

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
(Taiwāwe Catchment Structure Plan)

**Second Supplementary STATEMENT OF EVIDENCE OF
GRAEME JAMES LAWRENCE
ON BEHALF OF HOT WATER BEACH (NZ) LIMITED**

Dated 25 August 2021

INTRODUCTION

1. My name is Graeme James Lawrence. I am director of Lawrence Cross Chapman & Co Ltd an Auckland based Environmental Planning company. My qualifications and experience are set out in my primary statement of evidence.¹

CODE OF CONDUCT

2. I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and that I agree to comply with it. I further confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

PRIMARY AND SECONDARY STATEMENTS OF PLANNING EVIDENCE

3. My primary statement of evidence:
 - a. Briefly responded to observations arising from my review of the s 42a Report.
 - b. Introduced the Taiwāwe Catchment Structure Plan (TCSP) with refinements made to address concerns raised in the s 42A Report and by submitters and provided an overview and brief commentary on the TCSP provisions (**Version 11**).
 - c. Identified and commented on key policies and rules which manage environmental effects to achieve the Proposed District Plan Objectives.
 - d. Updated the s 32 analysis in light of the refinements made to the Structure Plan in Version 11, by providing responses to the points raised in the Table included in Section 8.2 of the s 42A Report.
4. In my supplementary statement of evidence² I reviewed the supplementary s 42A RMA Planning Report [s42A SR] received on 15 March 2021 along with its attachments containing comments and input by Mr Kessels (ecologist), Council's Roding Manager (Traffic and Stormwater) and Council's Development Planners (Consents Planners)³.
5. I addressed the points raised in the s 42A SR covering:
 - a. Further edits and refinements being made to address specific concerns

¹ Dated 2 March 2021

² Dated 31 March 2021

³ S42A SR Attachment 3 "Recommendations based on TCDC Development Planners – Mechanics and workability of TCSP Provisions"

- b. Reasons for not responding in the manner suggested
- c. Making corrections or challenges to statements or observations given and in so doing produced **Version 12** of the TCSP as an attachment.

SCOPE OF EVIDENCE IN THIS SECOND SUPPLEMENTARY STATEMENT OF EVIDENCE

6. This evidence addresses matters raised in the Pe Hearing Meeting convened in Whitianga on Thursday 20 May 2021. It is structured in this way:
- a. Provides a table setting out the responses proposed for each of the outcomes, listed in the summary of the meeting, following review or investigation undertaken by HWB(NZ) Ltd⁴.
 - b. Produces **Version 13** of the TCSP with changes proposed as a result of the further review and/or investigations taken.
 - c. Acknowledges the particular responses proposed for the incorporation of Mātauranga Māori (as to Ngāti Hei in particular) into implementation of the TCSP, and its integration within a wider planning context. It is noted that this is to be on going, by way of both regulatory and non-regulatory methods - through relationship building between the new Incorporated Society and Ngāti Hei as mana whenua.

TABLE OF RESPONSES

7. The following table (Table 1) sets out the topics raised and identified and agreed at the Pre-Hearing Meeting for further response. The topic raised is in the first column,⁵ responses are set out in the second column, with my planning comment in the third. The last column references the changes proposed in TCSP Version 13 dated August 2021 (attached).
- The changes in Version 13 are highlighted in yellow. They are in addition to or refinement of those that were set out (in track change) in TCSP Version 12 circulated to parties to the Pre-Hearing Meeting and attached to my supplementary planning evidence dated 31 March 2021.

⁴ See Section 6 Summary “Thames Coromandel District Council Variation 3 Facilitation Meeting Report” Prepared for Hearings Panel by Steve McDowell dated 8 June 2021

⁵ As recorded in the Section 6 summary, with some explanation of the issue where that assists understanding what was raised.

Table 1: Variation #3 Topics for further Investigation/Review			
Topic	Response	Comment	TCSP V13 Reference
Road Location (Ngātuturu Lane)	The indicative alignment for ROW entry from Ngātuturu Lane has been moved as far as practicable to the east, as requested by Mrs Harrison .	The revision will take vehicles into the site before reaching the existing property at Lot 2 DPS 71707 while maintaining an appropriate ecological buffer with the existing wetland.	Diagram A & Attachments 1-3
Safety Traffic Audit	The intersection design for Hotwater Beach Road & Taiwāwe Lane prepared by TPC is included in TCSP.	Traffic Safety Audit recommendations are not yet available. Diagram B provides the recommended solution to cater for the TCSP. The Safety Audit is expected to address whether peak traffic movements (at pre COVID levels or projected post COVID levels) require additional measures.	TCSP Diagram B
Minor Units Spatial Rules - definition (uncertainty over application of Table 3 standards to Minor Units, and control of building areas)	Amend Minor Unit Rule 3.1 to require compliance with standards in Table 3 for permitted activities and amend Table 3 to replace "Site Coverage" with "Building Footprint". Provide a definition for Building Footprint. Amend Rule 3.2 to refer to total Building Footprint (for restricted discretionary up to cumulative limit of 430m ² and limit buildings to a maximum of 3) provided all other Table 3 standards are met).	Amendments clarify that methods for managing effects of building size and site coverage cover the cumulative effects of dwelling, accessory building and Minor Unit. "Site coverage" is defined in the Plan but as a percentage of a site, whereas Building Footprint as now defined in the TCSP provides a standard that will apply to all lots regardless of size to avoid landscape and amenity effects of larger buildings on larger rural sites.	Rules 3 Minor Unit 3.1 & 3.2 Table 3 27.9.7 Definition Building Footprint
Reverse Sensitivity	Provide an additional Matter of Discretion in Table 2: Restricted Discretionary Matters to expressly address reverse sensitivity effects within the TCSP, and in particular	By staying silent on this matter the TCSP was not creating any conflict with general provisions of the PDP, which would therefore apply regardless (Proposed	Table 2: Restricted Discretionary Activity Matter 10 and related

	for Defined Building Areas 14, 15, & 16 .	Plan Rule 27.1.2) . However, to address the submitter's concern, rather than rely on the application of the Subdivision Section 34 Objectives and Policies and Table 5: Matter 12, this matter of discretion is proposed to be brought into the TCSP to ensure that it is not overlooked when a subdivision application is assessed. The DBAs identified are those closest to the submitter's property.	assessment criterion.
Dogs (blanket ban on dogs preferred by submitter)	No change	Detailed provisions are included within the TCSP to ensure dogs are properly managed. The corporate entity for landowners is to take responsibility for ensuring management provisions are observed. (See Rule 1.1 k)	
No provision for public walkways through the site (kiwi protection etc, added potential for trespassing onto adjoining land used for farming)	In Rule 4 "Any other Activity", clarity is provided by setting requirements for establishing a walkway (in accordance with the Ecological Management Plan), regarding its management, and to confirm availability for owners and invitees only. In Rule 4.4, public access becomes a Prohibited Activity. A note is added to ensure access by Ngāti Hei, being mana whenua, is not precluded under Rule 4.4, and consulted on walkway location and signage.	Submissions sought opposite outcomes - those seeking public access to walkways and those opposing public access. This matter is addressed in primary and supplementary planning evidence. The amendments clarify that access is for owners and invitees only to ensure ecological habitat is not impacted by large numbers of people and access remains under control of the land owners and/or their corporate entity. Walkways are to be located in consultation with Ngāti Hei.	Rule 4.1 c) Rule 4.4

Amenity tracked back to reverse sensitivity	Changes made are covered by responses under: <ul style="list-style-type: none"> • Road location • Cultural • Spatial Rules • Reverse Sensitivity • Walkways 		
Enforcement	No change	The question of consent authorities' exercise of monitoring and enforcement is a nation wide issue. The proposal to set up a legal entity to oversee the operation and be responsible for compliance (Rule 1.1 p v)) will go a long way to addressing this issue. The authorities will have one body to deal with and the corporate entity for land owners will be set up to be in a legal position to ensure standards are met, as well as be able to participate in providing social or economic sanctions where necessary.	
Realism (understood to relate to the various requirements for enhancement, restoration, pest management etc to actually be completed in practice)	No change	As above re enforcement, and refer to my primary statment (paragraphs 21 and 22) as to the level of investment and commitment to the stewardship needed, as being sustained through the number of owners proposed under the TCSP.	
Third Party Covenants	New assessment criterion 6b) to provide discretion over the type of conservation covenant able to be imposed	Rule 1.1r, as previously referenced in criterion 6 b, was deleted in Version 12 (and replaced with a prohibited activity rule for further subdivision). In Version 13, criterion	

		6 b) has been replaced with a new assessment criterion to provide discretion over the type of conservation covenant to be imposed. It may be by way of Council consent notice, Conservation Act covenant or another mechanism such as QEII Open Space covenant or equivalent . For example, the landowner and Ngāti Hei are open to considering Ngāti Hei becoming a covenantee.	
Better Examination of cultural values	A memorandum of understanding (MOU) has been entered into by HWB(NZ) Ltd and Ngāti Hei Environ. A Māori Values Assessment (MVA) has been completed by Ngāti Hei Environ.	The MOU is a private agreement between the parties over the understanding they have reached about their respective roles in this project going forward.	No changes necessary; refer Cultural Values below.
Cultural Values Assessment to be progressed	<p>Additions to:</p> <ul style="list-style-type: none"> • acknowledge the mana of Ngāti Hei at Te Puia (Hot Water Beach) within their rohe • add a method for achieving the purpose of the TCSP, that it be implemented in accordance with the Memorandum of Understanding reached with Ngāti Hei. • articulate the outcomes sought and to ensure best practice standards and guidelines for wastewater management (see new Rule 1.1 e) i) below) • consult with Ngāti Hei for input and review of future assessments along with subsequent MVA to support the application for subdivision consent (see new Rule 1.1 r). 	<p>The amendments proposed arise out of the MVA and associated consultation which established (to my satisfaction, understood to be shared by Ngāti Hei) that the proposed Taiwāwe Catchment ecosystem protection and enhancement and the development initiatives are consistent with the objectives and cultural values and relationships of Ngāti Hei regarding the TCSP land, but these amendments will better ensure that outcome .</p> <p>Implementation of the MoU (as a non regulatory method) and provision for further consultation with Ngāti Hei at key stages of implementation of the TCSP (refer further rule</p>	<p>Description Add new para 2 to Description. Add a new non regulatory method x) to achieving TCSP purpose. Amend Rule 1.1 e) i) and n). Add note to Rule 4.4</p> <p>New rule 1.1 r)</p>

		1.1 r) as addressed below) will cement the intended outcomes and relationships.	
Water Quality-sewage/exemplar project	Rule 1.1 e) i) and Table 1. 2 a) have been reworded to clearly articulate the outcomes sought, and application of best practice standards and guidelines as emerge over time .	A review of the provisions for ensuring water quality is enhanced has confirmed that the retirement of the land from livestock, extensive revegetation of slip prone unstable areas, creating indigenous habitat corridors, extensive riparian margins and extension and protection of wetlands will provide positive outcomes. Wastewater management provisions have been edited to ensure emergent best practice is applied.	
Rules and Peer Review of systems	Changes as above	Addressed as above including through provision under MoU and TCSP for further and ongoing direct involvement of Ngāti Hei.	
Pressure on Water Quality	No further change	As above. As to water quantity pressures, hydraulic neutrality is achieved, provision is made in the standards for water storage tanks to be established. Wastewater irrigation can be applied to conservation or landscape planting areas. Regional Plan Policies and rules apply.	

8. With the further refinements in Version 13, the TCSP not only addresses the concerns raised at the Pre-Hearing Meeting but goes further to acknowledge Ngāti Hei cultural relationships and values and make refinements to recognise the contribution TCSP will make towards achieving those goals.

Taiwāwe Catchment Structure Plan Version 13

9. I attach TCSP Version 13 with Diagram A and Attachments 1-3 updated to show the realignment of the Ngātuturu Lane entry into the structure plan area.

Ngāti Hei Māori Values Assessment

10. I have reviewed the Māori Values Assessment prepared by Ngāti Hei Environ. I have also participated in *kanohi ki te kanohi* consultation with its author and *kaumātua* Joe Davis MNZM, in my capacity as Planner for HWB(NZ)Ltd and in the company of its Directors, John McDermott and Jeremy Coates.
11. As a result of my review of the MVA I am satisfied that, with the amendments proposed to be added into TCSP by way of Version 13 as outlined above, the requests and recommendations in respect to conservation and development made in the MVA specific to Taiwāwe and Te Puia are adequately and appropriately addressed. The TCSP provisions covering the following topics are specifically relevant:
 - a. Recognition of cultural values.
 - b. Conservation areas and ecological management plan requirements for protection of existing and new indigenous revegetation, creation of ecological corridors, buffering development, removal of fish barriers, riparian management and wetland restoration.
 - c. Best practice for wastewater management.
 - d. Stormwater management and erosion control.
 - e. Earthworks.
 - f. Covenanting.
12. Additional provisions proposed are set out in the Table above. The significant changes that are being made to the Taiwāwe Catchment Structure Plan include:
 - a. Acknowledging Ngāti Hei as mana whenua in the TCSP description.
 - b. Adding to the methods for achieving the purpose of TCSP, that it will be implemented in accordance with the Memorandum of Understanding reached with Ngāti Hei Environ, the mandated resource management entity for Ngāti Hei o Hauraki.
 - c. Ensuring descendants of Hei are not denied access to the walkway network(s) established within conservation areas.
13. The further detail for implementation on the specific issues raised in the MVA will be addressed in the application for subdivision consent. With the agreements reached between the developer (to be handed down to the new corporate entity of landowners) and Ngāti Hei as to their future working relationship, there is to be on going collaboration

to finalise detail both in the application for subdivision consent and outside the regulatory framework, for example, playing a part in the Ngāti Hei Bio Regional Park concept⁶.

14. So far as the detail of the subdivision is concerned, a new rule is proposed in the TCSP Version 13 (Rule 1.1 r)) requiring consultation with Ngāti Hei, prior to application for subdivision consent, to inform the design and implementation of the subdivision, as may take the form of a further MVA.
15. This commitment for ongoing involvement of Ngāti Hei Environ in the subdivision process at a more detailed level is brought into the TCSP by way of the new rule so that Ngāti Hei Environ will receive and be able to provide input on plans, reports, surveys and environmental impact assessments, including but not limited to:
 - a. archaeological field survey
 - b. geotechnical assessment
 - c. baseline ecological survey(s)
 - d. ecological management plan
 - e. landscape planting plan
 - f. subdivision AEE
 - g. location, design, and construction of *awa* (pathways) and linkages.

Conclusion

I support the changes being made. I recommend Version 13 of the TCSP as an efficient and effective means of managing adverse effects of development while promoting indigenous biodiversity and ecological enhancements, and recognising and providing for the cultural relationships, values and kaitiaki status of Ngāti Hei.

Graeme Lawrence
Planner

25 August 2021

⁶ The TCSP covers part of the Ngāti Hei Bio Regional Park. This is a concept being developed by Ngāti Hei Environ to provide Ngāti Hei with a kaitiakitanga strategy for their rohe. While its current focus is at Wharekaho this strategy is now able to be applied in part at Te Puia through the TCSP and an MoU for on going collaboration between landholders and mana whenua.