

Directions/Minute of the Commissioner #1
LUC23/48350
Application for resource consent for K.D Holdings Limited for the extension of
existing commercial building at 39 – 41 Molesworth Street, New Plymouth.

Pursuant to section 34A of the Resource Management Act 1991 (RMA), independent commissioner Mark St.Clair has been appointed by New Plymouth District Council (NPDC) to hear and determine the application lodged by K.D Holdings Limited (the Applicant) for the extension of an existing commercial building at 39 – 41 Molesworth Street, New Plymouth.

The hearing is scheduled to commence at **9.00am Thursday 8 August 2024** at the New Plymouth District Council Civic Centre, 84 Liardet Street, New Plymouth. At this stage the hearing is scheduled for one day with Friday 9 August 2024 as a reserve day, if required. NPDC will separately issue a formal hearing notice to the parties.

The Commissioner notes that section 103B, requires that a consent authority must provide the section 42A reports to the applicant and submitters who wish to be heard, at least 15 working days prior to the hearing. In addition, section 103B requires the applicant to provide the consent authority with briefs of evidence 10 working days before the hearing, and for submitters calling expert evidence to similarly provide that evidence 5 working days before the hearing. The Commissioner further notes that the consent authority must give written or electronic notice to the parties, that the applicant's evidence and any submitter expert evidence is available at the consent authority's offices. In relation to his last matter, I request that NPDC email the parties with a link to the Council's website of any material filed.

Accordingly:

1. Pursuant to section 103B(2) of the RMA, the Commissioner directs that the NPDC section 42A report be provided to the parties, by way of email with a link to the Council's website, no later than **3pm on Wednesday 17 July 2024**.
2. Pursuant to section 103B(3) of the RMA, the Commissioner directs that the Applicant is to provide written briefs of all their evidence to Jane Hickmott (jane.hickmott@npdc.govt.nz), Hearings' Administrator at NPDC, by way of email, no later than **3pm on Wednesday 24 July 2024**.
3. The Commissioner requests that as soon as practicable following receipt of any such evidence received pursuant to Direction 2, NPDC provides a copy to all other parties to these proceedings by way of email with a link to the Council's website.
4. Pursuant to section 103B(4) of the RMA, the Commissioner directs that if any person who has made a submission intends to present expert evidence at the hearing, including expert planning evidence, then that party is to provide a written brief of that expert evidence to Jane Hickmott, Hearings' Administrator at NPDC, by way of email, no later than **3pm on Wednesday 31 July 2024**.
5. The Commissioner requests that as soon as practicable following receipt of any such evidence received pursuant to Direction 4, NPDC provides a copy to all other parties to these proceedings by way of email with a link to the Council's website.
6. In terms of Directions 1, 2 and 4 the reports and evidence should be provided to NPDC electronically by email. Hard copies of the evidence should only be provided on request.

7. Pursuant to s41C(1) of the RMA, the Commissioner directs that in respect of expert evidence pre-circulated in accordance with these Directions, the hearing will be conducted in the following manner:
- The section 42A report(s) will be taken as read;
 - The applicant that has provided the pre-circulated evidence is to call the witness in person;
 - The witness should be introduced and asked to confirm his or her qualifications and experience;
 - The witness should be asked to confirm the matters of fact and opinion contained in the brief of evidence;
 - The witness will then be given an opportunity to draw to the attention of the Commissioner the key points in the brief. No new evidence shall be introduced, unless it is specifically in response to matters raised in other pre-circulated briefs of evidence supplied by another party – in such cases the new evidence shall be presented in written form as an Addendum to the primary brief of evidence and it may be verbally presented by the witness. If there is any variation between what the witness says and what is in the brief of evidence, the Commissioner will assume that the written brief is the evidence unless the content of the brief is specifically amended by the witness;
 - The witness may then be questioned by the Commissioner.
8. Non-expert evidence (including legal submissions) should be tabled and read aloud on the day that the relevant party appears at the hearing.
9. The hearing will be conducted in a manner which is appropriate and fair, but without unnecessary formality. Subject to adequate notice, the Commissioner will receive written or spoken evidence in Te Reo Māori. If any party wishes to present evidence in Te Reo Māori, they are requested to contact Jane Hickmott, Hearings' Administrator at NPDC, no later than **3pm on Monday 15 July 2024**.
10. The Commissioner also requests that all parties (the NPDC reporting officer, K.D Holdings Limited as the applicant, and any of the submitters) calling expert witnesses liaise amongst themselves in order to facilitate their respective experts conferencing on matters relevant to their specific areas of expertise prior to the preparation of their reports or evidence (including any applicable conditions of consent) and through to the commencement of the hearing. The aim of the conferencing should be to identify areas of agreement and disagreement which can then be noted in the reports and evidence (Environment Court Practice Note 2023, Sections 9.3 and 9.4). The Commissioner will attempt to focus on the issues of contention during the hearing and in deliberations thereafter and so the assistance of the parties to clearly identify areas of expert agreement and disagreement in this manner will be greatly appreciated.
11. Any correspondence to the Commissioner should be directed through Jane Hickmott Hearings' Administrator at NPDC (jane.hickmott@npdc.govt.nz).



Mark St.Clair
Independent Commissioner - Chair
Date 5 July 2024

Directions/Minute of the Commissioner #2
LUC23/48350
Application for resource consent for K.D Holdings Limited for the extension of
existing commercial building at 39 – 41 Molesworth Street, New Plymouth.

In relation to this proposal, following the pre-circulation of all the reports and evidence required under Section 103B of the Resource Management Act 1991 (RMA), the Applicant, the submitters and the Section 42A Reporting officer met; the result of which was suggested amendments to the application and proposed conditions of consent. The Applicant and submitters filed emails to the effect that with the agreement from the meeting, they no longer wished to be heard.

To confirm the position of all the parties, and clarify matters as to pre-circulated evidence and proposed conditions, a pre-hearing conference (via Zoom) was conducted at 11.30am on Tuesday 6th August 2024. In attendance were Mr Grieve and Ms Martin for the Applicant, Ms Gibson for Ngāti Tāwhirikura Hapū, Mr Zeiltjes on behalf of Ngāti Te Whiti, Ms Thomson (Section 42A Reporting officer) and Mr Watkins for New Plymouth District Council (NPDC) and Ms Hickmott, Hearing Administrator for NPDC.

As a result of the pre-hearing conference and agreement amongst the parties, the hearing scheduled to commence at **9.00am Thursday 8 August 2024** at the New Plymouth District Council Civic Centre, 84 Liardet Street, New Plymouth is set aside.

The process agreed at the pre-hearing conference, is as follows:

1. The planners for the parties are to conference and prepare a revised set of conditions and include a revised full set of plans, reflecting the understood outcomes of the parties' positions and the issues raised by the Commissioner as to the conditions. The resulting Joint Witness Statement (JWS) from the conferencing session is to be sent to Jane Hickmott (jane.hickmott@npdc.govt.nz), Hearings' Administrator at NPDC, by way of email, for distribution to the parties.
2. The next step is for the submitters to advise their position as to the JWS referred to in Step 1. This should include any changes to their position as to their submission and evidence. Noting that the submitters have already advised that they no longer wish to be heard. These statements are to be sent to Jane Hickmott (jane.hickmott@npdc.govt.nz), Hearings' Administrator at NPDC, by way of email, for distribution to the parties.
3. The final step following the completion of Step 2, is for the Applicant to advise their position as to the material filed in Steps 1 and 2. Mr Grieve, counsel for the Applicant, advised that the Applicant offered the conditions discussed at the pre-hearing conference on an *Augier* basis. In addition, Mr Grieve had already advised that the Applicant no longer wished to be heard. This statement is to be sent to Jane Hickmott (jane.hickmott@npdc.govt.nz), Hearings' Administrator at NPDC, by way of email, for distribution to the parties.
4. On receipt of all the material set out in Steps 1 – 3 above, the Commissioner will then proceed to prepare a decision. As indicated at the pre-hearing conference, it is anticipated that the decision report will be completed on or before 15 working days of receipt of all the material set out in Steps 1 – 3.
5. Any correspondence to the Commissioner should be directed through Jane Hickmott Hearings' Administrator at NPDC (jane.hickmott@npdc.govt.nz).



Mark St.Clair
Independent Commissioner - Chair
Date 6 August 2024

Directions/Minute of the Commissioner #3
LUC23/48350

**Application for resource consent for K.D Holdings Limited for the extension of
existing commercial building at 39 – 41 Molesworth Street, New Plymouth.**

1. Minute #2, dated 6 August 2024, set out the steps for a conference amongst the planners as to conditions, the submitters to advise as to their position having reviewed the outcome of any Joint Witness Statement resulting from the previously mentioned conference session and for the Applicant to file a final position statement. All those steps were duly completed and material filed.
2. Commissioner will now proceed to prepare a decision. That decision report to be completed on or before 15 working days from today's date; that being 9 September 2024 at the latest.
3. Any correspondence to the Commissioner should be directed through Jane Hickmott Hearings' Administrator at NPDC (jane.hickmott@npdc.govt.nz).



Mark St.Clair
Independent Commissioner - Chair
Date 19 August 2024