditions suggested address the following matters:
- a management and planting plan for proposed landscape repair areas
 - compliance with existing design controls for Lot 17 of the Silverstream Falls Subdivision and additional controls outlined in the Landscape and Visual Assessment.
 - a strategy of minimal vegetation clearance for the built form components of the development and access tracks
- 8.1.12 It is my opinion that the adverse visual effects on the surrounding rural landscape will be minor, providing the development of the proposal adheres to the design controls as set out in the application.

Acoustic Amenity

- 8.1.13 In my opinion, the primary potential adverse effect of the proposed activity relates to noise from events held at the reception venue and the associated coming and going of guests and staff. I am confident that occasionally these acoustic effects will be noticeable to the closest of landowners, particularly on calm days/nights, without much wind or rain.
- 8.1.14 An acoustic assessment prepared by Hegley Acoustic Consultants, dated June 2011, has been provided as part of the application. The report determined that noise levels

from typical wedding functions held within the function centre with the doors shut would be in keeping with the noise levels provided for in the Rural Zone.

- 8.1.15 Further information was requested which was provided in a letter from Hegley Acoustic Consultants dated 6 August 2014. This information addressed the amenity values enjoyed by landowners and the importance of acknowledging the difference between what landowners envisage as their amenity and what the District Plan anticipates. Further detail was also provided regarding the anticipated noise and ways to mitigate adverse effects. The response discusses a suggested condition requiring a design report which must be prepared by a suitably qualified acoustic engineer, to demonstrate compliance with the District Plan noise standards. I support the suggestion of this condition.
- 8.1.16 It is noted that submitters raised concerns regarding the interpretation of the District Plan noise standards in the applicants acoustic assessment. I sent a letter dated 14 September 2015 informing the applicant of these concerns and requested further clarification. Clarification of this issue was provided by the applicant in the Planners Plus Ltd letter dated 14th of March 2016. It is my opinion that their interpretation of the standard is still not quite correct as there are two standards in the District Plan of which the most stringent shall apply. One standard is measured at the lot boundary and one at the notional boundary. The applicant has used the standard that corresponds with the lot boundary but stated it is measured at the notional boundary. However, it is considered that the applicant's suggestion that the proposed activity will not exceed 40dBA at all notional boundaries is acceptable. A number of conditions have also been volunteered relating to the installation of an in-house acoustic system calibrated and certified by an expert to meet the District Plan noise standards. These have been included in the set of draft conditions in attachment D. Therefore, I accept the conclusions and recommendations in the acoustic report and supplementary information provided by Hegley Acoustic Consultants.
- 8.1.17 It is noted that I wrote a letter dated 19th September 2013 which stated that *"Pursuant to section 92(2) of the Act, the applicant is advised that Council intends commissioning a Peer Review of the Assessment of Noise Effects prepared by Hegley Acoustic Consultants Ltd"*. As the case officer I determined not to proceed with a Peer Review of the noise report. The further information responses provided by the applicant included a number of volunteered conditions such as having the in-house acoustic system calibrated and certified by an expert to meet the District Plan noise standards (Planners Plus letter dated 14 March 2016). When considering these volunteered conditions, I am comfortable relying on the acoustic report and supplementary information provided by Hegley Acoustic Consultants.
- 8.1.18 If the Commissioner is of a mind to grant consent to this application, a number of conditions of consent would be required to ensure the acoustic effects can be adequately avoided, remedied and/or mitigated. These suggested conditions can be found in attachment D. The conditions suggested address the following matters:
- compliance with the District Plan noise standards
 - control of the in-house amplification system
 - provision of a report to certify that an acoustic limiter is in place which will ensure compliance with the relevant standards
- 8.1.19 In my opinion that the adverse noise effects associated with the proposed activity will be minor subject to the suggested conditions.

Character and Amenity Effects

- 8.1.20 The character of the Silverstream Falls subdivision is established by the relatively large size of the allotments and the dominance of the regenerating vegetation in the area. This creates a relatively quiet rural environment, without the typical noise and activity that is experienced in more pastoral based rural areas (e.g. grazing of stock, tractors operation etc). The owners of each of the allotments within Silverstream benefit from this character which contributes to what is considered to be high residential amenity values.
- 8.1.21 The underlying ethos for the Silverstream Falls subdivision was to create a type of ecological sanctuary by way of supporting and restoring the regenerating bush on the land. I believe that this ethos has contributed to the character of the area where noticeable growth and regeneration of bush has occurred since I first visited the site (since I first represented Council as a Planner for the Silverstream Falls subdivisions last decade). The subdivision also created centrally located communal areas for landowners where pathways, wide grassed 'reserve' areas and access to points of interest, such as waterfalls and swimming holes. As a result of the development of the subdivision, Silverstream Falls is considered to be quite unique when compared to other 'rural zoned' land within the Thames-Coromandel District.
- 8.1.22 The proposal will result in sixteen buildings being located on site, with the Reception Centre being relatively large in the context (500m²). Although it is highly unlikely that all buildings will be visible from one particular vantage point at any one time, a number of buildings will be visible from some neighbouring house sites and from vantage points on the shared Lot 50.
- 8.1.23 As stated above, in terms of visual impact on the landscape values of the area, it is considered that provided the mitigation measures are effectively implemented, such as the recessive colours and materials of the buildings and the mitigation planting, that the visual effects on the wider area will be minor. However, those minor effects will be experienced by landowners who live adjacent to the subject site, or who regularly use Lot 50 for access and recreational purposes.
- 8.1.24 It is also noted that the proposal will generate relatively high volumes of traffic on Lot 50 and Bed Rock Road during times when events are held. This increase in vehicle movements is also considered to have a minor impact on neighbouring landowners amenity. This effect on amenity is not considered to be significant as the vehicles will generally only be experienced whilst landowners are using the road themselves. This is considered to be a typical experience whilst using a road, whether it is a private or public road.
- 8.1.25 In terms of the frequency of these amenity effects, further information was provided by the applicant on the 14th of March 2016 which reduced the scale of 12 of the proposed 24 weddings per year from 120 persons to 80 persons plus staff. No additional information was provided regarding the other form of events.
- 8.1.26 The applicant has suggested general hours of operation which will be operating hours of 7.30am to 12am (Thursday to Sunday including public holidays) and 7.30am to 10pm (Monday to Wednesday).
- 8.1.27 I have some concerns over the scale and frequency of events held at the proposed conference venue due to the uncertainty of the information provided with regard to the other activities, such as business retreats. The application proposes 24 weddings per year and unlimited 'other activities'. However, given the comments made above

on the limitation of noise effects, it is considered that the potential effects of the other activities will be acceptable given the distance of the venue to other properties.

- 8.1.28 Other adverse amenity effects are created by the perception of the loss of privacy and remoteness. These effects are considered to be minor given that the neighbouring house sites and existing houses are located a reasonable distance from the boundaries. It is considered that this facility will, in time, become an acceptable part of the amenity of the area.

Traffic, Parking and Access

- 8.1.29 The applicant commissioned a traffic assessment prepared by Traffic Planning Consultants Ltd (TPC) dated 29 July 2013. As stated in the application, the proposed facility will provide a carparking area for 26 vehicles adjacent to the main reception building. This will include a drop-off area, a mini-bus drop-off bay and a turning area. Each accommodation unit (except for Unit 12) will provide two car parking spaces. A total of 52 parking spaces will be provided on-site.
- 8.1.30 The traffic assessment looks at the parking demand during the busiest events (i.e. those with a maximum patronage of 120 persons). The assessment considers the existing intersection with State Highway 25 is of a standard which is appropriate for the number of vehicles proposed to be turning on and off the State Highway. It also asserts that the effects on the traffic environment outside of the immediate vicinity of the subject site will be less than minor.
- 8.1.31 The applicant has undertaken consultation with the New Zealand Transport Agency (NZTA). In a letter dated 5 October 2011, the NZTA states that *“the existing access is suitable to accommodate the additional traffic likely to be generated by this proposal and therefore NZTA does not seek any improvements to the existing site access”*. However, NZTA also states that they *‘do not generally support this or other commercial activities outside of those zones designated for these activities...the cumulative effects of such activities should be recognised and considered’*.
- 8.1.32 The report by Traffic Planning Consultants Ltd concludes that *“with the appropriate widening of the length of the existing driveway identified in this report, the proposed development and activity will be acceptable from a traffic planning point of view, and will have a less than minor effect on the surrounding environment”*.
- 8.1.33 Councils Development Engineer has confirmed that *‘the roading aspect of the proposed development required no further work in order for the proposed development to proceed’*, and that *‘all Right of Ways will need to be formed in line with rural standards contained in the Council’s Engineering Code of Practice’*. The Development Engineer has suggested conditions to this effect.
- 8.1.34 It is my opinion that provided the upgrading of Lot 50 is undertaken, the traffic safety effects would therefore be minor. However, there would be minor noise and disturbance effects associated with the peak traffic anticipated to result from the proposal (as discussed above), particularly given the proximity of the shared access to some of the house sites within the subdivision.
- 8.1.35 It is noted that some submitters have raised concerns about the maintenance of the ROW. The applicant has advised that they agree to pay additional road maintenance costs proportional to usage.

- 8.1.36 If the commissioner is of a mind to grant consent, conditions ensuring the upgrade of the right of way and construction of the carpark as per the traffic report, and ensuring driver visibility at all intersections, both on the right of way and within the facility itself, are recommended.

Ecology, Biodiversity and the QEII Covenant

- 8.1.37 An ecological assessment has been undertaken by Kessels and Associates Ltd in 2006 as part of the subdivision of the land and is referred to in the Landscape and Visual Assessment prepared by SOUL Environments Ltd. It is clear that the subject site contains areas of regionally significant vegetation.
- 8.1.38 As part of the application, the applicant consulted with the QEII trust who provided a number of recommended conditions of consent which I understand that the applicant has included as part of the application.
- 8.1.39 Whenua Nature Care Inc (an incorporated society set up for landowners in Silverstream Falls) engaged the services of Planning Consultant Louise Feathers and Ecologist Gerry Kessels. Mr Kessels states in a letter dated 10 September 2013 that the subject site is ecologically significant. The letter states that “I am able to re-rank the broadleaf scrub on Lot 17 as being Nationally Significance under the RPS criteria (criterion 3), as the site is now proven to be habitat for the Nationally Vulnerable Brown Kiwi (Coromandel taxon), of which it is estimated only 1,000 individuals remain”.
- 8.1.40 In response to the s92RMA request for further information, the applicant provided an ecological assessment by Louise Saunders, Senior Ecologist for Boffa Miskel Ltd. The applicant agrees with the assessment provided by Kessels Ecology and states that ‘...*Even parts of the site that are not subject to the QEII covenant will have national significance on the basis of the presence of kiwi. This imposes a greater degree of importance to minimising and avoiding effects on the vegetation of the site.*’ Ms Saunders concludes by saying that in order to ensure that the effects of the proposal are minimised that a construction management plan should include methods to minimise vegetation clearance, avoid rubbish and earthworks being pushed onto adjacent land and avoiding weed material being brought onto the site.
- 8.1.41 It is noted that there are three Protected Natural Areas located close to the site (Te Maoata QEII Covenant - west, Punaruku Scenic Reserve - east and the QEII covenant within the site). Vegetation removal is not proposed within any of these areas.
- 8.1.42 In response to the s92RMA request for further information, the applicant also provided a desktop assessment of the effects of the proposal on the North Island Brown Kiwi. This was completed by Kiwi specialist John McLennan who concludes that “*With appropriate mitigation, the effects of the proposed development on kiwi are likely to be less than minor*”.
- 8.1.43 Based on the expert commentary provided as part of the application it is recognised that the site is both regionally and nationally significant in relation to the regenerating bush of the site and the presence of kiwi and kiwi habitat. It is, however, considered that provided appropriate management methods are implemented to minimise that amount of disturbance to the site and to employ the suggested mitigation methods outlined in the application (and supporting material), that any adverse ecological effects of this proposal will be no more than minor.

- 8.1.44 It is noted that on the 14th of March 2016 a detailed response was provided by the applicant to addresses concerns raised by submitters, particularly those that relate to ecology. The Boffa Miskel response concludes that *'Given the small amount of vegetation being cleared compared to the total size of the contiguous bush area, the effects on kiwi, avifauna, lizards, and biodiversity generally, is expected to be negligible. There is no effect of the QEII covenant area'*.
- 8.1.45 If the commissioner is of a mind to grant consent, conditions are recommended to ensure that any effects on the ecology of the area can be avoided, remedied or mitigated. These include conditions requiring the search of kiwi nests before vegetation is cleared, removing vegetation only in non-breeding months and signs restricting speeds on the right of way.

Infrastructure and Servicing Effects

- 8.1.46 The applicant has provided an engineering report prepared by Jon Short of Actionplans Ltd dated 23 September 2013. The applicant has also obtained a discharge permit from Waikato Regional Council for the disposal of domestic wastewater.
- 8.1.47 Furthermore it is noted that the applicant has consulted with Powerco regarding the overhead electricity lines crossing the site.
- 8.1.48 The servicing information provided has been reviewed by Councils Development Engineer who is satisfied that the proposed function centre and accommodation activity can be adequately serviced.
- 8.1.49 Further information was requested in relation to stormwater disposal which was identified as a particular concern of submitters. The applicant provided a Stormwater and Water Supply Report which contains recommendations relating to both roading and building stormwater discharge, water storage and fire fighting.
- 8.1.50 Overall it is considered that any adverse effects that may result from the servicing of the facility would be less than minor.

Cultural Effects

- 8.1.51 The applicant has undertaken consultation with Ngati Hei at an early stage in the development of this proposal. No significant concerns were raised by Ngati Hei in their initial consultation. However, since this time Ngati Hei did raise concerns about the proposal and made it clear that they do not support the proposal.
- 8.1.52 It is noted that there are no heritage or archaeological sites identified on the subject site (lot 17).
- 8.1.53 In terms of the wider cultural values of the area it is considered that the potential effects of this proposal will be less than minor.

Effects associated with proposed 10 year timeframe to give effect to the resource consent

- 8.1.54 A number of the submitters raised concerns regarding the applicants request to increase the timeframe to give effect to the consent from 5 to 10 years.

- 8.1.55 Their concerns related to uncertainty about when the development will proceed and that the uncertainty impacts upon how they might wish to improve their own sites in the future.
- 8.1.56 These concerns were raised in the request for further information that was sent to the applicant on the 14 of September 2015. It was suggested that a staged development plan, with indicative timeframes, be provided. In the response provided on the 14th of March 2016 the applicant suggested a condition requiring that prior to physical works being undertaken a Management Plan be provided. This information was not provided at the time of writing this report.
- 8.1.57 I would suggest that it would be beneficial for the applicant to provide a clear direction in terms of likely development staging. If the applicant was able to provide this information it would provide certainty around conditions of consent if the application was granted.
- 8.1.58 Having said that, if the commissioner is of a mind to grant consent, it is suggested that a condition is placed on the consent requiring a Staged Development Plan be prepared and approved. This condition will require that the development be broken down into stages and each stage will be given an indicative timeframe. This will ensure that only one stage will be completed at a time and a subsequent stage cannot begin until the previous stage is completed and signed off by TCDC's Planning Manager. Conditions of consent to this effect are recommended in attachment D.

Construction Effects

- 8.1.59 Due to the proposed increase of the consent timeframe from 5 to 10 years it is particularly important to ensure that the construction effects of the proposal are adequately addressed. There is potential for the construction effects to linger and adversely affect the neighbouring properties.
- 8.1.60 It is considered that if a Staged Development Plan is required as discussed above, the adverse effects associated with the construction of the proposal can be adequately controlled to ensure they are acceptable. The applicant will not be able to work on multiple stages or leave stages unfinished for long periods of time as they will be unable to work on other aspects of the activity until previous stages are signed off.

Cumulative Effects

- 8.1.61 Cumulative effects include the combination of effects of other existing activities and effects which are likely to arise over time as a result of new activities. With regard to this particular application, it is considered that the cumulative effects will only be perceived by adjacent property owners within the Silverstream Falls itself. These cumulative effects largely relate to amenity effects as the visual landscape effects will be reduced over time by the continuance of the regenerating vegetation.

Positive Effects

- 8.1.62 The proposed development will result in a number of positive effects. The proposed development will bring additional visitors to the Coromandel Peninsula which will likely increase economic growth and tourism. It is also likely that this facility will provide additional employment opportunities for the area.

8.2 **Section 104D(1)(b) – Consideration of District Plan Objectives and Policies**

Operative District Plan Objectives and Policies

8.2.1 Planners Plus Ltd has provided an assessment of the Operative District Plan Objectives and Policies in Section 8 (District Plan Objectives and Policies) of the application. Ms Lamason concludes that she is '*satisfied that the proposal will not be contrary to the relevant objectives and policies in the District Plan*'.

8.2.2 I concur with Ms Lamason's assessment and have no further comment to make.

8.2.3 I also note that there is a detailed assessment of the Biodiversity and Landscape and Natural Character objectives and policies in the Landscape and Visual Assessment prepared by SOUL Environments Ltd pages 42 to 44.

8.2.4 I concur with Ms Holyoake's assessment and have no further comment to make.

8.2.5 Proposed District Plan Objective and Policies

8.2.6 The PDP was notified on 13th December 2013. Submissions closed on the 14 March 2014 and further submissions have also closed. The submissions have been summarised and the whole of the Proposed District Plan has been submitted on either directly or indirectly. Therefore no rule can be treated as being operative and only those rules with legal effect shall be considered when assessing this application. The objectives and policies of the PDP therefore carry little weight in the consideration of this application, however, as it is anticipated that decisions on the Plan are imminent, they have been provided below for the sake of completeness.

8.2.7 Under the PDP the site would be located within the Rural Zone.

8.2.8 The following objectives and policies would be relevant to the proposal:

8.2.9 *Objective 6.3.1 - Biodiversity*
Indigenous biodiversity is maintained, restored or enhanced at the time of subdivision, use and development.

Policy 6.3.1a

Subdivision, use and development shall:

- a) Retain the ecological sustainability and natural characteristics of indigenous vegetation; and*
- b) Minimise earthworks within and adjacent to areas of indigenous vegetation; and*
- c) Locate buildings, structures and accesses outside of areas of indigenous vegetation; and*
- d) Apply buffers around land use activities to minimise adverse effects on areas of indigenous vegetation; and*
- e) Avoid the introduction of pest species and introduced predators into habitats where nationally threatened and at risk fauna and flora live; and*
- f) Maintain, enhance or restore the functioning of ecological corridors and linkages, wetlands and dune systems; and*
- g) Consider on-going management of priority locations mapped in Section 38 Subdivision, including legal protection, restoration, enhancement, pest control and stock exclusion.*

8.2.10 Subject to the details outlined in the proposal, it is considered that the proposal will be capable of maintaining the biodiversity values of the area. Whilst relying on the expert commentary provided as part of the application, it is considered that the proposal will not be contrary to these objectives and policies.

8.2.11 *Objective 9.3.2 - Within the Amenity Landscape Overlay*
The qualities and characteristics of Amenity Landscapes are maintained or enhanced and continue to contribute to the pleasantness, aesthetic coherence and cultural and recreational values of the landscape.

Policy 2a

Subdivision, use and development should maintain and where opportunity exists enhance Amenity Landscapes by designing and locating buildings, structures, earthworks and lot boundaries to:

- a) Follow natural contours and/or the edges of vegetative features; and*
- b) Avoid prominent landscape features unless locating below the ridgeline would cause significant geotechnical or erosion issues or would damage natural character; and*
- c) Retain areas of open space where its openness contributes to the amenity value; and*
- g) Use recessive colours and low reflectivity materials; and*
- h) Minimise light spill ; and*
- i) Be visually recessive and blend in with the surrounding vegetation colours and landscape shape and form*

8.2.12 Subject to the design controls and vegetation mitigation outlined in the proposal, it is considered that the proposal will not compromise the qualities and characteristics of the visual amenity of the area. Whilst relying on the expert commentary provided as part of the application, it is considered that the proposal will not be contrary to these objectives and policies.

8.3 Conclusion to RMA section 104(D)1 assessment

8.3.1 It is considered that the proposal passes both gateway tests of s104(D) of the RMA and therefore should be considered under section 104(1)(c) .

8.4 Other matters s104(1)(c) – Precedent and District Plan Integrity

8.4.1 As a non-complying activity the Council should have regard to the potential for the creation of an adverse precedent if consent is granted to this application. This in turn may impact upon the integrity of the District Plan. It would be reasonable to assume that other similar applications, on the same or similar sites, would be considered on a similar basis to this application.

8.4.2 In this particular case it is my opinion that this proposal is relatively unique in its character, scale and intensity that enable Councils to not be concerned about a potential adverse precedent being set, if consent was granted to the application. Having said that, the site itself is also unique due to its relatively large size the ability of the site to absorb the visual effects of the built structures amongst the regenerating vegetation. Other applications for similar activities, whether within the Silverstream Falls itself, or in other Rural zoned land, should therefore be considered on its merits and not be reliant on previous land use consent decisions.

- 8.4.3 In terms of undermining that integrity of the District Plan, it is important is to assess the effects of the particular proposal and then determine whether it is contrary to the objectives and policies of the Plan. As discussed above, it is my opinion that the proposal is not contrary to the objectives and policies of the Plan and therefore granting consent to this proposal will not undermine the integrity of the Plan.

9.0 PART II RMA ASSESSMENT

9.1 Section 5

This section of the RMA sets out the purpose of the Act as being to promote the sustainable management of natural and physical resources. “Sustainable management” is defined to mean:

“... managing the use, development and protection of natural and physical resources in way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for the health and safety while –

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) safeguarding the life – supporting capacity of air, water, soil, and eco-systems; and*
- (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

9.2 Section 6

Section 6 of the Act sets out that all persons exercising functions and powers under the Act, **shall** recognise and provide for matters of national importance, which include the following:

- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna*

9.3 Section 7

In achieving the purpose of the Act, Section 7(b), (c) and (f) direct the Council to have particular regard to:

- (b) The efficient use and development of natural and physical resources.*
- (c) The maintenance and enhancement of amenity values.*
- (d) intrinsic values of ecosystems*
- (f) Maintenance and enhancement of the quality of the environment*

9.4 Section 8

Section 8 also states that the Council shall take into account the principles of the Treaty of Waitangi.

9.5 Comment

- 9.5.1 The proposed activity enables a development which will provide for the social, economic and cultural wellbeing of both the applicant and the wider community. The proposed development will bring additional visitors to the Coromandel

Peninsula which will likely contribute to economic growth and tourism. It is also likely that this facility will provide additional employment opportunities for the area. It is considered that as weddings are joyous occasions, the proposal will provide for the social and cultural wellbeing of both the community and the applicant.

9.5.2 The proposal does not adversely affect the life-supporting capacity of the site or the foreseeable needs of future generation. It also provides for the maintenance and enhancement of amenity values and the quality of the environment. It achieves all of these outcomes by:

- providing additional planting;
- protecting existing vegetation on site;
- ensuring kiwi breeding habitat is avoided; and
- controlling the scale and frequency of events;

Attention is once again brought to the Boffa Miskel further information response which concludes that that *'Given the small amount of vegetation being cleared compared to the total size of the contiguous bush area, the effects on kiwi, avifauna, lizards, and biodiversity generally, is expected to be negligible. There is no effect of the QEII covenant area'*.

9.5.3 The applicant has undertaken consultation with Ngati Hei at an early stage in the development of this proposal. It is considered that this effort satisfies the need to take into account the Principles of the Treaty of Waitangi.

9.5.4 Having considered the application in detail and reviewed the various professional reports that accompanied the application, it is my opinion that the proposal upholds the purpose and principles of the Resource Management Act 1991.

10.0 SUMMARY

10.1 The proposed traveller's accommodation, wedding and conference venue is a non-complying activity under the Operative District Plan.

10.2 The application was limited notified under section 95 of the Resource Management Act and 12 submissions were received. Eight of those submissions were in opposition to the proposal, with the remainder being in support.

10.3 Based on the expert commentary provided as part of the application and the compliance with a robust suite of consent conditions, it is my opinion that the proposal will be able to be accommodated within the surrounding environment in a manner that avoids, remedies and mitigates potential adverse environmental effects. The proposal is also found not to be contrary to the objectives and policies that are relevant to commercial development within the Rural Zone of the District Plan.

10.4 Overall I have found that the proposal represents sustainable development and upholds the purpose of the Resource Management Act which is ultimately to promote sustainable management of natural and physical resources. I have therefore recommended that consent is granted, subject to a comprehensive suite of consent conditions which reflects the unique and sensitive environment within which this development is proposed.

11.0 CONCLUSION

- 11.1 Given the above considerations it is concluded that the proposal is consistent with the relevant provisions of the Resource Management Act and that consent should be granted subject to recommended conditions.

12.0 RECOMMENDATION

- 12.1 It is recommended that the Thames-Coromandel District Council **RESOLVE** pursuant to Sections 104, 104B, 104D and 108 of the Resource Management Act 1991, **TO GRANT LAND USE CONSENT** to establish and operate a traveller's accommodation and purpose built conference and wedding facility.
- 12.2 Should the Commissioner give consideration to granting consent to the proposed development, a set of recommended conditions are provided in attachment D.

13.0 CONSENT NOTICE ASSESSMENT - SECTION 221(3) RMA

- 13.1 The applicant requests that existing consent notice condition C1 be cancelled as some of the proposed buildings will be located outside of the defined building area established by resource consent RMA/2006/410.

- 13.2 Condition C1 reads as follows:

A house and any buildings accessory to the house ("the house") shall be located on a "defined building area" on each lot. For the purposed of this consent the position of each "defined building area: is the area identified as "House Site" on the plan of subdivision 16358 dated RC1 and 16358 EO2 dated 04/07 and is determined by reference to the Table of Coordinates specified in Condition B18 above.

- 13.3 The request to delete this condition is not supported as condition C1 is linked to condition C2. Conditions C2 reads as follows:

'An alternative "defined building area" may be located elsewhere within a non-covenanted part of the lot provided that the new location:

- A. Does not lead to a clustering of houses within Stage III Silverstream Falls subdivision.*

For the purposed of determining whether houses are being clustered within the Silverstream Falls subdivision the following standards shall apply:

*(a) no two houses shall be located within 30 metres of each other; or
[Explanatory Note: This is the equivalent of two 15 metre from yards which are the yards that apply in the zone for front lots]*

(b) no three houses shall be wholly or partially located within a circle containing a 50m radius; or

(c) no more than four or more houses shall be located within a shape circle containing a 150 metre radius;

And;

B. Does not involved the removal or indigenous vegetation over 3 metres in height’.

- 13.4 If condition C1 is deleted, then condition C2 will not accurately reflect and achieve its purpose. It would therefore also require amendments.
- 13.5 It is suggested that a more appropriate method which would achieve the same result would be to vary the condition to allow buildings outside of the defined building area if they are approved as part of a resource consent, rather than cancelling the condition.
- 13.6 It is suggested that Condition C1 is amended to read as follows (bold and underline shows the amendment):

*A house and any buildings accessory to the house (“the house”) shall be located on a “defined building area” on each lot, **unless alternative building areas are approved as part of a separate resource consent application.** For the purposes of this consent the position of each “defined building area: is the area identified “House Site” on the plan of subdivision 16358 dated RC1 and 16358 EO2 dated 04/07 and is determined by reference to the Table of Coordinates specified in Condition B18 above.*

- 13.7 Section 221(3) of the Act provides for the consent holder to vary or cancel any consent notice condition. There are no effects associated with the variation to the existing consent notice itself, as the proposed building platforms, for the development, have been assessed under the land use consent.
- 13.8 If land use consent is granted to this proposal, it is considered that the subsequent variation to consent notice condition C1, can also be granted under s221(3) of the Act.

14.0 RECOMMENDATION

It is recommended that the Thames-Coromandel District Council **RESOLVE** pursuant to Section 221(3) of the Resource Management Act 1991, to **DECLINE** the application to delete consent notice condition C1.

However, if consent is granted to the associated land use consent, it is recommended that the Thames-Coromandel District Council **RESOLVE** pursuant to Section 221(3) of the Resource Management Act 1991, to **VARY** consent notice condition C1 as follows:

*A house and any buildings accessory to the house (“the house”) shall be located on a “defined building area” on each lot, **unless alternative building areas are approved as part of a separate resource consent application.** For the purposes of this consent the position of each “defined building area: is the area identified “House Site” on the plan of subdivision 16358 dated RC1 and 16358 EO2 dated 04/07 and is determined by reference to the Table of Coordinates specified in Condition B18 above.*