

BEFORE THE THAMES COROMANDEL DISTRICT COUNCIL INDEPENDENT COMMISSIONER

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** OF AN APPLICATION FOR LAND USE  
CONSENT BY SERENITY RETREAT LTD

**AND**

**IN THE MATTER** of submissions by:

Kim Shapiro & Al Kabili (Lot 12)

Dr Peter & Dianne Singleton (Lot 22) and  
Whenua Nature Care

James & Melissa Lin (Lot 20)

Michael Pingram & Emily Auton (Lot 18)

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**STATEMENT OF EVIDENCE OF GRAEME JAMES LAWRENCE**

**ON BEHALF OF SHAPIRO, KABILI, SINGLETONS, LINS, PINGRAM, AUTON & ORS**

**18 APRIL 2016**

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Lawrence Cross Chapman & Co Ltd  
**Environmental Planners**

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## **1. INTRODUCTION**

1.1 My name is Graeme James Lawrence. I hold a Bachelor of Social Sciences and I am a member of the New Zealand Planning Institute. I am a Director of Lawrence Cross Chapman & Co Ltd a Thames based company that specialises in providing environmental planning and resource management services to public and private clients in the upper North Island.

1.2 I have been a planner working in environmental planning either professionally or in management for 40 years. Prior to setting up my own practice in Planning in 1998 I was engaged by the Thames Coromandel District Council as the Manager of Environmental Planning Services responsible for the Council's policy development, district plan, regulatory and monitoring functions. I was a planner providing district and regional planning services in the Waikato and Thames Valley before that. I have been an Honorary Lecturer in Geography at the University of Waikato. I am a Director of the Environmental Defence Society Incorporated. My qualifications and experience are set out in attachment 1.

1.3 I have been engaged by several submitters as named below:

- Kim Shapiro & Al Kabili (Lot 12)
- Dr Peter & Dianne Singleton (Lot 22) and Whenua Nature Care
- James & Melissa Lin (Lot 20)
- Michael Pingram & Emily Auton (Lot 18)

to provide evidence in support of their submissions in opposition to the application by Serenity Retreat Ltd for consent to establish and operate a purpose built travellers accommodation conference and wedding facility within a conservation enclave at Silverstream Falls in the headwaters of the Whenuakite River and tributaries north of Tiarua township and south of Whitianga.

1.4 The submissions lodged by them sought refusal of the application because the proposed development of the land would result in significant adverse effects as follows:

- a. Permanent change to the natural character of the area from rural to urban.
- b. Visual impairment of landscape values, rural character and amenity values by establishing travellers' accommodation, conference and wedding establishment, in effect creating an event centre at the end of a private road within an enclave of properties established for the purpose of housing people committed to carrying out conservation measures to restore biodiversity and ecological values, enhance habitat values and to manage plant and animal pests in perpetuity.

- c. Removal of indigenous vegetation contrary to protective covenants put in place in order to establish the separate lots in this locality
- d. Adverse effects from traffic generation, road works, signage, and on health, safety and enjoyment of surroundings
- e. Unsustainable impact on the private road through increased vehicle use and commensurate maintenance and capital renewal costs for residents
- f. Adverse effects of noise, sound and pollution levels that are not consistent with the amenity values of a locality established on qualities of conservation, tranquillity and eco sustainability.
- g. Will set a precedent for non complying activities being established on lots created by way of conservation lot subdivision for the sole purpose of protecting and enhancing biodiversity, ecology and habitat.
- h. Contrary to Objectives and policies of the Thames Coromandel District Plan
- i. Contrary to Waikato Regional Policy Statement

1.5 I am very familiar with the site and surrounds. I have visited the site and area on a number of occasions over the last 45 years and am familiar with the background to the current application and the environmental constraints and opportunities that exist in the area. I was the planner who prepared the application and AEE for consent to the conservation lot subdivision that put the lots in place at Silverstream Falls and the conservation measures to close the remaining gap in the protected conservation corridor from Te Moana-nui-a-kiwa (Pacific Ocean) to Ti Kapa Moana (Firth of Thames).

1.6 I am also aware of the amendments and refinements that have been made by the applicants and their advisers in response to request for further information requested by the Council over an extended period.

1.7 I acknowledge the kuia and kaumatua of Ngati Hei who have passed on over the period I have been involved with and taken an interest in this land and since they first brought to my attention the strong ancestral connections they had with this land. I note that Ngati Hei has not been included in the limited notification despite their strong ancestral connection with the land and locality and that they are not therefore here to speak to this proposal.

1.8 I have reviewed the s 42A Planners Hearing Report. I will address the points raised in the submissions opposing the application having regard to the background reports and analysis in the application and AEE, as well as various pieces of further information provided to Council. I have also considered relevant provisions of the planning instruments Thames Coromandel District Plan (Operative 2010) [ODP] and Proposed District Plan (Notified December 2013) [PDP]; Proposed Waikato Regional Policy Statement (updated January 2016) [pWRPS]; and Part 2 RMA.

## **2. CODE OF CONDUCT**

2.1 I confirm that I have read the Code of Conduct for expert witnesses contained in the Court's Practice Note December 2014 and that I agree to comply with the Code. I also confirm that I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in my evidence and this evidence is within my area of expertise, except where I state I am relying on the evidence of another person.

2.2 My evidence is in support of the submissions made by the parties I have listed above. It relies in part on the evidence of Gerry Kessels in relation to natural character, ecological values and biodiversity and Kerstie van Zandvoort as to natural character, landscape and amenity values.

## **3. SCOPE OF EVIDENCE & KEY ISSUES**

3.1 My evidence does not repeat matters that have been addressed by others. In summary I conclude that the adverse effects of the proposal to establish the travellers' accommodation chalets, conference centre and accessory buildings and structures such as swimming pool, driveways parking, footpaths and lighting will be significant, certainly more than minor and is contrary to relevant plan objectives and policy.

For this reason Council cannot grant consent.

Although not necessary for proposals that fail the gateway tests of s 104D1 RMA, for the purpose of considering the application under s 104 and s 104B I show that the proposal would offend provisions of sections 6, 7 and 8 RMA as well as relevant provisions of the Waikato Regional Policy Statement.

## The Site & Receiving Environment

- 3.2 The site has been well described by others. The key characteristics are as follows:
- a. The land forms part of an ecological corridor that provides one of the few coast to coast corridors within the Thames Coromandel District with protection status under Conservation Act, Reserves Act, QE II Open Space Covenants, Council covenants (in the form of consent notices). This coast to coast corridor under protection is unique in that it applies at the widest part of the Coromandel peninsula and provides a comprehensive range of habitats and biodiversity.
  - b. The land has been identified as being a Significant Natural Area and as having associated natural character values. More than 160 ha of the protected area contains regionally significant vegetation. Gerry Kessels will address this in more detail.
  - c. The land forms part of Whenuakite No 2 Block comprising 6700 acres that was identified in 1872 to be set aside as "Native Reserve". Ngati Hei have strong ancestral connections with the all the land located at Silverstream. Ngati Hei hold mana over the land and exercise their kaitiakitanga over the land. The mauri of the land and mana of Ngati Hei are central to the qualities and attributes of its natural character. I will return to this later in my evidence.
  - c. The subject site, Lot 17 is located on a visually prominent elevated spur accessed from State Highway 25 by a no exit private road (Lot 50) which serves an enclave of conservation lots. The access is low key and as the road edges regenerate, the access corridor provides a high level of amenity.
  - d. The site is less than the 20ha in area - smaller than the average lot size for the Rural Zone: Outside All Policy Areas. This is the result of a recent subdivision which created conservation lots following a first stage subdivision of the land to create 20 ha average lots in accordance with the Rural Zone subdivision provisions. Overall the land has been subdivided to create the maximum number of lots provided for in the zone.
  - e. The subdivision consents described in the Site History of the s 42A Report set out the stages and purposes of the subdivision. The reference in para 3.3 of the Report does not however, correctly identify or assess the baseline from which the effects of the current proposal must be assessed. Three covenants were put in place to ensure the effects of the

proposed 27 lots were no more than minor. Any additional development over and above that provided for under the covenants will create adverse effects that are more than minor.

The first covenant was with QEII Trust to ensure the ecological and biodiversity objectives would be achieved and the land is managed to ensure the quality of the vegetation, its biodiversity and value as a habitat would continue to be enhanced over time.

The second covenant in the form of a consent notice was *inter alia* to:

- ensure no more than one house per lot would be established, each house would be located so that it would not be visible from another house site and would restrict the bulk and location of residential built form;
- protect all indigenous vegetation over 3 metres in height outside the QE II Open Space Covenant area to ensure the cleared areas were broken by remaining indigenous vegetation and that over time new landscape planting associated with house and accessory buildings or farm buildings would come under that protection upon reaching the 3 metre height. This was a second tier protection to ensure that the rural character and amenity values were enhanced and the residential component and built form remained a minor element of the landscape. Protection of the indigenous vegetation over 3m would also provide important ecological function as a refuge for fauna and seed source for natural and sustainable regeneration.

The third covenant was a private covenant. This played an important role in gaining consent to the current pattern of subdivision by ensuring future development on each lot was kept to a domestic scale for countryside living. It did this through retaining land for low key rural activities such as farm stays, crops (including pasture) keeping of animals and buildings accessory. This was essential to ensure the effects of the subdivision and development enabled by that subdivision meet relevant objectives and policies and would not create adverse environmental effects that were minor or more than minor.

The site and locality is further described in the policy analysis and assessment of effects that follow.

### **Consent Conditions: Covenants, Consent Notice and Private Developer Covenant**

- 3.3 Together these three covenants provide the management framework required to ensure the 27 lot subdivision provides sustainable on going protection and enhancement of the natural features of the land including stream margins and catchments in the headwaters of the Whenuakite River; provides for the enhancement of the ecology, biodiversity and habitat of a significant natural area; and to restore the mauri and mana of the whenua and the ancestral relationship Ngati Hei have with this part of Whenuakite No2 Block.
- 3.4 The covenants were and are required in order to manage the intensity, location and character of development on the land, visual and amenity effects, particularly maintaining a low key rural amenity for the private road and road corridor where there were and continue to be concerns about the impact the open corridor, frequency and time-of-day vehicle movements would have on the habitat values of the land.
- 3.5 At the time I considered, as I do today, that the application was proposing, and the consent granted, the maximum development that could be sustained in this location. The consent notice imposed and private covenant expected by Council were put in place to make sure there were constraints on the nature and scale of activities that could take place on any lot. This was, and is important to ensure the overall density of accommodation; peak resident and visitor population remained at domestic scale. Traffic generation and land clearance were brought within limits that would ensure single household activities took place in the form of homestay/farmstay and countryside living and small scale productive farming in open areas provided within the lots. In this way the lot yield was brought to the maximum allowable limit without creating effects that were minor or more than minor.
- 3.6 The consent notice and private covenant in place on Lot 17, the site of the proposal, clearly identifies the limitations on use.<sup>1</sup> There would be a breach of covenant if commercial or industrial activities (other than rural industry) were to be carried out over and above the thresholds set by permitted activities homestay/farmstay (that is for up to 12 people subject to resource consent<sup>2</sup>).

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<sup>1</sup> See attachment 1 for a copy of the consent notice and the most recent of the private covenants.

<sup>2</sup> The sustainable use of conservation lots within this enclave relies in part on owners being able to turn to establishing low scale productive, handcraft or cottage activities and homestay/farmstays. The latter require consents because the lots are not front lots. Being served by a private road these activities require consent. Larger commercial or industrial activities, if consented are likely to result in the smaller scale activities being refused consent because the receiving environment is unable to sustain further development. This would create significant adverse effects on the sustainable use of the conservation lots.

#### 4. **Application and Activity Status**

- 4.1 The application and activity status is set out in the s 42A report. I rely on the Report providing an accurate summary of the proposal, picking up the additions and changes made through the supply of additional information over more than two years. There are errors in the identification of activity status.

The current application proposes 14 additional residential units, conference centre, swimming pool, carparks and driveways at the end of a private road. The private road is maintained at the cost of the landowners who hold right of way easements over it. Removal of approximately 1.4ha of indigenous vegetation is proposed contrary to the covenants in place on Lot 17.

- 4.2 As set out in the s 42A Report the Travellers Accommodation is a non-complying activity. The conference centre and wedding venue is non-complying activity. The formation of roads and parking associated with the accommodation and event centre is also non-complying.

- 4.3 The s42a Report is not correct in concluding that indigenous bush clearance is permitted or discretionary. As set out above there are two protective covenants in place – the QEII Trust covenant and the Council Consent Notice which is a form of covenant. In the ODP at Section 420 Clearance of Indigenous vegetation, Rule 422.5.2 states that clearance of indigenous vegetation within an area protected by a covenant intended to protect indigenous vegetation (giving the example of QEII or TCDC) is a non-complying activity.

- 4.4 One of the key considerations central to this case is that the maximum of two additional lots have been created to allow 2 additional houses on each of the parent lots. This subdivision and pattern of development could only occur in exchange for putting the protective covenants in place over indigenous vegetation and managing that in perpetuity. The rules establishing the opportunity, the standards required and limitations that go with it give effect to Biodiversity Policy 211.4.6 which states:

*“To gain additional or long term protection and enhancement of areas of significant indigenous vegetation or significant habitats of indigenous fauna by enabling appropriate limited subdivision or development.”*

The proposal would be contrary to this policy. Approximately 1.4 ha of indigenous vegetation is proposed to be removed, in spite of its protection by a Council covenant in the form of

consent notice;<sup>3</sup> view shafts would be cut through vegetation protected under QEII Trust; and 14 additional houses (albeit for transient accommodation initially) would be established with no commensurate environment gain or offset<sup>4</sup> for the loss of the gains achieved through the parent lot subdivision. With no gains, no offsets and additional houses the development is inappropriate.

## 5. District Plans (ODP & PDP)

5.1 Both the Operative and Proposed District plans give effect to regional policy. While the PDP has not yet come into effect it has recast the fundamental approaches found in the ODP, namely:

- Zoning for visitor accommodation, places of assembly with overnight accommodation, town centre activities, residential services and facilities in specific locations.<sup>5</sup>
- Providing for very limited housing where significant restoration or protection measures are put in place for indigenous biodiversity and setting the thresholds so that there is minimal impact from the location of houses in rural settings and significant environmental gains will result from the ecological restoration and enhancements including on-going protection in perpetuity.<sup>6</sup>
- Consolidation of settlements.<sup>7</sup>
- Protection of the natural character.<sup>8</sup>
- Ensuring adverse effects on amenity values associated with open space, rural and ecological areas are avoided<sup>9</sup>
- Recognising the remoteness, tranquillity and ruggedness of District countryside.<sup>10</sup>

5.2 The site location is highly sensitive to change particularly change brought about by increased housing density and associated works which in effect urbanise the countryside through:

- a. creation of driveways, carparking and swimming pool,

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<sup>3</sup> Letter to Dave Lamason by Louise Saunders 16/12/2015 (Total clearance 14,621m<sup>2</sup>: 4,621m<sup>2</sup> for roads & accessways and 10,000m<sup>2</sup> for chalets)

<sup>4</sup> To be an offset the tests are like for like. The visual mitigation proposed leaves a net loss in biodiversity and loss of ecological value.

<sup>5</sup> ODP Method 213.5.1c) & d)

<sup>6</sup> ODP Policy 211.4.6

<sup>7</sup> ODP Policy 213.4.3

<sup>8</sup> ODP Policy 212.3.2 noting that in the case of the PDP its Variation #1 omitted provisions for the protection of margins of streams. This is subject to challenge.

<sup>9</sup> ODP Policy 213.4

<sup>10</sup> ODP Policy 214.4.6

- b. filling open space retained for rural activities with buildings associated carparks, driveways, water storage tanks.
  - c. introduction of additional vehicle movements and infrastructure such as water tanks.
  - d. proliferation of the trappings of urbanisation such paving, kerbing, electricity transformers, outdoor lighting, rubbish receptacles and the like.
  - e. reduction of night sky.
- 5.3 These all create adverse effects on the qualities of open space and rural character that District plan policies seek to avoid especially in the Countryside, cumulatively they create significant adverse effects. The district plan policies seek to contain developments of the nature, character and form proposed, within areas zoned for such activities located in or at the periphery of settlements. In this way such activities can take place in a setting where the adverse effects are minor or less than minor.
- 5.4 The nature, character and scale of effects are taken into account in the grouping of activities in the ODP. The activities proposed is “travellers’ accommodation” taking the form of a lodge or conference/event centre which incorporate activities included in the definition of town commercial activities provided for in town centre zones. <sup>11</sup>
- 5.5 The proposal does not fit under “Non-residential services and facilities” as stated in 4.4 of the s42A Report. Non-residential services and facilities are activities where people gather “*but where overnight accommodation is not involved.*”<sup>12</sup> Even if the proposal was considered to be a non-residential service or facility, non-residential services are by nature primarily community service functions for built up areas. This proposal is not a church or hall serving the rural community at Silverstream Falls where liquor licencing or overnight accommodation is not involved.
- 5.7 Gerry Kessels has established the significance of vegetation and habitat. Relevant biodiversity policies were met with the pattern of conservation lot subdivision and limit of a single house for each lot. Increased traffic along the road corridor, particularly by users unfamiliar with the special qualities and attributes of the habitats pose a significant risk to the habitat viability.

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<sup>11</sup> ODP Section 9 “Town Commercial Activities are non-industrial activities involving commercial transactions” this includes licensed premises, taverns and hotels restaurants. “Travellers Accommodation means places where transient residential accommodation is provided” and includes retreats or conference centres, motor lodges, holiday flats.

<sup>12</sup> Ibid for “Non-residential services and facilities”.

5.8 The traffic generated by the lots using Lot 50 was considered to be at the maximum allowable for the number of lots, location and configuration of the road corridor, having regard to the physical formation required to meet road safety standards, and visual and amenity effects at the time of subdivision. The road corridor provides a break in habitat continuity which was considered a potential risk to fauna survival. Additional traffic has the potential to create adverse effects on habitat values. The additional traffic movements assessed at 120 vehicles/day at average occupancy rates plus staff vehicle movements<sup>13</sup> more than doubles the level of anticipated future uses. This would create significant adverse effects certainly more than minor effects. Even with the introduction of mini buses with reduction in vehicle movements to 60 v/d the potential adverse effects on habitat would be more than minor. Amenity values of the last section of the access road would be reduced through widening and the break in habitat continuity worsened. Other effects identified by Mr Kessels are:

a.

The proposal would therefore be contrary to Policy 211.4.3 which is *“to ensure areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected and linkages, buffering and corridors are provided, where appropriate to enhance indigenous ecosystems.”*

5.9 The trade-off threshold for loss of natural character with creation of conservation lots was reached in the conservation subdivision. This establishes the baseline for assessing effects and for considering whether the proposal is contrary to objectives and policies. The proposal would also be contrary to the other relevant Biodiversity policy 211.4.6 for the reasons set out in 4.4 above.

5.10 The proposal is contrary to the two relevant policies for biodiversity in this case.

#### **Landscape & Natural Character**

5.11 Objective 212.3.3 seeks *“to recognise, protect or where appropriate enhance the landscape and natural character of the District.”* In this case the site forms part of a locality where protection measures have been put in place through covenants with various parties – a National Trust, the Council and Private Entity to provide protection of ecology, landscape and rural amenity. They were put in place with the blessing of Ngati Hei who have *mana whenua* within a *rohe* which incorporates Lot 17 and the wider locality.

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<sup>13</sup> Burgess SOE para 9

5.12 The proposed development undoes the protections put in place to achieve this objective. The removal of protected vegetation is contrary to Policy 212.4.5. This policy is to ensure activities or developments provide suitable long term protection of identified natural features and landscapes including remnant indigenous vegetation over 3 m high and open space for rural activities<sup>14</sup> (which contribute to the mauri and mana of the land).

5.13 The proposal is also contrary to Policy 212.4.6 which (to paraphrase) requires development to recognise the landscape values within this natural and cultural environment of the District Countryside.

Values identified in the Visionary Associates Ltd assessment on which the subdivision consent and consent notice were based have been identified in Ms van Zandvoort's evidence. Building platforms are discretely blended into the landscape and integrated by location and protection of bush for visual and ecological reasons in locations not under QEII Trust covenant.

Houses providing transient accommodation are grouped in linear form; result in clustering in an exposed part of the site; and involve removal of protected indigenous vegetation for their platforms and access to them. In this there is no recognition of the values which have been identified and built into the existing protection mechanisms.

5.14 Lot 17 does not require restoration because it is not degraded. The nature and character of the proposal for Lot 17 is not mitigating adverse effects of past land uses, nor is it restoring or enhancing existing degraded features and landscapes. Policies 212.4.3 & .4 are therefore not relevant.

5.15 Ms van Zandvoort has identified adverse effects that are more than minor from exposure to public viewing corridor SH 25 in the short to medium term and aspects of the proposal may remain exposed for prolonged period of time. Effects on internal audiences will also arise. She also considers the effects of increased vegetation and introduction of the commercial accommodation and function buildings has the potential to result in a scale of change that cannot be integrate or otherwise mitigated.

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<sup>14</sup> Rural Activities are set out in Section 550. They do not include the activities proposed. More intensive rural activities listed in Section 550 are excluded by way of consent notice or private covenant to achieve protection of the natural and landscape values of the site and immediate locality.

## Settlements & Amenity Values

- 5.16 Objective 213.3.2 is relevant as it seeks *“to protect sensitive..... natural environments from the adverse effects of new settlement or settlement expansion.”* The activities proposed are urban in nature and character as identified above. The ODP groups them together and makes provision for them within settlements.
- 5.17 When considering this proposal for a countryside<sup>15</sup> location we find that Travellers Accommodation and “Non residential services and facilities” being provided for in the settlements<sup>16</sup> not outside the settlements. Town commercial activities are not provided for in the countryside except within Village Policy Areas.

When activities considered to be urban in form, function or likely to have adverse effects on amenity values are classified non complying and are proposed outside a village or town context they constitute settlement expansion. Policy 213.4.3 addresses these activities so that adverse effects of locating them in the countryside are addressed by containing them within settlements. Transient accommodation in the form of travellers accommodation cannot establish into the countryside beyond the towns (listed in Policy 213.4.3.1) or policy areas (listed in Policy 213.4.3.2) as a matter of policy. It is ODP policy to contain settlements so that settlement activities do not spill into the countryside. It is contrary to ODP policy so the question is whether the scale, function and form of accommodation can establish with minor or less than minor effects to pass this leg the gateway test.

Policy 213.4.5 is to ensure amenity values associated with the open space, recreational and ecological areas are not degraded. The proposal would degrade open space qualities provided by the non-covenanted land as well as the ecological values in the manner set out in Mr Kessels’s evidence.

## Proposed District Plan

- 5.18 The PDP states the purpose of the rural zone is to provide for a predominantly working environment<sup>17</sup> where effects of production activities are “to be expected”. The “right to farm” is provided for and is weighed against special values expressed through overlays. Where there are special values overlays manage adverse effects on the special values.

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<sup>15</sup> Term used to apply to Coastal Rural and Conservation Zones see Section 330 & Activity Tables

<sup>16</sup> Rural and coastal policy areas

<sup>17</sup> PDP 56.2

Reverse sensitivity is to be avoided. The addition of visitor accommodation especially where there is to be a liquor licence is has a potential to create significant adverse reverse sensitivity effects on neighbours' rural residential lifestyle or "right to farm".

5.19 The zone purpose identifies the following characteristics that contribute to the rural character and to rural amenity at Silverstream Falls. Lot sizes and density standards have been established to retain and enhance the rural character and to provide for sustainable countryside living. The rural character and amenity to be retained or enhanced is described as follows

- Higher proportion of open space
- Lower population
- Less infrastructure
- Natural features and open space prevail over built environment
- Farm animals and significant areas in pasture, crops, .....indigenous vegetation
- Narrow and/or unsealed roads

5.20 The proposal does not meet the housing density or retain natural features and open space that forms the rural character of the rural zone at Silverstream Falls. The buildings structures driveways, parking, road widening density of housing proposed will create significant adverse effects on the ecological values, landscape values, productive potential of the land as well as rural character and amenity.

5.21 The proposal is contrary to the following Biodiversity policies<sup>18</sup>:

- a. Policy c. Buildings, structures and accesses are not located outside areas of indigenous vegetation
- b. Policy d. The proposal is to incorporate a settlement function into the buffer area provided for the Lot 17 around the building platform and involves clearing of indigenous vegetation

5.22 The qualities and characteristics of Silverstream Falls Amenity Landscape Overlay rely on the conservation ethos and the form and layout of a countryside living enclave free of the intrusion of commercial activities and buildings. The introduction of the proposed conference centre and transient accommodation with the associated works on and off site works is

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<sup>18</sup> Reproduced in the s42A Report at 8.2.9

contrary to the objective which seeks to maintain or enhance the qualities on which the subdivision and development have been built.

## 6. **Regional Policy**

6.1 Mr Kessels has referred to the pWRPS and notably Policy 11.1.2 which identifies potential adverse effects on indigenous biodiversity which are present in this case and have not been and may not be able to be addressed.

6.2 The proposal for 14 additional houses (albeit proposed initially as transient accommodation for travellers or visitors attending events or function lots at the end of a private no exit road is contrary to pWRPS policy in a number of respects:

a. It is not a use of land or development that has been planned for or co-ordinated or has regard to the existing built environment – contrary to Policy 6.1d).

The implementation methods for this policy make it clear that it be directed to areas identified in the district plan for settlement development<sup>19</sup>. The ODP and PDP do this.

Both the ODP and PDP use a combination of policies and spatial plans to ensure rural commercial development and travellers' accommodation is directed to towns and villages away from the countryside especially areas where development has been established with purpose built framework to achieve significant and sustainable gains in indigenous biodiversity.

b. As Mr Kessels and Ms van Zandvoort both establish the proposal is not based on sufficient information to allow assessment of the potential long-term effects of many aspects of the development. This does nto achieve Policy 6.1c)

## 7. **Part 2 RMA.**

7.1 The sustainable management purpose of the RMA is not met by this proposal because it erodes or degrades the natural and cultural resources on which the existing pattern of development has been based and requires on going sustenance.

7.2 Section 6 matters of national importance that apply here are:

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<sup>19</sup> pWRPS 6.1.4

- a. Section 6 (c) that provides the direction that this area of significant indigenous vegetation and habitat must be protected from inappropriate development. Gerry Kessels addresses this and I have established that the proposal is inappropriate having regard to district and regional policy and given the receiving environment which includes an existing implemented consent and enduring covenants.
- b. Section 6 (e) which directs that Ngati Hei's relationship with the land must be recognised and provided for. This has not occurred in this case as can be seen by the correspondence that has been placed before the Hearing.
- c. Section 7 matters that must be taken into account are the maintenance and enhancement of amenity values and the quality of the environment. My evidence establishes that amenity values would be degraded along with the quality of the environment if the proposal were to proceed.

## **8. Precedence and consistency**

- 8.1 The proposed site lies on a no exit private road off the statehighway between Tairua and Whitianga. Destination village settlements of Hot Water Beach, Hahei and Cooks Beach complement the towns in providing the infrastructure and amenity for existing and new commercial developments and locations for travellers' accommodation, conferences and events. Silvestream Falls provides a rural enclave for countryside living with a conservation ethic.

There is nothing unique or exceptional about the proposal that sets it apart from the generality of proposals for travellers' accommodation and events or function centre.

For consistent decision in making the decision on this application would need to be able to hold true for any of the lots within Silverstream Falls or rural enclaves such as Sailors Grave or Te Karo Bay nearby.

- 8.2 A decision to grant consent for a commercial activity on this land will strongly influence future decisions on applications for travellers' accommodation and conference centres on the Coromandel Peninsula. If granted the proposal would undermine the integrity of the District Plans and be contrary to district and regional policy which have, central to their

policy frameworks containment of settlements particularly in regard to commercial, industrial and residential activities.

## 9. CONCLUSION

- 9.1 Regional policy directs, and the district plans provide spatial planning maps objectives and policies to accommodate and manage growth. This proposal is outside the spatial planning for development of this nature character and scale.
- 9.2 The proposal will create a commercial development in the countryside within a conservation lot subdivision contrary to the Objectives and Policies for Landscape and Natural Character and for Settlement and Amenity Values set out in the District Plan<sup>20</sup> and which in turn give effect to higher order objectives and policies set out in Sections 6(a) & (b); 7 (b), (c), (f), and pWRPS.
- 9.3 The grant of consent for this proposal will not achieve the purpose of the RMA and in my opinion consent must be refused for the reasons set out above and in failing to meet either of the gateway tests for a non-complying activity.



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Graeme Lawrence  
Environmental Planner  
Dated at Little Bay

20 April 2016

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<sup>20</sup> ODP Sections 212 and 213