

AS-4

MINDSPRING PSYCHOLOGICAL SERVICES



SUE LIGHTFOOT CLINICAL PSYCHOLOGIST

The Registrar
Family Court
TAURANGA

15 June, 2017

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S133 SPECIALIST REPORT -: SCHMIDT & HOPFENGAERTNER: FAM-2017-079-000008

CHILD

Clara Schmidt

DOB and AGE

aged 9 years 11 months (dob 3/7/07)

PARTIES

Ms Lisa Hopfengaertner
Mr Axel Schmidt

RELATIONSHIP TO CHILD

Mother
Father

OTHERS CONSULTED

Mr Simon Hopfengaertner
Mr Dean Blair
Mr Jamie Marsden
Ms Jean Saunders
Mr Dave Warwood

RELATIONSHIP TO CHILD

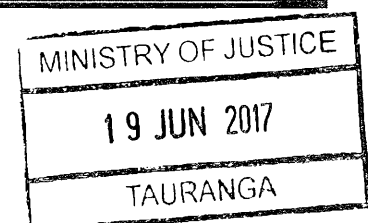
Stepfather
Lawyer for Children
Principal, Whenuakite School
Principal, Coroglen School
Friend of family

This referral was made under s133 of the Care of Children Act (2004), and was received on 8/5/17.

DOCUMENTS SIGHTED BY WRITER OF THIS REPORT - Appendix 1.

SCHEDULE OF CONTACTS - Appendix 2.

REPORT-WRITER'S CREDENTIALS - Appendix 3.



1. BRIEF

1.1 Having regard to the child's objection to return,

- ☐ What is the basis of that objection?
- ☐ Does it appear as if the objection is reality based, and/or affected by undue influence, and/or able to be addressed by explanation or intervention?
- ☐ Does the child have sufficient maturity and understanding to recognise the implication of the objection?

1.2 Having regard to the defence that the child might be exposed to grave risk of physical or psychological harm, or otherwise placed in an intolerable situation (and having regard to the factual basis set out by the parent in support of that objection),

- ☐ What is any would be the psychological impact on the child of an Order of Return to Germany?
- ☐ If the Court does order the child's return to Germany, what steps may be taken or interventions put in place, to ameliorate any negative psychological impact for the child?

1.3 Noting the child's age cognitive ability and maturity, comment on the child's likely ability to accommodate her relocation back to Germany.

2. PROCEDURE IN ADDRESSING THIS REFERRAL

For the purposes of this assessment:

2.1 I interviewed Ms Hopfengaertner on 29/5/17, at her home in Whenuakite.

2.2 I emailed Mr Schmidt's Solicitor Mr Roots, and offered the opportunity for Mr Schmidt to be interviewed in NZ, or state his position by email if he wished. Mr Schmidt responded by email stating he had now changed his Solicitor, and his new Counsel would contact me shortly. Mr Schmidt attached a number of documents and You-tube clips to his email, and I reviewed this material (Appendix 1). I have not been contacted by Mr Schmidt's new Counsel.

2.3 I observed Clara with Ms Hopfengaertner on 29/5/17, at their home in Whenuakite. (Clara's sister Charlotte was also present).

2.4 I interviewed Clara at Whenuakite School on 29/5/17.

2.5 A full schedule of contacts is provided in Appendix 2.

3. TIMELINE (in summary):

2007:

- ☐ 3rd July: Clara born in Germany.

2009:

- ☐ Parties separated.

2011

- ☐ May: Ms and Mr Hopfengaertner commenced living together.

2013

- ☐ 20th September: Incident occurred between Mr Schmidt and Mr Hopfengaertner, which involved Mr Schmidt being allegedly struck twice by Mr Hopfengaertner's car.

2014:

- ☐ February: Ms Hopfengaertner left Germany for a period of time, with her husband and two daughters, Clara and Charlotte.
- ☐ November: Ms Hopfengaertner left Germany finally, with her husband and Clara and Charlotte.
- ☐ Mr Schmidt applied for sole custody of Clara.
- ☐ 17th December: Mr Schmidt awarded sole custody of Clara.
- ☐ 23rd December: Ms Hopfengaertner appealed the decision of sole custody to Mr Schmidt.

2015

- ☐ January: Ms Hopfengaertner and her family arrived in New Zealand.
- ☐ 4th March: Ms Hopfengaertner obtained passport from German Embassy in Wellington for Clara.
- ☐ March: Ms Hopfengaertner and her family settled in the Coromandel.
- ☐ 31st May: Decision of sole custody to Mr Schmidt upheld.

2016

- ☐ 25 May: European Arrest Warrant issued against Ms Hopfengaertner.
- ☐ 18 October: Furth Court decision that Ms Hopfengaertner should release Clara into the care of Mr Schmidt.
- ☐ 27 October: Mr Schmidt advised by the German Embassy in NZ that a passport had been issued for Clara.

2017

- ☐ 14th February: Mr Schmidt made without notice Application for Order Preventing Clara's removal from NZ - granted.
- ☐ 23rd February: Mr Schmidt applied for Clara's return to Germany.
- ☐ 10th March: Ms Hopfengaertner filed defence to Non-Removal Order.

4. MS HOPFENGAERTNER

4.1 Ms Hopfengaertner aged 39 years (dob 11/3/78), has two daughters: Clara who is the sole subject of this report, and Charlotte aged 5 years. Ms Hopfengaertner lives in Whenuakite, Coromandel, with her two daughters, and husband Mr Simon Hopfengaertner who is the father of Charlotte.

4.2 Ms and Mr Hopfengaertner moved to their current home at the beginning of May 2017. Prior to this they had lived in a house nearby, for the previous 16 months. (Ms Hopfengaertner advised they had to move because their previous landlord indicated the house was needed for a family member). Ms Hopfengaertner believes their current house is available long-term. When Ms and Mr Hopfengaertner lived at their previous address, Clara attended Coroglen School. When they moved to their current address, Charlotte had turned 5 years, and began attending Whenuakite School which is nearby. Clara was given the choice of which school to attend, and after some deliberation, chose to attend Whenuakite with her sister.

4.3 Both Ms and Mr Hopfengaertner are employed, and manage child-care responsibilities between them. Ms Hopfengaertner indicated the family feel very settled in their current situation, and are very pleased with their lifestyle. They chose Coromandel from a number of possible options, after visiting different areas in NZ. Ms Hopfengaertner told me she and her family want to stay in NZ. They initially gave themselves a year in the country as a trial, and then decided as a family they wanted to settle.

4.4 **Orientation to Assessment:** Ms Hopfengaertner was well oriented to time, place, and purpose of interview, and co-operative with all my requests for scheduling of appointments.

5. MR AZEL SCHMIDT

5.1 Mr Schmidt aged 53 years (dob 21/4/64), resides in Germany. I have not had opportunity to interview Mr Schmidt for the purposes of this report (section 2.2). I did email Mr Schmidt's Solicitor Mr Roots, and offer the opportunity for Mr Schmidt to be interviewed in NZ, or state his position by email if he wished. Ms Hopfengaertner told me she believes Mr Schmidt was in NZ at least between 9th-12th May. She said she has been advised that during these dates he visited her previous house, took photos of Clara's school, and was interviewed by Police. Ms Hopfengaertner cited Police incident number "P029458443", however I did not confirm these matters.

6. CLARA

6.1 **Presentation:** Clara presents as a self-confident smiling young girl, of average height and build for her age. Ms Hopfengaertner told me Clara loves reading, and reads every night, as well as completing homework set by her teacher. Clara enjoys learning, and has started her own project on "Water", using mixed media of paper and power-point. Ms Hopfengaertner noted Clara has *"a good social sense, she has a really big social group of friends which she enjoys. And she can negotiate outcomes, she is very sensitive to social imbalances"*. Ms Hopfengaertner believes Clara is close to puberty, she is beginning to show changes in mood and behaviour, as well as physically.

6.2 **General Adjustment and Behaviour:** Ms Hopfengaertner has stated the family are well integrated into their local community in the Coromandel, including regular social contact with a good group of friends; regular attendance at the Farmers Market, "Open Mic Night", and the local Library; and frequent "sleep-overs" with friends for Clara. Ms Hopfengaertner confirmed to me that Clara considers herself to be "Kiwi" now ¹. During interview with Lawyer for Child Mr Blair, Clara stated she considered particularly the Coromandel area of NZ to be her home, she has lots of friends in the area, knows lots of people in the community, her school is there, she has weekly singing and guitar lessons, she thinks it is a nice area to live in, and she loves the beaches. In interview with myself, Clara told me similar, stating she is definite that she wants to stay in NZ – *"my life is here"* (section 7.1).

¹ Ms Hopfengaertner's affidavit dated 31/3/17

6.3 During this assessment, no concerns were expressed about Clara's behaviour or general adjustment, by any source. All those interviewed about Clara, were consistently positive about her general functioning and adjustment. During my observations and interviews, all evidence suggested similarly, that Clara is well settled in her current situation, is happy, is making very good developmental and educational progress, and has in all ways successfully adapted to life in NZ.

6.4 **Schooling:** Clara has attended two schools in NZ: [1] Coroglen School in Coromandel for 18 months until 20/12/16, and [2] Whenuakite School in Coromandel from 13/2/17 until the present time:

- 1.1 Ms Saunders, Principal of Coroglen School, described Clara as *"a lovely young girl, very positive and enthusiastic, intelligent, and she enjoys learning"*. Ms Saunders told me on arrival at Coroglen School, Clara already spoke English quite fluently. She was placed in a class with her same-aged peers, and managed well – *"she could understand and follow (teacher) instructions reasonably well, and she didn't hesitate to ask. She picked up fluent reading in English very quickly, she's a very bright little girl. She was already well up to speed in maths"*. Ms Saunders noted Clara participated fully in school life – *"she got involved in what was going, music, arts and crafts, sports, she was fit and active, liked to have a go, and languages, music, maths are definitely strengths for her"*. Ms Saunders was aware of the conflict between Clara's parents, and noted that Court matters had given Clara some anxiety. Apart from this, Ms Saunders indicated Clara was overall a well-adjusted child – *"she made friends with other children. We're only a small school so there's not large peer groups, and she got on well with children at all levels, no conflict. I wouldn't say Clara had any difficulty in adjusting to NZ at all, I would say the family enjoys the NZ lifestyle. Her parents were very happy with how Clara was here, and I know they didn't change schools lightly, and they brought her back sometimes after they moved, and (I could see), she's adjusted to that change"*.
- 1.1 Mr Marsden, Principal of Whenuakite School, indicated Clara is currently achieving at a level above age-expected standards in reading and maths, and at age-expected standards in writing – *"she really enjoys learning – anything, and she enjoys success. She loves the arts, she's creative, and she likes singing. She's one of those neat all-round girls"*. Mr Marsden noted that languages are a particular skill of Clara's – as example, her teacher is currently reading "The Never-Ending Story" to the class in English, and Clara is following the story at the same time in her German version. Mr Marsden described Clara as – *"very well adjusted, she's optimistic, she has very confident social skills with peers, very patient, very understanding, she treats children according to their needs. She will step up and be a leader in many situations, and she doesn't get involved in conflict, but helps groups work together"*. Mr Marsden described Clara as a well-adjusted girl from his observations of her over the first term – *"she settled in immediately. She seems to know all our NZ idiosyncrasies, but she has some of her own European flavour which comes out on occasion. And we only have two Maori children at the school but we have Te Reo every day in every class, and she clicks into it, she's open to it, sings the waiata. She's totally happy to be a Kiwi girl, she loves the outdoors, enjoys the environment, she loved planting trees at Hot Water Beach. She plays netball, ripper rugby, and soccer at school, and she was going to Open Mic night. She's just amazingly well-adjusted, she's neat, I wish we had more Clara's"*.

ASSESSMENT

7. HAVING REGARD TO THE CHILD'S OBJECTION TO RETURN, WHAT IS THE BASIS OF THAT OBJECTION? DOES IT APPEAR AS IF THE OBJECTION IS REALITY BASED, AND/OR AFFECTED BY UNDUE INFLUENCE, AND/OR ABLE TO BE ADDRESSED BY EXPLANATION OR INTERVENTION? DOES THE CHILD HAVE SUFFICIENT MATURITY AND UNDERSTANDING TO RECOGNISE THE IMPLICATION OF THE OBJECTION?

What Is The Basis Of That Objection?

7.1 Clara's Views:

- When interviewed by Lawyer for Child Mr Blair on 18/4/17, Clara expressed that she felt *"really sad ... very worried, and very very confused"* by her father's Application that she return to Germany. Clara indicated to Mr Blair that she is very opposed to returning. Clara's objections to return related to the following: [1] she would be taken away from her mother who is very important to her, [2] she would be taken away from her family in NZ, [3] she would be taken away from her friends and other relationships, [4] she would be taken away from her home, [5] she is "Kiwi" now, enjoys living in NZ, and prefers to live in this country in comparison to Germany, and [6] she would be returned to an overall context of her father's care in a country, which she associates both with adult conflict and being unhappy². After a further interview with Clara, Mr Blair reported that she expressed reluctance to have any contact with her father³. Mr Blair has recommended that given points 1-5 above, it is relevant in Clara's case, to consider whether she is physically and emotionally settled in NZ, and socially integrated into her community after two years in NZ⁴.
- Clara told me she is definite that she wants to stay in NZ – *"my life is here, I've got a lot of friends here, and I love my Mum so much"*. I asked Clara what it would be like if she returned to Germany. Clara responded – *"it would be bad, butterflies in my tummy, it's not a good feeling, I don't like it. Because I love my Mum so much, I never want to leave her. Just ask Mum how many hugs she gets a day. And Mum comes to school and does stuff with us, she does the sugar-free course. And sometimes at school I miss Mum. And normally my sister comes to me at lunch-time and asks for a hug"*. I asked Clara if she ever thinks about her father. Clara said she does, and then spontaneously began to tell me about the incident on 20/9/13 (sections 7.10-12). Clara told me – *"I'm not ready to see him yet, not even with Mum, not with anyone or anything, I'm not ready yet"*.

7.2 Conclusion: Clara's objections to returning to Germany were consistent when expressed to myself, to Lawyer for Child, or to others in her community. Clara stated: [1] that she believed she would lose her relationship with her mother, and her mother is the person most important to her, [2] that she would lose her life in NZ, including the rest of her family, her friends, and her lifestyle, and [3] that she did not want to see her father yet.

² Section 7.10

³ Mr Blair's Lawyer for Child report dated 9/6/17

⁴ Mr Blair's Lawyer for Child report dated 24/4/17

Does It Appear As If The Objection Is Reality Based, And/Or Affected By Undue Influence?

7.3 Clara's Relationship with her Mother – Loss of Primary Attachment ⁵:

- When interviewed by Lawyer for Child Mr Blair, Clara described her relationship with her mother as very close, and very important to her – *"she's who I cuddle"* ⁶.
- Clara told me thinking about her mother can help to stop her feeling scared – *"she's always there for us .. I love my Mum so much, I never want to leave her"*.
- I observed Clara with her mother and sister, at their home, during a school lunch-hour. Ms Hopfengaertner and the girls made pasta together, talked about their day so far, and showed me their pet rabbits, their photos, the stool Clara made at school, and other treasures. I observed a relationship between Clara and Ms Hopfengaertner characterised by frequent humour and spontaneous gestures of affection (hugs, smiles), easy conversation, and overall a very relaxed manner. Mother and daughter were very attuned to each other emotionally and cognitively.
- Ms Hopfengaertner has indicated by affidavit ⁷, and also confirmed to myself, that she will not be able to return to Germany if the Court directs that Clara return – *"my husband is here, my other kid is here, and Germany would be a disaster, Her father wouldn't let me see her, so what would I do. I would have to let her go, that's just how it is. And it's not because I want to let her go, I want to make that clear"*. Ms Hopfengaertner told me she has tried to explain the position to Clara – *"but I think she didn't want to hear it"*. Ms Hopfengaertner said this is an impossible situation for her and Clara, because she is Clara's primary adult, and they have a very good attachment. Ms Hopfengaertner spoke in only positive terms about Clara.
- From the comments made by Clara, by Ms Hopfengaertner, by others who observe the relationship (e.g., Mr Hopfengaertner, both School Principals, Mr Warwood), and from my own observations, in my assessment Ms Hopfengaertner is Clara's primary attachment. Moreover it is clear there has always been a strong secure bond between Clara and her mother, and this is likely to have been a primary attachment from the beginning. This is identified by Dr Spangler in his report. He refers to Ms Hopfengaertner as *"the primary carer to date"* ⁸, and notes *"At the time of the preliminary expert report, Clara appeared adequately developed, securely bonded to her (mother) and not neglected, and according to the observations in the preliminary expert report, she (Ms Hopfengaertner) also showed emotionally responsive behaviour towards Clara"* ⁹.

⁵ Assessment of Relationship: Assessment of the attachment/relationship between a middle-aged or adolescent child and parent will be informed by several key variables: [1] The parent's narrative about the child, (Emde, 1989). The parent's narrative enables the clinician to track attitudes and perspective regarding the child and the parenting task. (While Emde's model was particularly formulated for assessment of attachment in young children, it is relevant to consider these themes in parental reports about children of all ages. [2] Observation of behaviours in relationship: for middle-aged children observation of behaviours in relationship with their parents/caregivers are a primary part of the assessment of attachment/relationship (Kerns, et al., 2000). [3] Assessing attachment as an internal construct i.e., what people say and believe about their relationships in general, and what they say about their relationship with a specific person, i.e., as a system of thinking and behaving in particular relationships (Allen, et al., 2007; Kerns, et al., 2000; Matsuoka, et al., 2006).

⁶ Mr Blair's Lawyer for Child report dated 24/4/17

⁷ Dated 31/3/17

⁸ Page 73, partial report of Dr Spangler, dated 4/2/16, translated, annexed as "D" to Ms Pata's affidavit dated 20/4/17.

⁹ Page 75, partial report of Dr Spangler, dated 4/2/16, translated, annexed as "D" to Ms Pata's affidavit dated 20/4/17.

7.4 Clara was somewhat ambivalent in her comments about whether she believed Ms Hopfengaertner would remain in NZ. It is certain she has been told this is definitely the case, however does appear to have some difficulty in articulating this, and accepting the enormity of her situation. As example, when Clara talked about her attachment to her mother, Clara told me – *"I'd live with Dad, that would be obvious. But oh, yeah, Mum would probably come? Because she says she loves me and that she won't let anything bad happen to me, she'd protect me"*. Clara's presentation at this point was highly anxious, and close to tears. Clara spontaneously added – *"let's say she comes but Dad won't let me see her. That would be really terrible"*.

7.5 Clara's Relationship with her Sister – Loss of Other Family Relationships: Clara has lived with her sister Charlotte since Charlotte was born, the past five years. Clara told Lawyer for Child Mr Blair that she has a very close relationship with Charlotte, and misses her when she is away, e.g., at Camp¹⁰. Ms Hopfengaertner confirmed to me that the sisters are very close and always play together; this is also likely to be as a result of their travelling together as a family. Mr Hopfengaertner noted to me that to separate the sisters now would be to traumatise not one child but two, given their close bond.

7.6 I observed Clara with her mother and sister, at their home, during a school lunch-hour. Clara and Charlotte were both very positively oriented to their mother, and keen to have her time and attention during lunch. Clara and Charlotte were able to co-operate in making lunch, accessing hugs from Ms Hopfengaertner, and giving her their news, without competition or conflict. The girls laughed together on occasion, and joined in telling me a story about a family outing. At one point Charlotte spontaneously gave Clara a big "bear-hug", which Clara accepted with a smile. Clara later told me Charlotte generally asks for a hug from her at school lunch-times also. In my assessment the girls have a very good sibling bond, and this is a positive attachment for Clara. Others interviewed for this assessment indicated their similar observation (Mr Marsden, Mr Warwood).

7.7 Clara's Relationship with her Step-father – Loss of Other Family Relationships: Clara has lived with Mr Hopfengaertner since the age of three years. Clara told me Mr Hopfengaertner is like a father to her, and does everything for her that one might expect a father to do, although Mr Schmidt – *"is still my Dad"*. Clara indicated she has a good relationship with Mr Hopfengaertner.

7.8 Psychological and Social Integration into New Zealand Culture: Clara has now been living in NZ for the past 2.5 years:

- Ms Hopfengaertner has confirmed Clara now considers NZ to be "home", and is strongly opposed to returning to live in Germany¹¹. Ms Hopfengaertner told me both her daughters now identify themselves as Kiwi – *"Lotte came here when she was 3 years old. She doesn't even speak German to herself anymore, and Clara has gone to school in NZ for longer than in Germany.. we travelled and I home-schooled"*. Ms Hopfengaertner said the family have settled in the Coromandel – *"because of the people. The people support us here, and they welcomed us into this community"*.

¹⁰ Mr Blair's Lawyer for Child report dated 24/4/17

¹¹ In her affidavit dated 31/3/17

- Mr Hopfengaertner told me – *"Clara loves NZ, loves the way how things are here. Kids go to school with bare feet, she loves her school. The way people talk to children here is different, children are more appreciated here. She loves going to the beach, going on hikes, crystal-searching in streams. She's different to Lotte. Lotte can sit and observe for 10 minutes; Clara is there doing things, very active, loves to be stimulated. Here you can see her thriving in this (environment), and interacting with animals. It would be traumatic (for her) to lose that"*.
- Mr Warwood's daughter and Clara are close friends and spend a lot of time together outside school hours. Mr Warwood told me it seems to him that Clara has adjusted very well to living in NZ – *"she's a Kiwi kid, comes around, pops on her gumboots, goes and says hello to the cows, so reasonably well adjusted"*.

7.9 In interview with myself Clara described a large group of friends ranging from children in the Coromandel, to a good friend living *"up North"* (of Auckland). Clara talked about her friends with observable delight and enjoyment. Clara told me she is trying to negotiate with her mother that all of her friends will be able to join celebrations for her imminent birthday. She believes this would work if she had a party in Coromandel for her local friends, then met her friend up North in Auckland, and went to Butterfly Creek for another celebration. Both School Principals also referred to the strength of Clara's peer relationships, and her social integration in the community (section 6.4).

7.10 Incident on 20/9/13 – Objection to Having Contact with Mr Schmidt: The incident outside Clara's school during which Mr Schmidt alleges he was struck twice intentionally by a car driven by Mr Hopfengaertner ¹², is a strong memory for Clara. When asked about her father, Clara indicated to Lawyer for Child Mr Blair that she had enjoyed contact with him up until the incident on 20/9/13. Clara reported to Mr Blair that she perceived in this incident her father was in the wrong. Clara told Mr Blair the incident upset her, made her feel scared, and changed how she felt about seeing her father ¹³. Ms Hopfengaertner independently told me similar, i.e., that this is when Clara in her view began to feel anxiety about seeing her father – *"she got scared like crazy, and that's when she got scared of her Dad. He fixated at her (his glance during this incident), for about one minute. She was interviewed by a visitation counsellor after we returned from a 6-month sabbatical, and she said she doesn't want to see her Dad alone, not now, but later. Before that accident she would say her Dad didn't do anything weird to her"*.

7.11 I asked Clara if she ever thinks about her father. Clara said she does, and then spontaneously began to tell me about the incident on 20/9/13 – *"we were at school, and me and Dad were going to meet at the café after school, but Dad wanted to pick me up from school, and Mum said no, at the café. And when we were in the car he did this. Like banging on the car with his hand. And that was the first time I was scared, that gave me such a big fright"*. I asked Clara what she had thought at the time? Clara responded – *"I don't know, I was so petrified, I didn't think of anything"*.

¹² Complaint by Mr Schmidt against Mr Hopfengaertner - document annexed as "B18" to Ms Poata's affidavit In support of Application for Order for Return of Child to Germany Pending Hearing, dated 22/2/17

¹³ Mr Blair's Lawyer for Child report dated 24/4/17

7.12 I asked Clara who had been the most scared at the time of the incident. Clara responded – *"me probably, or maybe Mum"*. I observed that Clara was agitated and emotionally elevated as she described the incident. In my assessment Clara's physical, behavioural, and emotional presentation as she gave the account, and the nature of her disjointed narrative in contrast to previous way of speaking, was all consistent with traumatic recall. In my assessment this is consistent with Clara's reported statement to the German Youth Welfare Officer that she did not currently have the courage to see her father, rather than reflecting Ms Hopfengaertner's *"rejectionist attitude"* as suggested in the 2014 Decision of District Court Furth, reported by Mr Schmidt ¹⁴.

7.13 I commented to Clara that I wondered if she had been influenced by her mother in her description of the above incident, or in her decision not to see her father. Clara responded – *"Mum always gave me the choice to see Dad. Even now, she always asks. But my answer most of the time is no. I haven't said yes yet. Probably because of all that's happening, and it's connecting to what's happening now .. that's what I think"*. I clarified – what's happening now? Clara explained – *"it's getting bigger. This little thing, well it wasn't little, but basically I forgot (about the car incident), and then it's started again. When I was here (in NZ), I forgot everything. Now since Dad found we are here, he's started doing stuff. Mum gets all this stuff from him. And when she gets all that stuff from him or the lawyer, it worries her, she's in a bad mood, she doesn't like it probably. And so she's not very happy, and we also feel that as well, and we do a lot of things for Mum, and she tells us about what's happening now, and then my head goes back and I feel, uum, it feels very worried, sometimes scared"*. Clara's account at this point was a very good description of the retriggering of traumatic memories, and in my assessment explains why she still considers the car incident as a key factor in her decision not to see her father.

7.14 I report Clara's comments to myself about her father in sections 8.2-8.3. Clara described herself having had pleasurable activities and positive experiences with Mr Schmidt. Some of their activities were also recorded by Mr Schmidt and uploaded by him as You-tube videos (Appendix 1). It is clear in these that Clara is relaxed, comfortable in her father's company, and having fun. There was a clear difference in Clara's presentation however, when she talked to me about the car incident. I have already noted this was indicative of traumatic recall.

7.15 That Clara also has positive memories of her father and the activities they did together (section 8.2-3) which she can recount spontaneously and without hesitation, or evidence of anxiety and avoidance – in significant contrast to her recall of the car incident – indicates she has a reasonable range of feelings in relation to her father. Overall, Clara shows none of the typical indicators for parental influence, alignment, or alienation, cited in literature ¹⁵. Clara: [1] does not display global negativity and animosity towards Mr Schmidt, [2] Clara's reasons for objecting to seeing her father at the present, are not minor or "frivolous" but significant to her and reasonable, especially when it is considered she would have been 6 years at the time of the car incident, [3] Clara's views are also not

¹⁴ Mr Schmidt's affidavit (translated), dated 21/4/17.

¹⁵ Garber, 2011; Gardner, 2002; Friedlander & Walters, 2010; Kopetski, 1998; Stahl, 2004

stated in a rigid framework but indicate preparedness to see the possibility of contact in the future, [4] Clara is able to distinguish that it is her mother who “probably” doesn’t like actions by her father, and this is different from her traumatic recall, [5] Clara does not cite her mother’s concerns about Mr Schmidt as reasons for her own beliefs, and [6] Clara’s does not express animosity towards her paternal extended family (section 8.3).

7.16 Conclusion: Clara indicated she was very opposed to returning to Germany:

- Ms Hopfengaertner told me she has clearly explained to Clara the implications for her, if Mr Schmidt is successful in his Application to have Clara returned to Germany. Whilst Clara on occasion appeared not to believe she would need to return without her mother, overall her comments to both myself and Mr Blair Lawyer for Child, clearly indicated she understood she would have to leave her mother – her most important adult, her sister, and Mr Hopfengaertner, as well as her friends, and NZ lifestyle, behind. This would indeed be the reality for Clara.
- In my assessment Clara’s physical, behavioural, and emotional presentation as she gave her account of the car incident, and the nature of her disjointed narrative in contrast to previous way of speaking, was all consistent with traumatic recall. I consider Clara’s experience of the car incident was a genuinely distressing event for her, and traumatic symptoms have been retriggered by Mr Schmidt’s re-appearance in her life.
- I further consider Clara is referring to her own distress when stating she does not want contact with her father at the present time, and is not stating this view from parental influence, alignment, or alienation.

Does It Appear As If The Objection Is Able To Be Addressed By Explanation Or Intervention?

7.17 It clearly would be possible to provide Clara with therapy for post traumatic stress symptoms, and this could be considered. It is likely such an intervention would be useful in remitting symptoms, and thereby assisting her to think more positively about renewed contact with her father. It is not possible however to address the very real issue for Clara that she will be leaving her whole significant world behind if she is required to relocate to Germany. Clara will be asked to separate from her primary attachment figure, the sibling she has grown up with, her stepfather, her friends, and the lifestyle she has known for the past 2.5 years. Providing therapy for post traumatic stress will not be able to redress this very serious and life-changing matter for Clara.

Does The Child Have Sufficient Maturity And Understanding To Recognise The Implication Of The Objection?

7.18 Assessment of Maturity in Children: Literature on the assessment of maturity in children variously considers:

[1] the child’s age and probable functioning according to defined developmental stages, e.g., on Piaget’s criteria, Clara would be in the period of concrete operations (7-12 years). Characteristic behaviour at this stage of functioning includes evidence for organized, logical thought; ability to

perform multiple classification tasks, order objects in a logical sequence, and comprehend the principle of conservation; a move in thinking from less egocentric; and ability for concrete problem-solving. The stages of intellectual development formulated by Piaget do appear to be related to major developments in brain growth.

[2] the ability to make decisions about important matters in life, e.g., give consent to or request medical treatment (Borry et al., 2007; Wandile, et al., 2016), or develop autonomy in general (Seiffge-Krenke, 2011).

[3] the child's functioning in a range of general domains, e.g., physical health and well-being, social competence, emotional maturity, language and cognitive development, communication & general knowledge (Curtin et al., 2016),

[4] the child's interpersonal/psycho-social functioning in particular (capable of maintaining a balance between cooperative and empathetic as well as assertive and competitive actions; establishment of positive and healthy bonds; maturity for relationships increasing with age, becoming more empathetic and altruistic) (Schultz et al., 2003; Villemor-Amaral & Vieira, 2016).

[5] the child's ability to regulate emotional arousal/behaviour (Bornstein et al., 2013; Olsen et al., 2005).

[6] the child's ability to develop a more advanced sense of self (Simmons et al., 2012).

7.19 In relation to the criteria for assessment of maturity above, Clara demonstrates a good level of organised and rational thought, has already begun to make other important life decisions (e.g., which school she will attend), has a very good overall developmental ability, has very good interpersonal/psychosocial skills, has a good ability to manage her own feelings in relationship and manage her own behaviour, and has begun to develop her own sense of self (e.g., I am a "Kiwi"),

7.20 Views of Ms Hopfengaertner: Ms Hopfengaertner has described Clara as *"a particularly mature and sensitive young woman. She is highly articulate and participates easily in adult conversations ... In my view her objection must be listened to"*¹⁶. Ms Hopfengaertner told me she believes her daughter is – *"very mature for her age, and very fast in understanding things, she does draw conclusions very quickly .. and correctly. And she's very good about planning, she likes to plan"*. Ms Hopfengaertner noted that Clara has been involved in Court proceedings between her parents, since a young age – *"Clara had to go to Court three times (in Germany). She was constantly aware something was going on, and (that) it somehow had something to do with her"*. Ms Hopfengaertner said she tried to explain the implications of the current Court proceedings to Clara, several weeks prior to my visit, to clarify the rest of the family would not be able to follow her back to Germany – *"we got the papers and I thought she needed to know what was happening. She is mature enough to work it out, so I explained what would probably happen if I lose this case. And her reaction to that was I'm not going anywhere. And she's tried to ignore it all, but yes she does get how totally big the situation is ... and she said to Dean (first Lawyer for Child report), why would someone who loves me take me away from my home"*.

¹⁶ Ms Hopfengaertner's affidavit dated 31/3/17

7.21 Views of Others:

- Lawyer for Child Mr Blair noted his impression of Clara during interview in April 2017 - *"she speaks eloquently, expresses herself well, and I believe, is a confident communicator"*. Mr Blair indicated that in relation to the question of Clara's maturity and ability to understand, it was evident to him that she has *"excellent conversational skills, (and) ability to express and report about her situation and concerns"*, to a degree that might not necessarily be observed in a teenager. Mr Blair recommended Clara's views *"be given weight and importance"* ¹⁷.
- Principal of Coroglen School, Ms Saunders, told me her impression was that Clara was *"quite typical for her age, not overly mature, perhaps a little more verbally wise from travel and her experiences, but still a little girl"*.
- Principal of Whenuakite School, Mr Marsden, described Clara as a child who has very good social skills – *"she's comfortable and relaxed talking to adults and children, not introverted or extroverted, but quietly confident, and she knows her own mind"*.
- Mr Hopfengaertner told me it is difficult to say how mature Clara is, although he has noticed she is more independent, more aware of adult conversations, and *"definitely developing her own will, especially since she turned 9 years old"*. Mr Hopfengaertner said in his view, Clara definitely has an understanding about the current proceedings, the wishes of her father, and the potential implications for her of his wishes – *"she is having to talk to everyone. It is a threat to her, being sent back to Germany. She loves NZ"*.
- Mr Warwood told me he has noted Clara is very intelligent, very *"direct and forthright"* in what she says (which he believes is a cultural difference), and can talk *"at quite advanced levels. She's probably more advanced in some terms than my daughter, but then when they play together, it's the same games, witches brews and stuff, the same level"*.

7.22 Comments by Clara: Clara told Mr Blair she understood if she returned to Germany, she wouldn't see the people left behind in NZ, until she was old enough to return independently. Clara appeared unclear about whether her mother return to Germany with her, although she seemed to think it was unlikely ¹⁸. Clara told me she understands that – *"basically people are coming to talk to me, and now there's going to be a decision made about whether I'm going back to Germany or staying here"*.

7.23 Making life decisions: Clara was given the opportunity to choose which school she would attend (section 4.2), and chose Whenuakite School. Clara told me she made this choice because: [1] it enabled her to be at school with her sister, [2] it is a bigger school than Coroglen so there are more opportunities, and [3] it is more convenient for transport. In a similar fashion, with respect to her objection to relocating back to Germany, Clara has chosen current primary relationships and other advantages over her options in Germany. I asked Clara if she understood that it would be harder to have a relationship with her father if her objection was upheld. Clara told me in the future she would be ready to resume a relationship with her father, but not yet.

¹⁷ Mr Blair's Lawyer for Child report dated 24/4/17

¹⁸ Lawyer for Child report dated 24/4/17

7.24 I asked Clara how it would be if her father came to see her in NZ, and invited her to go swimming – would she be prepared to see him then? Clara responded – *"what, just me and Dad? Well, uum, I haven't got a yes or a no, I'm not ready for it yet"*. I asked Clara what would be needed for her to get "ready"? Clara responded – *"I don't know, I just need time. I'm not sure when I'm going to be ready, it might be next week or next year"*.

7.25 Conclusion: With respect to Clara's maturity and ability to understand the implication of her objection:

- ☐ In relation to the criteria for assessment of maturity above, Clara demonstrates a good level of organised and rational thought, has already begun to make other important life decisions (e.g., which school she will attend), has a very good overall developmental ability, has very good interpersonal/psychosocial skills, has a good ability to manage her own feelings in relationship and manage her behaviour, and has begun to develop her own sense of self (e.g., I am a "Kiwi").
- ☐ Others interviewed were of the view Clara has a very good level of maturity, and fully understands her current position, although in some respects she is just like any other child of her age.
- ☐ Clara was able to describe her current situation, and the rationale for her decision to both myself and Lawyer for Child. Clara was also able to discuss possible outcomes of her decision.
- ☐ In my assessment Clara does have an advanced developmental ability for her age, and would be more mature than many children her age in most areas. I consider she has made a decision that has been understandably, both emotionally and logically based, and aimed at meeting her primary needs. While Clara is perhaps yet too young to apply a high order analytical, multifactorial assessment of her situation, her decision has been completely logical and appropriate for her. It is also likely to be the same decision most older children and adults would make in her situation.

8. HAVING REGARD TO THE DEFENCE THAT THE CHILD MIGHT BE EXPOSED TO GRAVE RISK OF PHYSICAL OR PSYCHOLOGICAL HARM, OR OTHERWISE PLACED IN AN INTOLERABLE SITUATION (AND HAVING REGARD TO THE FACTUAL BASIS SET OUT BY THE PARENT IN SUPPORT OF THAT OBJECTION), WHAT IF ANY WOULD BE THE PSYCHOLOGICAL IMPACT ON THE CHILD OF AN ORDER OF RETURN TO GERMANY? IF THE COURT DOES ORDER THE CHILD'S RETURN TO GERMANY, WHAT STEPS MAY BE TAKEN OR INTERVENTIONS PUT IN PLACE, TO AMELIORATE ANY NEGATIVE PSYCHOLOGICAL IMPACT FOR THE CHILD?

Grave Risk of Physical or Psychological Harm or Otherwise Intolerable Situation

8.1 Clara's Relationship with her Father: From the record:

- ☐ Clara lived with both her parents for the first two years of life (2007-09).
- ☐ Mr Schmidt has indicated there were periods of time over 2009-10 when the parties lived together and attempted to resume their relationship ¹⁹; Ms Hopfengaertner does not agree this was the case.

¹⁹ Mr Schmidt's Statement, annexed as "B4" to Ms Poata's affidavit In support of Application for Order for Return of Child to Germany Pending Hearing

- Clara then lived in the sole care of her mother for approximately the next 3 years (2010-12). During this period contact between Clara and her father was irregular and for brief periods, according to Mr Schmidt's affidavits – a total of 28 days from 2011-12 ²⁰.
- Clara then lived in the care of her mother who was now married to Mr Hopfengaertner (2013-current time). During this period Clara has had very little contact with her father, and according to Mr Schmidt's affidavits, none for the past 4 years (since approximately mid-2013) ²¹.
- Mr Schmidt has indicated that in statements made by the Youth Welfare Office, and the Guardian ad litem – "*Clara desperately yearns for contact with her father.. but did not have the courage*" ²².

8.2 Clara referred to Mr Schmidt as "Dad". Despite the limited contact between Clara and her father, Clara told me she remembers "*lots of things*" about him – "*when we were together, doing things, went to the swimming pools, we both went swimming, had fun. And we ate pasta together. That's what we normally did. I just asked him something basically, and we did it. I think he's quite good at swimming. He taught me, and I got "Sea-horse" (level), a long time ago*". (Clara's memories of swimming with her father at the Pools, was consistent with You-tube videos Mr Schmidt sent me, which showed Clara at the swimming pools, with his voice in the background as he filmed). I asked Clara if she ever thinks about her father. Clara said she does, and then spontaneously began to tell me about the incident on 20/9/13 (section 7.11). I asked Clara what had been her favourite thing to do with her father? Clara responded – "*uum, maybe, uum, I don't know, there were lots of things*". I asked Clara if she remembers what her father looks like? Clara responded that she remembers what her father used to look like – "*but I'm not sure what he looks like now*".

8.3 I asked Clara what it would be like if her father sent a letter and a recent photo of himself? Clara responded – "*weird probably. Why would he do that? He could've done it ages ago*". I asked Clara why she thought he hadn't? Clara responded – "*maybe he didn't know where I was .. because we didn't tell him*". I asked why that would be? Clara replied – "*uum, I think you'd have to ask Mum. I think because Dad was mean and we had to get away else he'd keep on following her, and that's why we moved away. That's what I think*". In response to my direct question, Clara could not recall that her father had ever been mean to her. I asked Clara if a girl should have a Dad? Clara responded – "*I have a Dad, I still have a Dad. It's not like he died. My Dad is still my Dad and I'm not going to give that up, he's still a part of my family, he's still a part of me*". (Clara similarly told Lawyer for Child Mr Blair that she still loves her father in Germany, although she also views Mr Hopfengaertner as her father in NZ ²³). I asked Clara about extended family on her paternal side. Clara said she remembers her grandparents – "*they were nice*".

²⁰ Decision of Furth District Court, dated 19/12/14, annexed as "B6" to Ms Poata's affidavit In support of Application for Order for Return of Child to Germany Pending Hearing, dated 22/2/17

²¹ Decision of Furth District Court, dated 19/12/14, annexed as "B6" to Ms Poata's affidavit In support of Application for Order for Return of Child to Germany Pending Hearing, dated 22/2/17

²² Mr Schmidt's affidavit (translated) dated 21/4/17

²³ Mr Blair's Lawyer for Child report dated 24/4/17

8.4 Possible Risk:

- Ms Hopfengaertner's legal representative in Germany, Mr Loewe, has indicated by affidavit ²⁴, that there was substantial concern for Clara's psychological well-being and behaviour after she attended contact sessions with her father, and Ms Hopfengaertner was sufficiently concerned to access specialist psychological help for Clara, and request contact be supervised. Mr Loewe notes that at the time Ms Hopfengaertner believed the problems exhibited by Clara after contact were associated with Mr Schmidt's *"manipulative manner"*, his negative actions against Clara's *"nuclear family and her social environment"*, which all provoked *"fear and anxiety"* for Clara. Ms Hopfengaertner subsequently lodged a complaint to Furth Court about the level of contact allowed to Mr Schmidt, based on the grounds of *"mental abuse"*.
- In an affidavit ²⁵, Ms Hopfengaertner contends *"constant harassment"* by Mr Schmidt, including alleged harassment of her aged grandmother and of herself, repeated litigation against herself, and litigation against Clara's school and her psychologist. Ms Hopfengaertner also attached photographs to her affidavit, which she stated evidenced Mr Schmidt's physical violence towards herself. Ms Hopfengaertner told me a psychologist was engaged to work with Clara in approximately 2011, after Clara began to display regression in developmental skills and disturbances in emotional functioning and behaviour, after contact with her father. Ms Hopfengaertner is of the view Clara's reactions were associated with a Court decision at the time to increase contact with Mr Schmidt to 2-week periods, and also comments allegedly made to Clara by Mr Schmidt, such as she and her mother weren't allowed to see Mr Hopfengaertner anymore. Ms Hopfengaertner told me overall, it had become *"so intense, psychologically abusive. We left Germany because it was unbearable there. We wanted to be happy, live a normal life"*.
- In his Expert Psychological Report for the Nuernberg Higher Court, Professor Dr Spangler noted concerns with regard to both Clara's parents. Dr Spangler indicated concern with regard to Mr Schmidt as follows – *"His limitation in the regulation of emotions can be seen as a risk factor on the side of Mr Schmidt. Although he, when dealing with emotionally stressful situations, endeavours to apply rational-cognitive strategies and acquired knowledge for regulation purposes, he apparently does not consistently succeed in this, so that he possibly reacts in a helpless manner in some situations. That Mr Schmidt's strong orientation towards achievement may result in stress for Clara remains open"* ²⁶.

The Psychological Impact If Any, of an order of Return to Germany

8.5 Clara's Relationship with her Father – Trauma: In effect, Clara's relationship with her father was primarily formed before the age of 5 years, five years ago (half her life ago). Moreover Clara's view of her father is at present strongly overlain by her memory of the incident discussed in section 7.11, and her awareness of the current Court proceedings. As example, when asked about her father, Clara indicated to Lawyer for Child Mr Blair that she had enjoyed contact up until the incident outside her

²⁴ Dated 31/3/17

²⁵ Dated 31/3/17

²⁶ Dr Spangler's translated "partial report", page 76, annexed as "D" to Ms Poata's affidavit dated 20/4/17

school on 20/9/13 ²⁷, and when I asked if she ever thought about her father, Clara first of all referred to the car incident. Essentially, a decision to require Clara to live with her father, is sending her to live with a stranger, who for her is associated with a traumatic memory. Clara has already experienced retriggering of trauma symptoms from the re-appearance of Mr Schmidt in her life. I consider her trauma symptomatology would significantly increase if Clara were returned to Germany. She would also likely experience considerable anxiety, fears about her safety, and hyper-vigilance, in the company of her father, until such time as she began to know him and understand his reactions.

8.6 Mr Schmidt's Ability to Regulate his Reactions: Mr Schmidt is likely to find the daughter who returns to live with him in Germany, is not the delightful little girl he remembers. Clara is now close to puberty, has begun to exhibit emotional fluctuation, and has an expectation she will be allowed more independent thinking. Moreover Clara is not currently prepared to fully participate emotionally and psychologically in a relationship with her father. It is likely Mr Schmidt would find all this quite frustrating; adolescence in any case can be a challenging time for a parent. Dr Spangler noted Mr Schmidt has difficulty with emotional regulation in emotionally stressful situations. I consider it possible Clara might be at some risk for anger from her father as he struggles to adjust to his daughter. Parent-child conflict is a significant risk factor for children, impacting on their overall adjustment, ability to have their own successful relationships with others, and causing serious emotional and psychological disturbance (Copeland, 2009; Willemen et al, 2009). Negative effects will be particularly accentuated for Clara because she would not have access to any other adult for social support.

8.7 Clara's Relationship with her Mother - Loss of Primary Attachment: Security in one's attachment to a primary adult continues to be an extremely important psychological factor for the individual throughout adolescence and into early adulthood, i.e., "a secure base". It is generally only after early adulthood, that individuals begin to transfer primary attachment with a parent, to primary attachment with peers and romantic partners (Doherty & Feeney, 2004; Fraley & Davis, 1997). Moreover research indicates a percentage of adults continue to maintain a primary attachment relationship with a parent throughout adulthood (Doherty & Feeney, 2004). The loss of a primary attachment is a significant stressor, provoking above all, destabilisation for a child. In my opinion the effects of disrupting Clara's secure attachment will be very considerable and extend over time. The first likely effects will be when Clara is told this is going to occur. She will experience a period of significant grief and depression, as she adjusts to the loss of her primary attachment figure.

8.8 Following on from grief, Clara may display anger and behavioural reactions such as oppositionality and lack of compliance, and general dysregulation in behaviour as she protests the decision. It is possible Clara will display anger, lack of trust, and avoidance of closeness and intimacy in relationships, on the long-term. This is likely to be especially the case after Clara appreciates the reality that her mother and family will not return to Germany. There is also the real possibility Clara's developmental progress will be compromised on the short-term, as this transition is likely to preoccupy Clara and

²⁷ Mr Blair's Lawyer for Child report dated 24/4/17

distract her from education, leisure activities, and enjoyment of life generally. How quickly Clara is able to adjust to her situation is very much dependent on Mr Schmidt's commitment to acknowledging Clara's needs and meeting them. Ideally, Clara would be able to have very regular contact with her mother, especially during the immediate adjustment phase. Ms Hopfengaertner does not believe this will occur, and suggested it is likely mother and daughter will completely lose their relationship. Ms Hopfengaertner considers it likely Mr Schmidt will seek to isolate her from Clara, and influence Clara against her.

8.9 Clara's Relationship with her sister Charlotte - Loss of Sibling Relationship: Clara and her sister Charlotte have a very close bond. This was described by Clara and her mother, and observed by myself. This relationship would be predominantly lost, if Clara returned to Germany. Sibling relationships are often a person's longest lasting relationships, enduring beyond the death of parents (Kim et al., 2006). As such, they provide a powerful base for security, long-lasting attachment, and friendship that anchors the individual emotionally and psychologically, throughout their life-span, and into old age (Feinberg, et al., 2012; Stormshak, et al., 2009). It is through sibling relationships that the child learns relationship skills that they will then employ with peers in the wider community (Levy & Orlans, 1998; Stormshak et al., 2009; Vondra et al., 2001). Moreover, there is evidence that sibling relationship can moderate the effect of stressful life events, and this protective effect can operate separately from the quality of relationship with parents (Gass, et al., 2007; Kelly, 2006). Overall, the sibling relationship is therefore a resilience factor for good mental health outcomes, and socialisation generally (Feinberg, et al., 2012; Tarren-Sweeney, et al., 2005).

8.10 Loss of Emerging Sense of Self: Clara has recently begun to develop a well-stated sense of self that identifies with NZ and the lifestyle here. This is a very positive beginning to the turmoil of adolescence with all its usual insecurities and anxieties. A return to Germany will require Clara to re-develop her sense of self. This is likely to be problematic for her given she does not now identify as being German, and does not want to live there.

8.11 Conclusion: The likely psychological impact for Clara of an Order of Return to Germany, would be:

- ☐ **Trauma:** Increased symptoms of post traumatic stress, anxiety, fear about her safety, and hyper-vigilance, in the company of her father.
- ☐ **Anger and Conflict with Father:** (potentially) causing serious emotional and psychological disturbance.
- ☐ **Loss of Primary Attachment:** This is one of the most severe and destabilising stressors a child can experience, and is often referred to as "traumatic grief". Serious negative psychological impacts will be apparent definitely on the short-term, but also possibly on the very long-term. Ms Hopfengaertner believes Mr Schmidt will completely prevent her having a relationship with Clara.
- ☐ **Loss of Sibling Relationship:** Loss of lifelong factor for positive adjustment and resilience.
- ☐ **Loss of Sense of Self:** This will occur at a particularly challenging stage of development, when insecurities about self are common.

- **Cumulative Risk:** It needs to be noted that psychosocial and environmental risk factors produce cumulative negative effects for children, and attachment loss/abandonment and trauma are two of the most serious risk factors in a child's life (Copeland et al., 2009). Overall it is likely a required return to Germany without her mother, will have a profound negative psychological impact for Clara.

If The Court Does Order The Child's Return To Germany, What Steps May Be Taken Or Interventions Put In Place, To Ameliorate Any Negative Psychological Impact For The Child?

8.12 Therapeutic Assistance for Father and Daughter: Adult support and encouragement has been found to be an important factor in a child's recovery from traumatic grief. Notably even if Clara receives sympathetic support from her father, they do not currently have a close or significant attachment, and Mr Schmidt may not always understand the reactions of his adolescent daughter. I would strongly recommend that Mr Schmidt seeks the assistance of a psychologist who has expertise in working with children on issues of traumatic grief and loss, to guide and advise him on parenting Clara in this situation. The task of skilfully negotiating a way through this situation will be better facilitated with clinical advice.

8.13 Parent-child therapy between the child and a new caregiver can assist the dyad to better understand each other, and build and develop their relationship. Parent-child therapy has been found to be effective with a variety of difficulties including complex trauma (Becker-Weidman & Hughes, 2008), as well as with a range of age-groups (Child Welfare Information Gateway, 2007; James, 1994; Toth et al., 2002). Parent-child therapy is particularly effective because it increases parental attunement as well as understanding. Parent-child therapy with the middle-aged child has been found to be effective in: [1] reducing behaviour problems including conduct and oppositional disorders, [2] reducing parental physical abusiveness, [3] increasing positive interactions, and [4] reducing family stress (Child Welfare Information Gateway, 2007).

8.14 Individual therapy for Clara should also be considered. A combination of trauma focussed and grief focussed interventions based on a cognitive-behavioural model, do appear to offer the best results for clinical treatment of traumatic grief. Poems, drawing, songs, story-telling, and other creative interventions offered therapeutically, may assist the child to express in a different way, inner feelings that they have not been able to verbalise (Edgar-Bailey & Kress, 2010). Life-story work which provides the child with comprehensive information about themselves in a written form, might also be useful. The life-story book, generally constructed with the child, helps them to work through process of letting go of one family, and attaching to a new family (Ryan & Walker, 2007). Providing Clara with photos and videos of her early life in Germany might assist her to re-attach to a new country/situation.

8.15 Continued Contact with Mother and Other Family Members in NZ: The most significant and positive way in which Clara could be provided with intervention to ameliorate negative psychological impacts, is to ensure as adequate level of adult support as possible. This would be most effective if it came from her existing adult support structure, i.e., Ms Hopfengaertner and her husband. Their involvement would be invaluable to assist Clara recover from the shock, grief, and distress, of a change in day to day care. This would above all entail Mr Schmidt giving Clara "permission" to maintain her relationship with her mother and family in NZ. This is also recommended by Professor Dr Spangler in his Expert Psychological Report for the Nuernberg Higher Court. In relation to the risks to Clara's adjustment that could potentially derive from her being transferred to her father's care, Dr Spangler stated – *"For a minimisation of this risk (possibly with the involvement of youth welfare or a mediator) it should be ensured that Clara can be prepared for the transfer to her father, and that she has the opportunity to maintain contact with her mother. This requires the co-operation of both parents"*²⁸.

8.16 Clearly if contact between Clara and her mother and NZ family were to continue, phone-calls, "skype" contact (video-calls), and email would all be very important strategies. However face to face contact will also be important. Attachment in middle childhood and adolescence is considered to be a more active interaction between caregiver and child, than was the case when the child was younger. The child is now more able to engage with the parent in an ongoing way, to sustain the security of the attachment bond (Marotta, 2002). However this still requires a good level of communication and responsivity, and actual emotional, cognitive, and behavioural interaction between caregiver and child. If such reciprocal communication and interaction is not available, the attachment is not likely to remain secure. (It should be noted that extended holidays in NZ will be problematic for Clara. A difference in seasons and school holidays entail Clara would need to visit NZ in July if she was coming during her long school holidays. This would mean she would miss most of summer every year).

8.17 Contact with Other Family Members in Germany: Adults other than a caregiver can provide valuable social support for a child, as well as representing the family context that is no longer available. Ms Hopfengaertner told me she has some family members in Germany who might be able to maintain contact with Clara, particularly her father and his new family, and her sister and her family. Ms Hopfengaertner was however pessimistic about whether either her father or sister would actually agree to do this. Ms Hopfengaertner alleged all her family members have experienced such levels of harassment from Mr Schmidt in the past (including lawsuits), that it was likely they would not want to be involved in matters now. Ms Hopfengaertner stated these matters have been ongoing, and it is only a matter of 3-4 months ago that her sister was accused of conspiracy in the kidnapping of Clara.

²⁸ Dr Spangler's translated "partial report", page 77, annexed as "D" to Ms Poata's affidavit dated 20/4/17

9. NOTING THE CHILD'S AGE COGNITIVE ABILITY AND MATURITY, COMMENT ON THE CHILD'S LIKELY ABILITY TO ACCOMMODATE HER RELOCATION BACK TO GERMANY.

9.1 How quickly a child adjusts to the loss of a primary attachment figure, and a new living situation, will depend on their recovery from grief, their ability to transfer their affections to a new primary adult, and the skill of the new caregiver to help the child through this process. On occasions, the child finds it difficult to adjust, even though they are resilient. It is clear that such transitions shake the foundations of a child's world, and negatively affect all areas of functioning, at a crucial time of development. In the case of Clara:

- ☐ Her adjustment would not only rest on her own individual strengths and ability to adjust, but on the commitment of Mr Schmidt to support and facilitate her adjustment. For instance, it will be a substantial challenge for Mr Schmidt to take responsibility in maintaining Clara's relationship with her mother. This however, is likely to be the single most important factor in encouraging Clara's adjustment to her new situation. It is not clear to me that Mr Schmidt would be able to make this commitment.
- ☐ While Clara displays very good developmental ability, is mature and intelligent, and well oriented in life, this is within her current context of a strong secure primary attachment, and family base. Clara is now at the cusp of adolescence, and is beginning to make decisions for herself. As such she will choose for herself whether to accommodate her relocation, or whether to reject her new circumstances. Whether she chooses to adapt to relocation will depend upon the empathic support of both her parents, whether they are able to put aside personal concerns and encourage Clara to adjust to her situation.

10. CHILD'S ACCESS TO THIS REPORT

With the assistance of her lawyer, Clara could be briefed about the general conclusions of my report.

SUE LIGHTFOOT
CLINICAL PSYCHOLOGIST

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APPENDIX 1.**OTHER DOCUMENTS SIGHTED BY REPORT-WRITER**

In addition to the separately attached list of documents provided by Family Court, I have also sighted, or was otherwise provided with:

- Lawyer for Child report by Mr Blair, dated 9/6/17; provided by Mr Blair.
- Document titled "CV English 2017", translated: provided by Mr Schmidt.
- Statement of Dr Bernd von Heintschel-Heinegg, dated May 2017, translated: provided by Mr Schmidt,
- Appendix C to Statement of Professor Dr. Bernd von Heintschel-Heinegg, translated: provided by Mr Schmidt.
- Appendix D to Statement of Professor Dr. Bernd von Heintschel-Heinegg, not translated: provided by Mr Schmidt.

- ☐ Document titled "Kindeswohl interdisziplinär - Ergebnisse und Instrumente für die juristische Praxis bei Trennung der Eltern, not dated, not translated apart from some isolated sections of quotes from published literature about attachment and relationship: provided by Mr Schmidt.
- ☐ Email from Ms Hopfengaertner with attached article "Understanding The Batterer In Custody And Visitation Disputes" by R. Lundy Bancroft, c 1998 (from the Lundy Bancroft website).
- ☐ Affidavit by Ms L George, dated 28/3/17: provided by Ms Hopfengaertner.
- ☐ Affidavit of Mr K Clark, dated 25/3/17: provided by Ms Hopfengaertner.
- ☐ Affidavit of Ms Busch-Jarosewitsch and Mr Jarosewitsch dated 21/3/17: provided by Ms Hopfengaertner.
- ☐ Statement of Ms Roeglinger, dated 21/3/17: provided by Ms Hopfengaertner.
- ☐ Statement of Ms Grierson, dated 9/3/17: provided by Ms Hopfengaertner.
- ☐ Document of Mr Schmidt, dated October 2016, not translated: provided by Mr Schmidt.
- ☐ European Arrest Warrant, dated 31/5/16, translated: provided by Mr Schmidt (also provided by Family Court).
- ☐ Decision of the Nuernberg Higher Regional Court, dated 31/5/16, translated: provided by Mr Schmidt (also provided by Family Court).
- ☐ Summarised version of Dr Spangler's Expert Psychological Report dated 4/2/16: provided by Mr Schmidt (also provided by Family Court).
- ☐ Penalty Order against Ms Hopfengaertner, dated 20/3/15 translated: provided by Mr Schmidt (also provided by Family Court).
- ☐ Decision of the Furth District Court, dated 17/12/14, translated: provided by Mr Schmidt (also provided by Family Court).
- ☐ Report of Ms Zimmerman, Contact Supervisor, dated 4/12/14 – translated by Ms Hopfengaertner: provided by Ms Hopfengaertner.
- ☐ Original report of Ms Zimmerman, dated 3/12/14 – not translated: provided by Ms Hopfengaertner.
- ☐ Excerpts from pages 37, 38, 43 of Dr Spangler's report - translated by Ms Hopfengaertner: provided by Ms Hopfengaertner.
- ☐ Youtube postings, being video clips of Clara, amongst others: [1] Clara im Schwimmbad Fürth 1 07. Juni 2012, [2] Clara Larissa Schmidt, geboren am 03. Juli 2007 in Mönchengladbach und ihr Papa Axel Schmidt, [3] Clara in der Schmölderstraße in Mönchengladbach 27. Mai 2011, [4] Clara im Schwimmbad Fürth 2 07. Juni 2012 MOV, [5] Clara in der Botzelaerstraße Mönchengladbach 1 02. Juni 2011, and [6] Clara am Brombachsee 2 07. September 2013 MOV.

APPENDIX 2.**SCHEDULE OF CONTACTS**

Date	Contact
	Receive/read file, plan assessment
	Read/view additional material provided by the parties
24/05/2017	Text from Ms Hopfengaertner
24/05/2017	P/calls (2) to Ms Hopfengaertner
25/05/2017	P/call to Ms Hopfengaertner
25/05/2017	P/call to Ms Hopfengaertner
29/05/2017	Interview Ms Hopfengaertner
29/05/2017	Observe Clara with Ms Hopfengaertner
29/05/2017	Interview Clara
1/06/2017	Interview Mr Hopfengaertner

8/06/2017	P/call to Coroglen School
8/06/2017	P/call to Whenuakite School
9/06/2017	P/call from Lawyer for Child Mr Blair
14/06/2016	P/call to Mr Warwood

APPENDIX 3.**REPORT-WRITER CREDENTIALS**

1. In accordance with the Code of Conduct for expert witnesses, I list the following credentials pertinent to this assessment:

- I am a psychologist in private practice, registered under the clinical scope of practice. I am a member of the New Zealand Psychological Society. I have a Master's degree in Social Sciences (psychology), with first class honours. I was registered as a psychologist in February 1999, and as a clinical psychologist in 2006.
- I was previously employed by the Department of Child, Youth and Family Services (NOW Te Oranga Tamariki) in Tauranga, as a senior psychologist. I worked for the Department for more than 30 years, first in social work positions and then as a psychologist, in the area of forensic evaluation of adults, children, and family functioning.
- I am an accredited report writer and counsellor for Family Court. I am also a Police Psychologist, and provide assessment and counselling services under Police trauma policy. I have appeared as expert witness for the Crown in the High Court, on matters of domestic violence, battered woman syndrome, and effects of trauma.
- I have more than thirty-five years of clinical experience in working with abused, neglected and traumatised children and their families, and in the specialist forensic assessment of both children and adults. I have a particular interest and expertise in the areas of trauma, attachment, and psychopathology, and have published articles on these subjects both in New Zealand and overseas.
- I have extensive work experience in the areas of: [1] psychological assessments of children and adolescents, [2] parental and psychological assessments of adults, [3] evaluations of families and their functioning, [4] assessments of disrupted attachment and separation, and the impacts of these processes on children, [5] parental alienation, [6] child custody and access issues, [7] physical, sexual, emotional abuse, and neglect, [8] domestic violence, and [9] sexual offending.

2. I am familiar with Schedule 4 , High Court Code of Conduct for Expert Witnesses (Rule 330 A), am aware of my obligations, and agree to abide by those rules. I confirm that the evidence provided in this report is within my area of expertise and professional experience.