

**BEFORE INDEPENDENT HEARING COMMISSIONERS
APPOINTED BY THAMES COROMANDEL DISTRICT COUNCIL**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the hearing of submissions to Variation 3 to the
Proposed Thames Coromandel District Plan
(Taiwawe Catchment Structure Plan)

**MEMORANDUM OF COUNSEL FOR HOT WATER BEACH (NZ) LIMITED
REGARDING RESUMED HEARING**

Dated 25 August 2021

MAY IT PLEASE THE COMMISSIONERS

1. Further to the Commissioners' most recent directions,¹ filed herewith are the following documents:
 - (a) **Version 13** of the Taiwawe Catchment Structure Plan (**TCSP**);
 - (b) Amended Diagram A and Attachments 1 to 3;²
 - (c) Explanatory statement of evidence from Mr Lawrence (addressing changes made as revealed in Version 13);
 - (d) Māori Values Assessment (**MVA**) as prepared by Ngāti Hei Environ.
2. In relation to these documents:
 - (a) For the avoidance of doubt, Hot Water Beach (NZ) Limited (**HWBL**) intends to rely on all evidence including as previously filed (including on 1, 2 and 31 March 2021) for the purpose of the resumed hearing, except to the extent superseded (or amended) through Mr Lawrence's most recent (second supplementary) statement; and
 - (b) HWBL seeks directions to protect the content of the MVA, comprising sensitive information for the purpose of s 42(1) of the RMA, as explained further below.
3. In particular, the MVA has been filed in order to enable the Commissioners to make a better informed decision regarding the s 6(e) dimensions of the TCSP proposal, and (for HWBL's part) to guide implementation of the Structure Plan (through to subdivision and development stage), assuming confirmed by the Commissioners.
4. Having discussed the matter with Mr Davis for Ngāti Hei, HWBL's preference is that the MVA not be posted on the Council website, but instead for HWBL to make hard copies of that document available to submitters attending the resumed hearing, on the basis that they would return those copies at the end of the hearing.
5. This is respectfully submitted to strike an appropriate balance between natural justice considerations and the protection of culturally sensitive information in the MVA for the purpose of s 42 of the RMA.
6. Counsel can of course address the Commissioners further regarding this request at the hearing, and on the understanding that Mr Davis would himself

¹ Fifth minute dated 5 August 2021.

² Diagrams B to F remain as filed on 31 March 2021.

be present to address the concerns behind this request (assuming that is required) as well.

7. In the meantime, the direction sought is simply that the MVA not be posted on the Council website, pending commencement of the resumed hearing.

Covid-19 Restrictions

8. To the extent necessary depending on progression of the Delta variant Covid-19 outbreak, HWBL requests that the Commissioners consider whether it would be appropriate for the resumed hearing to proceed using remote facilities under s39AA of the RMA.
9. All previous evidence has been available to the respective parties for some considerable time, and submitters have had an opportunity to attend the pre-hearing meeting convened on Thursday 20 May 2021, whereby Version 12 of the TCSP was explained to them, prior to discussing issues and concerns arising (as summarised in the Facilitator's report of 8 June 2021, and now addressed in Version 13).
10. HWBL therefore submits that it would be both appropriate and fair to proceed with the resumed hearing using remote facilities, assuming the Commissioners are satisfied that the Council can make the necessary remote access facilities required to facilitate such a hearing, available.³
11. Again, directions providing for a remote access hearing to be conducted on 9 September 2021 (assuming that is necessary depending on the status of Covid-19 restrictions) are sought accordingly.



Martin Williams
Counsel for Hot Water Beach (NZ) Limited

Dated: 25 August 2021

³ Section 39AA(4) of the RMA.