

BEFORE KAIPARA DISTRICT COUNCIL

UNDER the Resource Management Act 1991

AND

IN THE MATTER an application for a staged subdivision consent to create 8 rural residential lots from Lot 51 DP378455 and a new lot for recreational purposes from Lot 21 DP378455 and undertake associated earthworks at Lake View Estate, Mangawhai

BETWEEN **LAKE VIEW ESTATE RESIDENTS SOCIETY INC**
Applicant

REPLY SUBMISSIONS ON BEHALF OF
LAKE VIEW ESTATE RESIDENTS SOCIETY INC

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1. INTRODUCTION

1.1 These submissions respond to matters arising at the hearing on 7 September 2026.

1.2 In particular, these submissions:

(a) Advise the Society agrees with the reporting officer's comments as provided on 7 September, particularly in relation to:

(i) the fact that the issues raised by VSP's experts relate to regional consent matters and can, in any event, be addressed "relatively easily"; and

(ii) the fact that the accepted condition 17(e) imposes a consent notice on the title, that would need to be amended via a s221 application in the future before any residential use could be made of Lot 9 (in the event it was created).

(b) Seek to allay the concerns of submitters in relation to access to and around the lake;

(c) Address Mr Badham's "submission" regarding trade competitor status; and

(d) Confirm the Society's position in relation to conditions of consent.

1.3 Paragraphs (b) to (d) are expanded on further below.

2. LOT 51

2.1 A number of submitters raised concerns about their ability to continue to access and use Lot 51.

2.2 The scheme plan clearly identifies the lots proposed to be created. Lot 5 (which, as an aside, is not adjacent 20 Blomfield Cres as claimed) sits to the north of the access road. The access road remains on Lot 51, and continues to provide access to the southern end of the lake and the walking tracks on both sides of the lake. The proposed subdivision does not impact on the accessibility to the lake or the much-valued walking track around it in any way.

- 2.3 The scheme plan tabled with my opening submissions clearly identified the full extent of the area to be covenanted on subdivision. The yellow areas, marked EA – EG are on Lot 51. The green areas, including the area marked Z (for the 4595m² of regenerating native vegetation within Lot 1) are on the proposed lots. The relevant conditions for each stage identify which of these areas are to be covenanted in the relevant stage. This is the full extent of the proposed covenants. There is:
- (a) no restriction on the ongoing use of the lake;
 - (b) no proposal to plant out or “fully covenant” the remaining Lot 51;
 - (c) no constraint on the future of the remaining Lot 51.
- 2.4 Within Lot 47, directly north of proposed Lot 9 and adjacent Mr Muir’s property at 47 Alexandra Lane, is the old cowshed. This site, with existing buildings that could have been repurposed and the potential to access the coastal environment, was the land identified by some residents within Lake View Estate as providing a preferred location for enhanced communal facilities at the time VSP was seeking its consent. Contrary to the comments made by submitters, the approach taken in the current proposal is entirely consistent with that earlier position.
- 2.5 A common refrain among the submitters was “we lose, nothing comes back to us”. This is obviously wrong. If the consent is granted, and the Society elects to implement any part of it, the proceeds will go back to the Society and, as a natural consequence, benefit its members.

3. VSP AS TRADE COMPETITOR

- 3.1 My opening submissions referenced *Kapiti Coast Airport Holdings Limited v Alpha Corporation Ltd* [2016] NZRMA 505 affirmed in *Bunnings Ltd v QLDC* [2018] NZEnvC 135.
- 3.2 *Kapiti Coast Holdings* confirmed that “what matters is that there is a competitive activity having a commercial element.” The relevant discussion is at paragraphs [13] – [23]. For the same reason four participants were found to be trade competitors in that case, VSP is a trade competitor of the Society in relation to its proposed subdivision within the same development.

- 3.3 Mr Badham referred to two decisions in his response.
- 3.4 One of the two cases Mr Badham referred to¹ in his “submission” was distinguished in *Kapiti Coast Holdings*. It is similarly distinguishable here, as this is not a proposed rezoning where only a certain amount of land needs to be so zoned.
- 3.5 The other case referenced by Mr Badham² does not assist him either. There, the “indirect nature of the economic benefit [was] too remote”.³ McCallum Bros is in the business of mining sand within the coastal marine area and selling it on the wholesale market in Auckland.⁴ The other party:⁵

“...owns the land, which has sand located on it. That land is leased to Te Arai South Partners Limited (TASPL), who has a permit to extract sand from the leased land. As consideration for the lease [the landowner] receives a royalty from the sand extraction ...”

- 3.6 Here it is direct. As at the date of the hearing, VSP’s website⁶ confirmed:

Lake View Estate Stage Two is being delivered in stages. Civil construction commences February 2027, with the first titles anticipated in early 2028 and subsequent stages following. Timing is subject to the construction programme and Council certification under sections 223 and 224(c) of the Resource Management Act.

- 3.7 This clearly meets the “current tense” requirement set in *McCallum Bros*.⁷

4. CONDITIONS

- 4.1 The Applicant thanks the Commissioner for setting a process in place to enable further refinement of the conditions of consent.
- 4.2 A marked-up version is **attached**. All amendments made to the version provided with my opening submissions are identified in green highlighting.

1 Namely *Queenstown Central*.
2 Namely *McCallum Brothers*.
3 At [54].
4 At [51].
5 At [52].
6 <https://www.lakeviewestate.co.nz/faq>
7 At [55].

- 4.3 In summary, in order of appearance in green:
- (a) The scheme plans have been amended to record the final conditions in relation to covenanted areas;
 - (b) An advice note has been added to the ADP condition;
 - (c) The requirements of the Construction Management Plan have been amended;
 - (d) An area of 290m² of enhancement planting within Lot 51 (P4) is to be done at Stage 1 (rather than Stage 2) and an area of 870m² of enhancement planting within Lot 51 (P5) is to be done at Stage 2 (rather than Stage 4), so that all enhancement planting has been completed by Stage 3;
 - (e) The requirements of the Ecological Management Plan have been amended to ensure compliance with the NES:FW;
 - (f) In addition to the 290m² of enhancement planting, Stage 1 also now includes covenanting areas within Lot 51 (EB and EC), which was previously proposed to occur in Stage 2.
 - (g) The engineering plans, calculations and specifications need to provide detail of the sealed right of way, with a site-specific pavement design and an updated earthworks schedule.
 - (h) In addition to the 2,100m² of enhancement planting, Stage 2 also now includes the covenanting an additional area within Lot 51 (EA), which was previously proposed to occur in Stage 4.
 - (i) The strip of planting between Lots 9 and 10 remains within Stage 4, and is protected by way of a consent notice.
- 4.4 Of note, these changes ensure that all environmental benefit offered as part of the subdivision is delivered regardless of whether or not Stage 4 proceeds.
- 4.5 In relation to the requested changes that are not incorporated in the attached version:
- (a) The Applicant has not proposed to limit the future use or development of Lot 51 in any manner, nor to prohibit the keeping

of cats or control the keeping of dogs. These suggestions, made during caucusing:

- (i) do not form part of the proposal;
 - (ii) are not agreed to by the Applicant;
 - (iii) are not directly connected to an adverse effect of the activity on the environment, or an applicable rule;
 - (iv) do not relate to administrative matters essential for the efficient implementation of the consent; and
 - (v) therefore cannot be imposed on the consent.
- (b) To the extent there is an argument that owning cats and dogs is a potential adverse effect of the activity on the environment, the Applicant relies on the wording of the condition agreed to by the Department of Conservation as being sufficient to address all such effects.
- (c) The further changes requested by Mr Badham have not been made, for the reasons explained by Mr Hartstone and Mr Hook in the comments provided to the Commissioner on 21 September 2026.

5. CONCLUSION

- 5.1 In my submission the application is entirely worthy of a grant of consent on the attached conditions.

DATED 23 September 2026



B S Carruthers KC
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