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10 March 2020

**Attn: Michelle Carmine
Consultant Planner
Waikato District Council**

By Email

Dear Michelle,

**RE: LUC0427/19, LAND USE CONSENT FOR A COMMERCIAL DEVELOPMENT AT 561 HOROTIU ROAD,
TE KOWHAI – PLAN PRECEDENT & INTEGRITY**

In your email of 25th February 2020 to Richard Falconer, you requested an assessment of the above proposal in terms of potential precedent and impact on plan integrity. Accordingly, please find below this assessment.

At the outset, it is considered the proposal is consistent with the all planning direction for this site.

Commercial activities are a discretionary activity in the Countryside Living zone under the Operative Plan, therefore are anticipated by the Plan, subject to assessment of the particular merits of the proposal. As such it is inherent that precedent has limited relevance since the Plan specifically requires a case by case examination. Following, approval to a discretionary commercial activity in the Country Living zone cannot threaten the integrity of the Plan, since the Plan especially makes allowance for such activities in the Zone. If the effects of commercial activities in the Country Living Zone were of a significance warranting consideration of precedent and Plan integrity, the more appropriate status would have been non-complying.

The Proposed Plan and other relevant planning documents are also of relevance to this proposal, as indicated in the application. The change in zoning from the Operative Country Living to Business in the Proposed Plan provides strong encouragement to this proposal and is bolstered by the absence of submissions in opposition to the rezoning. The site and site to the south were rezoned to provide further commercial options in the Village of Te Kowhai, in anticipation of the growth intended for the village through the change of zoning of much of the land in the village from Country Living to Village with the attendant increase in density from 5000m² to 3000m². This reduction in site area is however just one step towards planned eventual conversion to fully urban densities once the area is reticulated for services. The currently limited commercial options in the Village have been supplemented to service this planned growth.

It is interesting to note that the zoning of an existing commercial operation in the Village, the Te Kowhai Village Café, remains zoned Rural. This planning preference in favour of the subject site compared to the site of the existing Café recognises:

- The comparative centrality of the subject site to those parts of Te Kowhai for which intensification is planned
- The size of the subject site which can provide an appropriate area of commercial development that fits the anticipated needs of Te Kowhai

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- The ability to develop the site that will mitigate or avoid effects on nearby sensitive uses, and will result in a bespoke high quality design, instead of piecemeal development with potentially lesser design outcomes
- The containment of the site by surrounding uses and zones, preventing further expansion.

The intensification of Te Kowhai bringing with it the need for more commercial activities, appropriately located, is informed by several higher level planning documents, which are relevant to the consideration of this application under s.104(1)(b)(vi) and (c) of the RMAct.

Future Proof Waikato identifies Te Kowhai for expansion, as part of providing for planned population growth inside the Auckland-Waikato Corridor over the next 30 years.

“Within the Waikato District, indicative village limits have been proposed for the villages on the Hamilton City periphery, including...Te Kowhai... The expectation is that land within an indicative village limit may be developed to a rural-residential density only unless reticulated wastewater is available, with a single commercial centre providing for the daily convenience needs of residents in the immediate area.” [p.33, Future Proof].

The Regional Policy Statement identifies Te Kowhai as a growth area with designated urban limits (subsequently expanded by the latest revision of Future Proof).

Table 1 of the Introductory Guide to The National Policy Statement on Urban Development Capacity 2016 identifies Hamilton including the Waikato District as a High Growth Urban Area requiring the application of various policies for the management of growth. Relevant requirements include the production of a housing and business development capacity assessment (Policies PB1-5) and setting minimum targets in plans for the provisions of housing and business activities (policies PC5-11).

While the zoning of the subject site under the Proposed District Plan cannot yet be confirmed since rules attached to the zoning remain contested, the direction of planning for Te Kowhai and uses within it is clear and compelling. Other relevant documents that are beyond challenge have determined that there is to be growth in and around Te Kowhai, and when Te Kowhai is reticulated for wastewater that growth is going to be relatively significant. Part of servicing that growth is the provision of business services such as what is proposed through the application and provided for through the PDP’s zoning.

The location of the Business zone on this site has been carefully selected for the reasons outlined above, and there are no other sites within Te Kowhai with these characteristics. The unique circumstances present at this site will ensure the proposal will not result in a precedent effect. Without a precedent effect, and as a discretionary activity, the proposal cannot harm the integrity of the Plan.

Kind Regards,



CHRIS DILLON
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