

THAMES-COROMANDEL DISTRICT COUNCIL

VARIATION 3 TAIWAVE CATCHMENT STRUCTURE PLAN

SECTION 42A AUTHOR'S COMMENTS ON PROPONENT'S
SUPPLEMENTARY EVIDENCE FOR RESUMED HEARING

ELISABTH RESL, 9 September 2021

Introduction

1. The following comments¹ are prepared as an addition to the section 42A report and the supplementary section 42A report (dealing with the revised proposal 'Version 12') that was made available to the Commissioners and to all submitters. These comments do not replace those two section 42A reports, which remain intact including the section 32 assessment in the form it was provided to the Commissioners and to submitters.
2. My full name is Elisabeth Maria Resl. I am a Senior Planning Consultant at ERPRO Environmental Ltd.
3. I hold a Master of Arts and a Master of Applied Science Degree. I have been practising as a planner for more than 20 years and have been working for the Thames-Coromandel District Council (**the Council**) since April 2011, as a Senior Policy Planner and subsequently as a Consultant Planner. I have been directly involved in the development of the draft District Plan and I have prepared the Section 32 analysis for the notified Proposed District Plan.
4. I have read and am familiar with the Environment Court's Code of Conduct for Expert Witnesses, contained in the Environment Court Practice Note 2011, and agree to comply with it. My qualifications as an expert are set out above. Other than where I state that I am relying on the advice of another person, I confirm that the issues addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
5. Terms and abbreviations used in evidence include:

AEE	Assessment of Environmental Effects
The Council	Thames-Coromandel District Council
EMP	Ecological Management Plan
The Plan	Proposed Thames-Coromandel District Plan (Appeals Version, October 2019)
The Proponent	Hot Water Beach (NZ) Ltd
TCSP	Taiwawe Catchment Structure Plan
RMA	Resource Management Act 1991
SNA	Significant Natural Area
WRC	Waikato Regional Council
WRPS	Waikato Regional Policy Statement, Operative Oct 2016
6. I have read the Proponent's and submitters' supplementary evidence on Variation 3 and reference them in my comments as:

EVIDENCE SUBMITTED FOR FIRST HEARING

Statement of evidence John Michael Burgess, Traffic Planning Consultants Ltd (TPC)	Burgess, 2021
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¹ Prepared according to Section 4 of the 'Fifth Direction of the Hearing Commissioners' dated 5 Aug 2021 which provide for the planner to *'have the opportunity to address the reconvened hearing on the modified proposal, following the presentations from the proponent and from the submitters. That may be in writing.'*

Statement of evidence Stephen Kenneth Brown, Brown NZ Ltd	Brown, 2021
Statement of evidence Mike Chapman, Te Miro Consultants Ltd and Taiwawe Catchment Surface Water Runoff Management (Version 4)	Te Miro, 2021
Statement of evidence Nicholas Paul Goldwater, Wildland Consultants Ltd	Wildland, 2021
Statement of evidence Philip James Green, Dunwoodie&Green Surveyors Ltd	Green, 2021
Statement of evidence Philip Ian Kelsey, Earthtech Consulting Limited	Earthtech, 2021
Statement of evidence Graeme James Lawrence, Lawrence Cross Chapman& Co Ltd	Lawrence, 2021

SUPPLEMENTARY EVIDENCE SUBMITTED DURING ADJOURNMENT (VERSION 12)

Supplementary Statement of evidence John Michael Burgess, Traffic Planning Consultants Ltd (TPC)	Burgess SE, 2021
Supplementary Statement of evidence Stephen Kenneth Brown, Brown NZ Ltd	Brown SE, 2021
Supplementary Statement of evidence Mike Chapman, Te Miro Consultants Ltd	Te Miro SE, 2021
Supplementary Statement of evidence Nicholas Paul Goldwater, Wildland Consultants Ltd	Wildland SE, 2021
Supplementary Statement of evidence Philip James Green, Dunwoodie&Green Surveyors Ltd	Green SE, 2021
Supplementary Statement of evidence Graeme James Lawrence, Lawrence Cross Chapman& Co Ltd	Lawrence SE, 2021
Supplementary Statement of evidence Tracey Michelle Lamason on behalf of Diane Hinds (Sub#11)	Lamason SE, 2021

SUPPLEMENTARY EVIDENCE SUBMITTED POST PRE-HEARING MEETING (VERSION 13)

Maori Values Assessment for Taiwawe Stream Hot Water Beach Subdivision, Joe Davis, 15 July 2021	MVA, 2021
Second Supplementary Statement of Evidence, G J Lawrence, 25 August 2021	Lawrence, Aug 2021

7. The **purpose** of this additional planning evidence is to recommend to the Commissioners whether the two amendments that have been made to the provisions for Variation 3 better meet the objectives and policies of the Plan and the purpose of the Resource Management Act, 1991 (**RMA**) compared to the existing provisions.

Comments referring to Supplementary Expert Evidence Version 12

STORMWATER

8. By way of summary Te Miro SE, 2021 states that the *'significant re-vegetation programme results in a net positive outcome for stormwater management'*² and that *'an estimated 10% reduction in peak flow is achieved by re-vegetation at Taiwawe for the 2 year and 100 year events'*³. I requested an expert peer-review of those assumptions on the basis that my particular concern remains about potential off-site effects (increased flood risk) and effects on Council infrastructure and private properties.
9. A peer review is also warranted for the following reasons:
- To underpin the statement that peak flows from the site are reduced by approximately 10%⁴ in the catchment runoff summary (Appendix A to Te Miro SE, 2021) the **TP108 (ARC, 1999⁵)** have been used⁶ instead of using the **TR20-06** applicable in the Waikato Region⁷.
 - Te Miro Se, 2021 assumes **soil type B** (*'water transmission through the soil is unimpeded'*⁸) which is contrary to Earthtech, 2019 describing the soils as *'silt rich with limited capacity for on-site ground disposal of stormwater'*⁹ and Earthtech's SE, 2021 waste water disposal calculations that (in my view correctly) use *'Soil Category 5- silty clay loam-moderate to slow drainage'*¹⁰.
 - The assumed CN55 value (Te Miro SE, 2021) is only achievable in optimally developed bush areas, so unrealistic for the TCSP scenario¹¹. CN55 is not achievable in group C soils which match the soil assessment of Earthtech (WRC, TR20-06, 5.2).

² Te Miro SE, 2021, para 3.

³ Te Miro SE, 2021, para 12. S 55.

⁴ Section 7.1.7 'Peak flow control criteria' "3. Where there are existing downstream flooding issues, depending on the site's position in the catchment (refer to S 7.1.3), it is recommended that the post-development peak discharge for the 100-year ARI rainfall event for a new development be limited to **80%** of the pre-development peak discharge (**unless there is a catchment study that demonstrates that this is not required**).

⁵ Auckland Regional Council TP108 Run-off calculation guideline

⁶ Curve numbers (CN) for rainfall-runoff relationship (TP108, soil type B).

⁷ TRC-2019/TR20-06-Waikato-Stormwater-Runoff-Modelling-Guidelines. (*'Due to differences between catchments and soils in Auckland and the Waikato, the Auckland runoff modelling method results in devices that often are under-sized for Waikato conditions', p.ii*)

⁸ TR20-06, pp 13, 14.

⁹ Earthtech, 2019, p.ii.

¹⁰ Earthtech, 2021 p. 7.

¹¹ TR20-17, Waikato stormwater management guidelines 17.4.8 provides a list of 'pitfalls' that need to be avoided when *'planting native bush as a component (my emphasis) of an overall stormwater management system'*.

- Stormwater quality treatment is not sufficiently addressed (to avoid potential effects on waterbodies and wetlands).
 - Off-site effects of stormwater run-off from the site remain un- acknowledged.
 - Te Miro’s, SE 2021 calculations are based on a total Building Footprint of 300m². However Version 13 Rule 3. 2 provides for 430m² of total Building Footprint without associated hardstand as a restricted discretionary activity which changes the overall amount of impervious surfaces and run-off will need to be recalculated.
10. Additionally, my understanding is that all planting (be it for screening or ecological purposes as per Brown SE, 2021) is also intended to be ‘utilised’ as ‘compensation planting’ for the proposed impervious surfaces (*“the ratio of imperviousness to new revegetation areas meets the mitigation requirements in s.8.5.9 of the WRC guidelines”*¹²). In Mr Chapman’s view the *“runoff volume impacts to the receiving environment is expected to be no more than minor”*¹³.
11. While according to Te Miro, 2021 all proposed planting is used as ‘compensation’ the Proponent’s planning evidence consistently presents proposed planting efforts as the primary justification for creating development rights that would otherwise not exist. Lawrence SE, 2021 para. 25 elaborates on and confirms the ‘triple purpose’ approach the TCSP is taking.
12. A multipurpose approach can be beneficial and useful, however in my view a proposal needs to clearly set out what environmental effects are being mitigated by specific measures to enable appropriate appreciation of relevant merits.
13. Another matter to be considered is that plants need considerable time to grow to a level of maturity to enable them to fulfil the proposed attenuation functions. So, at least for 10-15 years adverse effects on the hydraulic situation and on water quality would seem inevitable.
14. Rule 1 TCSP (subdivision) remains unclear as to when compensation planting has to be undertaken. In order to serve as useful attenuation for new impervious surfaces compensation planting (using well developed plant specimens) would need to be undertaken concurrently or preferably before creating impervious surfaces.
15. The same expectation applies for ecological benefit planting since this (while being necessary for ‘compensation’ anyway) is proposed as the principal justification for development.

ECOLOGY

16. Goldwater SE, 2021 responds to Mr. Kessels’ preliminary peer-review of the two ecological reports submitted with the proposal. It is obvious that there are fundamental matters of disagreement between the two experts, hence I asked that Mr. Kessels be granted a right of response. This would be of particular relevance since Mr. Goldwater states that *“Mr Kessels has prepared his statement without the benefit of having visited the site”*¹⁴.
17. Mr. Kessels had very limited time available for his preliminary peer review and had expressed his concern about not being able to do full justice to this peer review due to time constraints. It

¹² Te Miro, 2021 page 7, b.

¹³ Ibid.

¹⁴ Goldwater SE, 2021, para 3.

would appear that Mr. Goldwater's statement above might give rise to perceived doubts about the overall credibility of Mr. Kessels' statements, which could only be overcome by providing an opportunity for Mr. Kessels to visit the site and to subsequently respond to Mr. Goldwater's evidence.

18. What I take from Goldwater SE, 2021 from a planner's viewpoint is the following:
 - a. In para 4 Mr Goldwater expresses his view that habitat loss can only occur when a proposal involves indigenous vegetation removal and since that is not proposed, no detailed baseline of existing fauna values needs to be established.
 - b. In para 8 Mr. Goldwater agrees with Mr Kessels that 'At Risk and/or Threatened Fauna Species' could occur at the site, "*however targeted surveys for other fauna such as lizards, bats, and cryptic birds were not in the scope of my assessment, given that any vegetation proposed for removal mainly comprises exotic species*".
 - c. In para 18 Mr Goldwater reiterates that targeted baseline surveys are not necessary to '*quantify mitigation and offsetting*'.
19. I am not venturing outside my area of expertise when I state that I disagree with a./b./c./ above. It is common knowledge that fauna values exist outside areas of indigenous vegetation and that quantification of 'ecological benefits' (or 'losses') can only occur when a baseline is established.
20. Rules 1.1 i) and m) refer to baseline surveys to be undertaken at subdivision stage, when development rights for 25 (35) lots have already been granted under the mere 'assumption' that threatened species that, as both experts agree, are probably present, will be protected.
21. In my view establishing the baseline (identification of the 'ecological values'¹⁵) is the logical first step before determining the appropriate scale and form of any development. These surveys could also be used to more specifically spell out the anticipated technical contents of an 'Ecological Management Plan' which would be more useful than the in-effective generalities currently included in Rule 1.1 m).
22. The 'biodiversity values'¹⁶ that the TCSP claims to protect and enhance have not been explicitly identified with respect to threatened species, natural wetlands and streams. 'Protection' efforts can only work effectively if there is sufficient knowledge about what needs to be protected.
23. Simple example: Goldwater SE, 2021 para 15 claims that effects on natural wetlands and streams have '*already been addressed in the EiC of Mr Michael Chapman*'. I am unable to find any evidence in the referenced document that goes beyond listing 'swales' as a method of '*water quality treatment*'¹⁷. Different organisms have specific susceptibilities to various forms of 'pollutants', without knowing what species are present in those wetlands and streams, mitigation/protection/enhancement measures will be ineffective and the TCSP's promulgated 'biodiversity benefits'¹⁸ will remain at best unquantifiable, at worst unachievable.

¹⁵ Rule 1.1m) TCSP describes the 'objective' of an 'Ecological Management Plan' to be the '*protection, enhance and restoration of the biodiversity values of the Conservation Area*'.

¹⁶ Rule 1.1m)

¹⁷ Te Miro, EiC, p.7.

¹⁸ TCSP 27.9.2 Purpose

24. It is unfortunate that the Proponent's ecological evidence¹⁹ relies on Te Miro's, 2021 passing assumptive statement: *"The existing water quality issues are likely to be typical contaminants associated with runoff from hilly grassland rural catchments including high sediment loads, nitrogen and phosphorus"*²⁰. In the absence of baseline data²¹ improved water quality post development will never be able to be understood.

25. In my view the most pertinent statement made in Mr. Kessels' preliminary peer review which has not been responded to in Goldwater SE, 2021 is: *'Critical to the determination of whether an ecologically sensitive locality can absorb the adverse ecological effects of a subdivision is the location, density, and scale of the proposed development in relation to the functionality and resilience of the affected indigenous vegetation and habitats of indigenous fauna'*²²(my emphasis).

LANDSCAPE

26. I note that Brown SE, 2021 para 3 appears to be misinterpreting my statement that the proposed development introduces an *'element of sprawl'*²³ as being related to visual/landscape effects. These comments have been made under the heading 'Strategic and Planning Matters' and relate to the fact that the proposed development is an example of inefficient use of land resources²⁴, spreading across 38 ha served by 2 ha of sealed roads without connectivity to the Hot Water Beach Settlement.

27. My observation about the 'element of sprawl' also refers to the way the proposal is framed which minimises the likelihood that -if realised in its current form- it will contribute to social cohesion that would enrich the small coastal settlement of Hot Water Beach.

28. The lack of even basic amenities and services within the settlement, the absence of a multimodal connection to it, a framework where each landowner would have to buy into a life-long liability to 'protect, enhance, monitor, and report on' 1.6 ha of land will hardly be attractive for permanent residents or affordable for locals.

TRAFFIC

29. The lack of multi-modal connectivity would lead to an 'isolated satellite community' completely dependent on vehicular traffic.

30. I recommend the modelling submitted in Burgess, SE 2021 para 6 which supports the Proponent's traffic consultant's conclusions be peer-reviewed by a suitably qualified engineer.

¹⁹ While describing the Taiwawe Stream and its 2 tributaries as high and good quality aquatic habitats respectively, Goldwater, 2021, s. 7.2, p.25.

²⁰ Te Miro, 2021, p 6.

²¹ The referenced water quality parameters can be determined easily and cost-effectively.

²² Preliminary Ecology Peer Review, Gerry Kessels, p.5.

²³ 'Supplementary s 42A report' paras 38 + 39.

²⁴ Waikato Stormwater Management Guidelines, TR 2020/07, 5.2.3: *'Avoid rather than mitigate: for example, clustering houses significantly reduces lengths of roads when compared to a traditional low-density similar sized lot approach.'*

31. I further recommend that, should any development of the subject site occur, the outcomes of the 'independent study of the junction at Hot Water Beach'²⁵ be considered. Intersection design can occur at subdivision stage once a decision on the scale and nature of development has been made.
32. Council engineers' preference is that any cross-section design (Diagrams C-F) be removed from the structure plan and design matters be addressed at a potential subdivision stage in line with TCDC's submission point 2.12.
33. Lawrence SE, 2021 (p.7) states that the decision whether roads will be vested does not need to occur now. While I do not disagree, it is worth considering that if the existing right of way was ever to be vested as road, all those parties that have an interest in the land would need to relinquish their easement. This issue has arisen, with the 'Hot Developments Subdivision' as there were easements on the piece of land shown as road to vest and you cannot vest land as road, unless it is unencumbered.

TCSP VERSION 12

34. The provisions, while adopting some of the suggestions made in the 'Supplementary section 42A report' (earthworks rules/ size of 'Defined Building Area'/water for firefighting/no 'encumbrance on Conservation Area'/building height²⁶) have been upheld and all my previously expressed concerns remain intact and do not need to be re-iterated here.
35. A couple of matters warrant additional comment. Lawrence's SE, 2021 paras 15 and 21 to 23 (pages 9 and 10) and 53 to 55 (page 18) go to great lengths to explain the 'mechanics' of the Plan. I remain of the view that for the purposes of this Structure Plan the provision for a discretionary activity status for additional subdivision (of potentially 10 lots) is problematic.
36. Section 1.3 of the Plan ("Plan Structure") explains how 'special purpose provisions' –including site development plans, site specific activities and structure plans work. *'These are used where a site specific assessment has been undertaken and detailed subdivision, use and development provisions apply for a particular site.'*
37. The Plan goes on to state: *'Wherever there is a conflict between rules, between policies or between objectives, the hierarchy in Figure 2 applies to the extent of any conflict'*. **Figure 2** –The Rule Hierarchy sets out that Special Purpose Provisions override overlay objectives, policies and rules which override District Wide and Area/Zone objectives, policies and rules.
38. I hold that the Plan does not provide for a 'fall-back position' for discretionary activities to be considered under the objectives and policies of the Plan because site specific assessment in the lead up to the structure plan would have informed the scale of development²⁷.

²⁵ Supplementary s 42A report Attachment 1, page 2.

²⁶ I note that the average 2 storey building is around 6 m high, so the potential for increased 'bulk' has been introduced through increasing maximum 'site coverage'.

²⁷ The DP contains examples of structure plans managing developments that greatly vary in scale and scope. (Example: 'Otama Structure Plan', maximum of 12 lots on 104 ha of land, no policy framework, simple rules provide for a limitation of 12 lots as RD, otherwise subdivision is non-complying. All other activities are

39. Discretionary subdivision would only be considered under the TCSP policy framework in an assumption that background reports supporting the TCSP would have provided sufficient evidence to allow for a discretionary status.
40. This is however not the case. There is neither evidence to support the 10 additional lots nor is there evidence to justify a 'prohibited activity status' for 36+ lots. It is my view that a discretionary activity status for 'additional' lots is inappropriate and conflicts with the purpose of structure plans as expressed in Section 27.1.1 of the Plan²⁸.
41. It is noted that Rule 1.1 c) which limits the 'Defined Building Area' to 500m² read in conjunction with Rule 1.2 effectively means that the 'Defined Building Area' can be much larger (with no upper limit) while subdivision would still remain a restricted discretionary activity. While there is some merit in enabling 'Defined Building Areas' to be repositioned to avoid potential areas of instability, no good resource management reason is provided for increasing the size of these areas.
42. In my view the TCSP provisions remain an ineffective framework for delivering ecological benefits for the following reasons:
- Lack of baseline and quantification of 'benefits'.
 - SNAs will not reliably be protected in perpetuity (Rule 1.1q) requires '*the Conservation Area to be retained in the ownership of the legal entity/Incorporated Society* which is inconsequential in terms of the **conservation status** of the land).
 - Lack of useful, site specific matters (based on surveys and facts) to be addressed by the 'Ecological Management Plan'.
 - Decision on the timing of mitigation/restoration/compensation planting is left to the subdivision stage, which, in the absence of baseline data, risks to result in ineffective management regimes with unquantifiable 'benefits' .
 - The responsibility for the realisation of 'ecological benefits' that are presented as the key trump card for the development will likely sit with absentee landowners with little connection to the land who can afford owning a bach on a 'large lot residential' section. As explained in my para 28 above, it is my view that the economics²⁹ in terms of affordability do not stack up to support the promulgated wide ranging conservation efforts³⁰.

considered under Section 56 provisions except where rules conflict with Otama Structure Plan Rules. This is commensurate with the anticipated scale of development.

The 'Pauanui Orchard Estate Structure Plan', on the other hand covers 46 ha and provides for a 305 lot staged subdivision governed by a fully developed policy framework that does allow for a moderate level of discretion as long as key structural elements are being adhered to.)

²⁸ '*The appropriate form, scale and density of development and land use is identified along with infrastructure requirements...*'

²⁹ **Note:** It is acknowledged that the 'economic success' of a development is strictly speaking not a relevant matter for consideration when assessing the merits of a proposal. However in this particular case the 'proposed ecological benefits' ultimately hinge on a long-term financial commitment by prospective buyers to implement protection and enhancement measures.

³⁰ **Note:** The prospect of an 'unsuccessful subdivision' would have all the adverse effects (impervious surfaces – increased run-off/introduction of pest plants etc.) with no conservation benefits.

43. I conclude that the TCSP does not better meet the objectives and policies of the Plan than the current Plan provisions for the site and should therefore be declined.

Comments referring to supplementary evidence Version 13

LAWRENCE, AUGUST, 2021

44. Table 1 'Road Location': indicative alignment of Ngatuturu Lane: "*while maintaining an appropriate ecological buffer with the existing wetland*". No evidence is provided to confirm that the realignment will not negatively affect the wetlands.
45. Table 1 'Reverse Sensitivity': the comments reflect a fundamental misunderstanding of the Plan's hierarchy (Lawrence, Aug, 2021 reference to Rule 27.1.2) (also refer to my paragraphs 36 – 40³¹). They refer to "*Section 34*" of the Plan which deals with 'Natural Hazards' rather than 'Subdivision'. Rule 27.3³² does not specifically include 'Restricted Discretionary Activity Matters' listed in Section 38.7 Table 5; so these matters would not be considered for the TCSP. As an aside, 'reverse sensitivity' only appears as a 'Matter of Control' in Table 4 (Plan, Section 38 'Subdivision').
46. Table 1 'Third Party Covenants': Assessment criterion 6 b) could only meaningfully be implemented if a subdivision standard was included to require the Conservation Area to be protected in perpetuity by a mechanism equivalent to a QEII Open Space covenant or similar. Rule 1.1.q) i) only requires the Conservation Area to be retained in the ownership of the legal entity/Incorporated Society required to be established by Rule 1 p).
47. Table 1 'Water Quality-sewage/exemplar project': It is noted that the proposed provisions do not provide '*retirement of the land from livestock*' because the underlying rural zone rules remain by and large intact. So water quality will in the first instance be affected by the proposed 2 ha of roads and other impermeable surfaces (buildings etc.).
48. Table 1 'Pressure on Water Quality': "*as to water quantity pressures, hydraulic neutrality is achieved*"- please refer to my paragraphs 8 – 15 on stormwater.

TCSP VERSION 13

49. Rule 1.e) i) : The decision about whether a specific on site treatment system will be suitable and will meet regional council requirements should be made at the time of subdivision following site specific infiltration tests. It is recommended to revert to Version 12.
50. Rule 1.1 r) should be simplified and reworded.
51. Rule 3.2 now provides for 3 buildings per lot as a restricted discretionary activity which adds up to 75 buildings being provided for as a restricted discretionary activity on a 'Defined Building Area' with unquantified size (refer to my paragraph 42 above).

³¹ Plan, Section 1.3 incl. Figures 2 and 3

³² TCSP Rule 1.3 "*The Council restricts its discretion to matters 1- 9 in Table 2 below and the Code of Practice for Subdivision and Development (October 2013) except as provided for in Table 1 Item 4 in 27.9.6 below*"

52. I note that Rules 3.1 and 2 fail to provide consistent application of standards for dwellings as per Rule 2. 1 c) and d) which has been addressed in today's legal submission.
53. I question the validity of the prohibited activity status in Rule 4.4 (*'walkways accessible to the general public and not provided for under Rule 4.1, are a Prohibited Activity'*). In my view there is no justification for this strict prohibition which is unsupported by relevant policy direction.
54. No assessment of environmental effects has been provided to rationalise this restrictive activity status. Access arrangements should not be managed by the District Plan which would include the essence of the additional 'Note' under Rule 4.4.
55. It is recommended to reconsider which resource management issues can be effectively and efficiently managed through District Plan provisions and this should include consideration of a meaningful hierarchy of activity status which aligns with good plan writing practice and relevant case law on the use of activity status.
56. The administrative liability and costs imposed on the Council through an intricate rules framework should form part of this reconsideration.
57. The following paragraphs list some of these administrative hurdles created by Version 13.

WORKABILITY OF VERSION 13

58. Version 13 adds an additional layer of complexity to already complicated structure plan rules to the point of rendering them impracticable from an administrative, management and monitoring perspective.
59. Rule 1.1 k): Management of dogs as proposed will not be able to be implemented (there is no practical way of monitoring or enforcing subtle nuances like *'whether a dog is under effective control, or whether it is kept indoors at night'*).
60. Formation of a legal entity is required by subdivision standard p) in 27.9.5 Rule 1.1. How is it anticipated to form a society as a prerequisite for a restricted discretionary subdivision in the absence of landowners and how is the Council expected to administer these provisions?
61. Rule 1.1 v): The 'legal entity' takes responsibility for *'compliance with resource consent conditions...'* e.g. vi) *'managing the keeping of pets in accordance with rule 1j) and k)'*.
62. I understand that a 'legal entity' would only be able to 'manage' private covenant rules. Management of compliance with resource consent conditions is a district council function. The interface between the Council and a future 'legal entity' that has not been formed yet introduces administrative intricacies which will make the assessment of subdivision proposals and formulation of meaningful consent conditions difficult.
63. Rule 1.1 q): Following on from above: the consent notice that the Council is required to register on the lots to be created contains a number of requirements the monitoring of which impose an extraordinary administrative onus on the Council.

64. Rule 1.1 r) should be simplified and reworded.

65. Table 1 Standards for Subdivision 2. a): No evidence is provided to demonstrate that the amended rule is more effective and efficient to address any potential environmental effects.

MAORI VALUES ASSESSMENT, 2021 (MVA)

66. It seems regrettable that the authors of the MVA have obviously not been made aware of the nature of the statutory process at hand. The MVA is drafted in a presumption that takes subdivision on the site as a fait a compli, when the current proceedings are all about deciding whether subdivision on the site would be appropriate under the existing regulatory framework.

67. The assessment is comprehensive and would be useful in a different context. For a plan change proposal however it seems somewhat premature, and the authors seemed to have missed out on the opportunity to be able to express their views about whether development of the site is appropriate from their particular perspective.

VERSION 13A

68. New Rule 2A only refers to one single matter of discretion (Matter 7) for Minor Units that do not meet the standards for restricted discretionary activities. This is contrary to what was explained during the hearing in terms of 'comprehensive controls' provided for these activities.

69. The surprising last minute changes to Rule 1.2 (TCSCP Version 13a) appear to reflect a lower level of importance associated with pre-development iwi consultation. I am unaware whether affected parties have been consulted in this respect.

WAIKATO REGIONAL COUNCIL (WRC) EVIDENCE 31 AUGUST 2021

70. WRC's evidence refers to Decision No. (2020) NZEnvC 189 setting out conditions for adaptive management of long-tailed bats within subdivision rules for land that had been formally earmarked for urban growth in the Hamilton District Plan (Peacocke Structure Plan). The decision deals with very specific buffer requirements for a known bat habitat within the context of a subdivision consent the granting of which was not disputed by any of the parties.

71. The situation at the TCSP site is quite different. The rural zone for the site has only recently been confirmed through a District Plan review and there is opportunity to use the existing Plan rules for conservation lot subdivision. In my view an adaptive management approach is not suitable to overcome a lack of baseline surveys, formulation of management outcomes and quantifiable monitoring parameters to justify development rights through a Structure Plan that conflicts with the Plan's and the Regional Policy Statement's provisions.

APPENDIX 1

RESPONSE TO DISCUSSION ON DISCRETIONARY OR RESTRICTED DISCRETIONARY STATUS FOR 3 BUILDINGS AND 430 m²

Rule 1.1 c) One defined Building Area which shall be no greater than **500 m²**

Rule 1. 2 "Subdivision that does not meet the standard set out in Rule 1.1.c) for one or more Defined Building Areas shall retain its status as a restricted discretionary activity.

TABLE 3 STANDARDS FOR BUILDINGS AND EARTHWORKS

Maximum Building Height 6m

Maximum Building Footprint **350 m²**

Maximum Number of Buildings on a lot **2**

Rule 2.1 One **dwelling** per lot/Accessory building permitted.

Rule 2.2 discretionary if it does not meet standards in Table 3 (except reflectivity etc.) = Height, Maximum Building Footprint, Maximum number of Buildings on a lot

Rule 3 Minor Unit

1. Permitted within DBA and meeting standards in Table 3.

2. Restricted Discretionary if within DBA, and total Building Footprint of all buildings within DBA does not exceed **430 m²**, total number of buildings do not exceed three, and the standards for buildings and earthworks in Table 3 are otherwise met.

MR GORDON WILLIS

72. Rule 8 Conservation lot subdivision: there is an 'and' between 1. f) and 1. g) hence, the "the maximum number of conservation lots per lot (parent lot) or landholding is 2 additional lots in the Coastal Environment or 4 additional lots outside of the Coastal Environment".

73. So, 18, 19 or 23 lots would not be available under this Rule 8 (as suggested by Mr Gordon Willis).