

BEFORE THE ENVIRONMENT COURT

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

AND

IN THE MATTER of an appeal pursuant to Clause 14 of the First Schedule to the Act

BETWEEN **RENN NORMAN ARCHER WELLS, DAVID WILLIAM GRAY AND JODY PHILIPPA WELLS**

Lodgement: ENV-2016-AKL-000140

Appellant

AND **THAMES-COROMANDEL DISTRICT COUNCIL**

Respondent

**JOINT MEMORANDUM OF THE PARTIES
IN SUPPORT OF A DRAFT CONSENT ORDER**

**BROOKFIELDS
LAWYERS**

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MAY IT PLEASE THE COURT

INTRODUCTION

1. On 11 June 2016, Renn Norman Archer Wells, David William Gray and Jody Philippa Wells (**Appellants**) filed a Notice of Appeal (**Appeal**) against the decisions made by the Thames-Coromandel District Council (**Council** or **Respondent**) on the following Planning Maps (**Planning Maps**) in the Proposed Thames-Coromandel District Plan (**Proposed Plan**):
 - (a) Planning Map 17 Zones 'Whitianga';
 - (b) Planning Map 17 Overlays 'Whitianga';
 - (c) Planning Map 17A Zones 'Whitianga';
 - (d) Planning Map 17A Overlays 'Whitianga';
 - (e) Planning Map 18 Zones 'Mercury Bay';
 - (f) Planning Map 18 Overlays 'Mercury Bay';
 - (g) Planning Map 18E Zones 'Whitianga'; and
 - (h) Planning Map 18E Overlays 'Whitianga'.
2. Pieter Dirk Sieling gave a notice of intention to become a party to the Appeal under s 274 of the Act.

THE APPEAL

3. The relief sought by the Appellants relates to their properties at 20 Wells Place and 92 Racecourse Road, Whitianga, Coromandel. The properties are legally described as Lot 2 DPS 26491 (17.45 ha) and Lot 2 DP 382594 (46.08 ha) respectively (the **Properties**).
4. In the Proposed Plan, the Properties are predominantly zoned Residential, with some areas zoned Open Space. Planning Maps 17, 17A and 18E Overlays 'Whitianga' note certain land areas as a 'Future Structure Plan Area'.
5. The Appellants seek the removal of the Residential zoning of their Properties from these Planning Maps, and / or to have meaningful consultation and negotiation with the relevant landowners regarding Structure Plans.

WITHOUT PREJUDICE DISCUSSIONS

6. On 27 February 2017, Council Officers Leigh Robcke, District Plan Manager and Bruce Baker, Senior Policy Planner, met with the Appellant at the Council's offices in Whitianga (**Meeting**). The discussions at the Meeting sought to understand the scope of the Appeal and to identify whether an agreement could be reached between the parties.
7. Council officers advised the Appellant of the reasons for proposing to zone the Properties as Residential. That included their Properties being within an area of land demonstrated in previous strategic reports as being suitable for future residential growth in Whitianga. These reports include the Whitianga Forward Planning Study (2004), the Coromandel Peninsula Blueprint - Framework for our Future (2009), and the Coromandel Peninsula Blueprint - Local Area Blueprints (2011).
8. The Appellants stated that they would like to retain their commercially viable dairy farm and noted that they have been involved in development in the past. The Appellants' main concerns were around the effects that the proposed rezoning might have on the value of the Properties, and as a result the rates payable. The Appellants believe the area being zoned as Residential in the Proposed Plan is excessive and not required at the present time.
9. Council officers advised the Appellants that a Council resolution had been passed enabling it to remit rates for specific properties in the district so that any additional rates burden due to an increase in land value is not felt by the landowner until residential development takes place. Council officers explained that the part of the Properties located to the north of Racecourse Road has the notation 'Future Structure Plan Area' in the relevant Planning Maps, so any subdivision consent in the area is assessed as a non-complying activity until a structure plan is included in the Proposed Plan.
10. Following the Meeting, the parties corresponded by email and agreed that the eastern area of the Properties (which adjoin an existing Residential Zone) should remain zoned as Residential. The remainder of the Properties are to be rezoned as Rural. The parties also agreed that the 'Future Structure Plan Area' notation will remain as currently shown in Planning Maps 17, 17A and 18E Overlays 'Whitianga' of the Proposed Plan.

11. The Council has generated a revised planning map that records the agreed rezoning of the Planning Maps referred to above, a copy of which is attached to the draft consent order and marked **Annexure "A"**.
12. Mr Sieling, the sole s 274 party, has advised that the agreement reached by the Council and Appellant is acceptable to him.

ORDERS SOUGHT

13. In light of the aforementioned matters of agreement, the parties respectfully request that the Court:
 - (a) Makes an order resolving this Appeal in terms of the attached draft Consent Order; and
 - (b) Makes no order as to costs.
14. The parties agree that on this basis the Appeal and Mr Sieling's s 274 interest in it, will be resolved in their entirety.

DATED the 19th day of May 2017



A M Green / B P Milo

Counsel for Thames-Coromandel District Council

D W Gray, R N A Wells and J P Wells

Appellants

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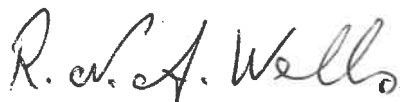
DATED the day of 2017

A M Green / B P Milo

Counsel for Thames-Coromandel District Council



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DATED the

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May

2017

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Counsel for Thames-Coromandel District Council

D W Gray, R N A Wells and J P Wells

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P D Sieling

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