

**BEFORE INDEPENDENT HEARINGS COMMISSIONER
APPOINTED BY THE NEW PLYMOUTH DISTRICT COUNCIL**

UNDER

the Resource Management Act 1991

IN THE MATTER

an application for resource consent by
Bruce Sim, Magaret Sim and Robert Sim to
undertake a boundary adjustment and a 5-
lot subdivision of 6 and 42 Leith Road, New
Plymouth (SUB21/47781)

STATEMENT OF SUPPLEMENTARY EVIDENCE

Zenaida Gerente

30 May 2022

INTRODUCTION

1. My name is Zenaida Gerente and I have over 10 years' experience in resource management and planning. I hold a Bachelor and a Master in Chemical Engineering from University of the Philippines, a Postgraduate Diploma in Environmental Science from University of Auckland and a Master of Resource and Environmental Planning from Massey University. My qualifications, experience and involvement in the proposal are detailed in my primary Statement of Evidence dated 25 May 2022.
2. During the planner's expert conferencing on 26 May 2022 with Ms Laura Buttimore, Richard Watkins, our facilitator, has asked us if Site ID 197, which is a site of significance to Maori (SASM) and an archaeological site (AS) located across the road had been identified under the Proposed District Plan (PDP), and whether this had been considered in the application.
3. It is noted that the original application, Notification Decision, S42A Report and my primary planning evidence have not assessed the activity in relation to Site ID 197. Although the aim of the conferencing should be only to identify areas of agreement and disagreement to be noted in our Joint Statement of Evidence, Ms Buttimore and I checked the Proposed District Plan (PDP) and confirmed during the conference that the distance of the subdivision site from Site ID 197 is less than 200m radius. Ms Buttimore and I have agreed that SASM-R9 and HH-R18 of the PDP apply to the subdivision proposal.
4. A land use consent under SASM-R8 and HH-R17 of the PDP and OL85 of the operative District Plan (ODP) for earthworks associated with the establishment of new access points for Lots 2 and 3 and the upgrade of existing access point of Lot 5 is therefore also sought. This is considered an Addendum to the original application which I assess in this supplementary evidence. It is noted that these rules apply to earthworks on or within 50m of the SASM or AS and the works are outside of this distance, however there is guidance relating to a 200m setback when they have not been verified, which I discuss further below. Applying the bundling principle, the activity status of the proposal under the PDP and ODP remains a discretionary activity.
5. Ms Buttimore agreed that providing the applicant made the affected party, the iwi/hapu, aware of the pa site across the road and confirmed that their approval stands then she considers that the consultation/notification requirements have been met.
6. In addition, during our expert conferencing, Ms Buttimore has also requested a plan to further understand the extent of the high point. I understand that she also wants to confirm if the proposed consent condition on earthworks height restriction of 1.5m can be achieved in the installation of driveway for Lot 3. Mr Stephen Lumb, a JSL surveyor, has prepared and provided the cross section of Lot 3 which covers the high point to respond to these issues to assist the parties and the commissioner (see **Appendix A**).

SUPPLEMENTARY EVIDENCE

7. In this evidence, I comment on the issues of the PDP in its current form that led to this supplementary evidence, the further consultation done by the applicants, further assessment of effects, consent condition for the land use consent, identification and

assessment of additional relevant policies and objectives under the ODP and the PDP in relation to the SASM and AS identified near the site, and topographical survey of Lot 3.

PROPOSED DISTRICT PLAN

8. The Proposed District Plan (PDP) is still currently being heard but there are some rules that had immediate legal effect after it was notified on 23 September 2019. These include rules associated with sites and areas of significance to Maori and archaeological sites.
9. The location of the SASM and AS Site ID 197 across the road cannot be viewed immediately when you search 42 Leith Road in the E-Plan of PDP ([Proposed District Plan \(npdc.govt.nz\)](https://districtplan.npdc.govt.nz/property/5145)), as shown in the image below (Figure 1). In addition, note that the site is not identified to have a SASM and/or an AS in the information found in the left-hand panel.

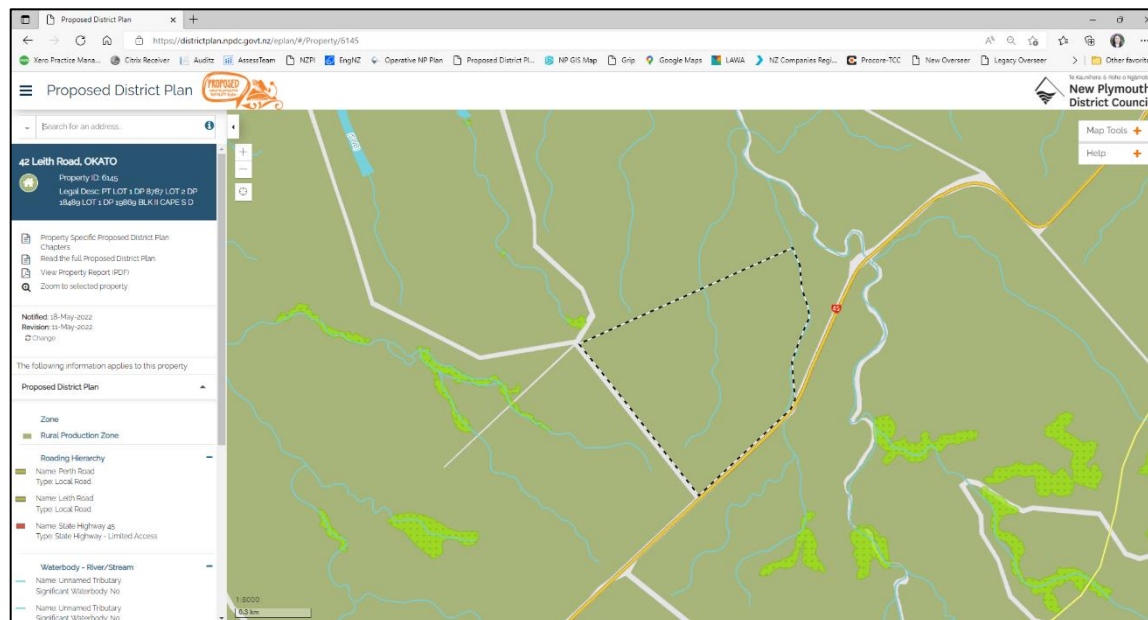


Figure 1. Location of 42 Leith Road (Screenshot from NPDC PDP E-Plan)

10. After zooming in, the below image is shown on the screen and there is still no indication of the SASM/AS (Figure 2).

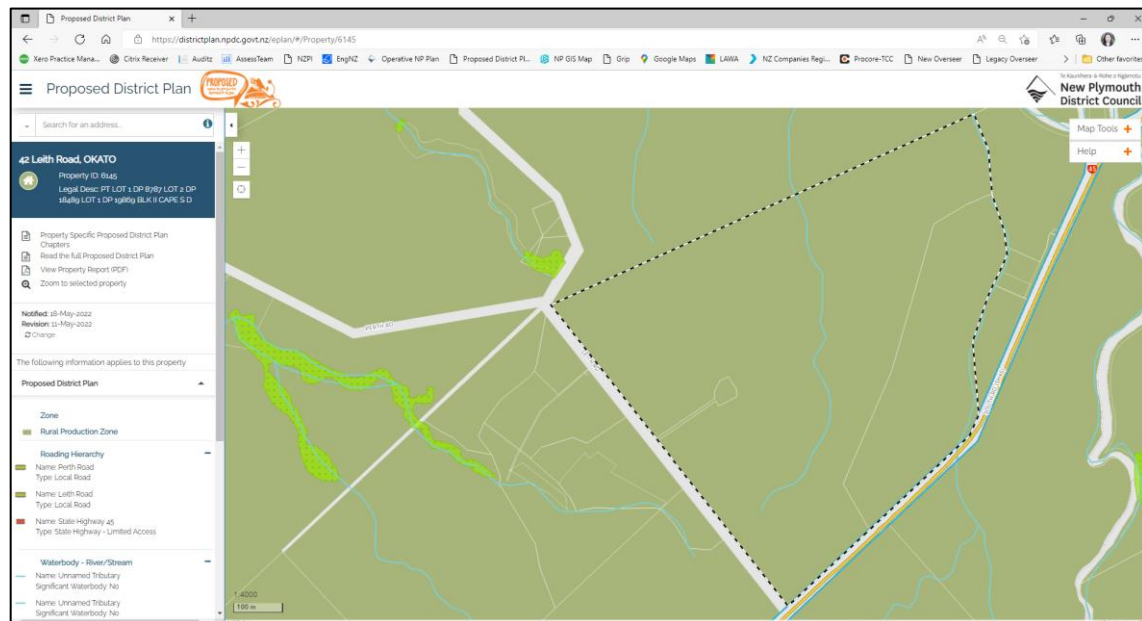


Figure 2. Zoom in version of the location of 42 Leith Road (Screenshot from NPDC PDP E-Plan)

11. Further zooming in of the site, that is the only time that the SASM/AS is shown (see Figure 3). This is one of the current challenges of using the E-Plan of the PDP and has been identified at the PDP hearing.

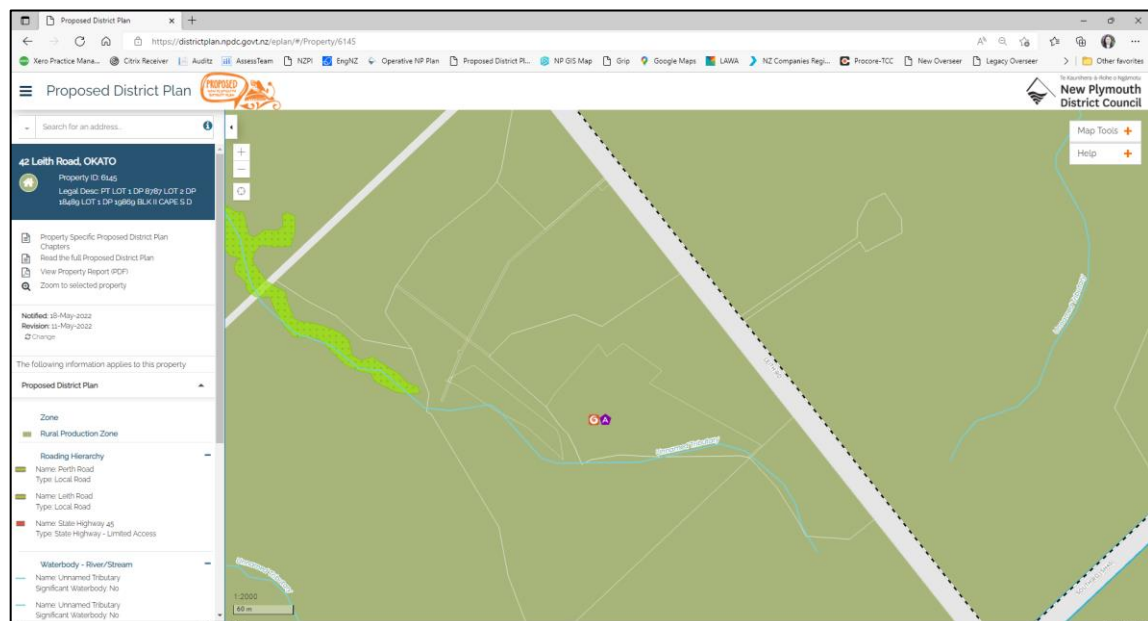


Figure 3. Location of 42 Leith Road, showing Site ID 197 relative to the site (Screenshot from NPDC PDP E-Plan)

12. The application of +/- 200m radius to identify the area of extent is also a contentious issue and submissions on this have also been received by the Council and heard during Hearing 14 of the PDP. This application is a good example as Site ID 197 is noted as a **verified** site in the schedule (as shown in the image in Figure 4) but still has the need to

apply the +/- 200m radius. In the Overview of the Chapter on SASM – Sites of Significance to Maori and the Chapter of HH – Historic Heritage, it is noted:

“For sites that don't have a verified extent, the accuracy of the location of sites is to +/- 200m and the extent of the site will be treated as the area within a 200m radius of the site's centroid marker.”

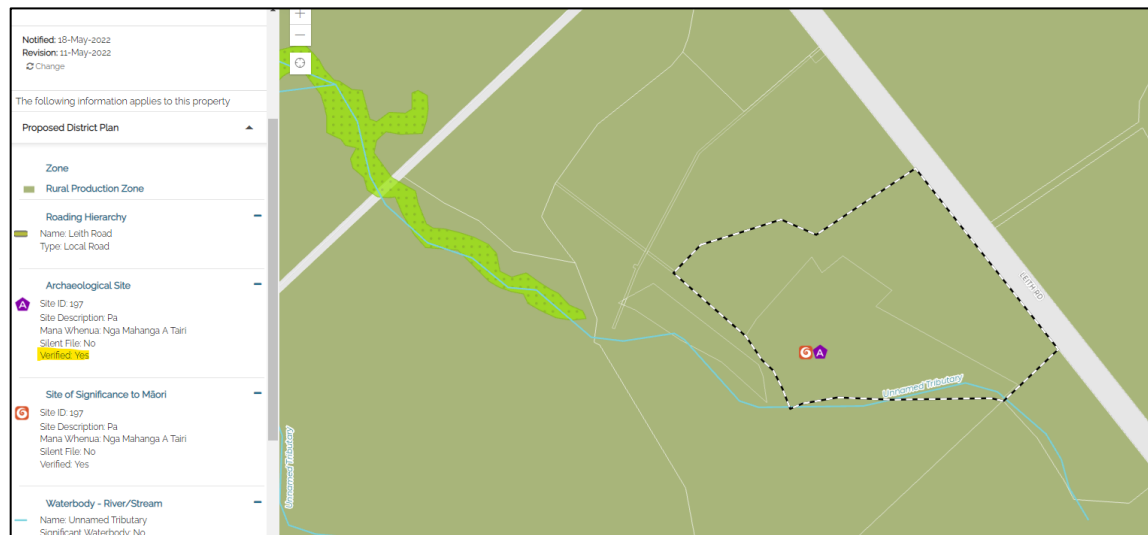


Figure 4. Location of Site ID 197 across 42 Leith Road, showing that it is a verified site (Screenshot from NPDC PDP E-Plan)

13. I am aware that this is not the venue to raise the current problems of using the PDP. However, this provides the context of failing it to be identified earlier by any of the planners involved.

Consultation

14. The applicant representative, Mr Rex Hurley, made an effort on the same day of the expert conferencing to contact Mr Keith Manukonga, current chair of Oakura Pa of Taranaki Iwi to confirm if they still support the subdivision despite being across the Pa site.
15. A written statement from Mr Manukonga has been received on the next day, 27 May 2022 (see attached **Appendix B**). He has stated that:

“...yes we are aware of Puketi Pa across the road from Bruce Simms property which is applying for lot subdivision. We feel that his subdivision will not impact the Pa site as Leith road is dividing the site from the subdivision. Therefore our approval stands.”

16. I consider that the applicants have addressed the requirement of notification under the RMA.

Further Assessment of Effects

17. It is considered that the subdivision application is still within the scope of the application and overall, the activity status remains as a discretionary activity.
18. The site is 170m from the site of significance to Maori and the archaeological site as shown in the PDP E-Plan (Figure 5). Applying the 30m permitted setback, the potential building platforms on Lot 2 and Lot 3 are outside but within 50m of a scheduled site and the habitable buildings will not exceed 10m in height restriction, therefore under SASM-R5 and HH-R14 of the PDP (erection of a structure on or within 50m of a scheduled site), the erection of the habitable buildings will remain as a permitted activity.

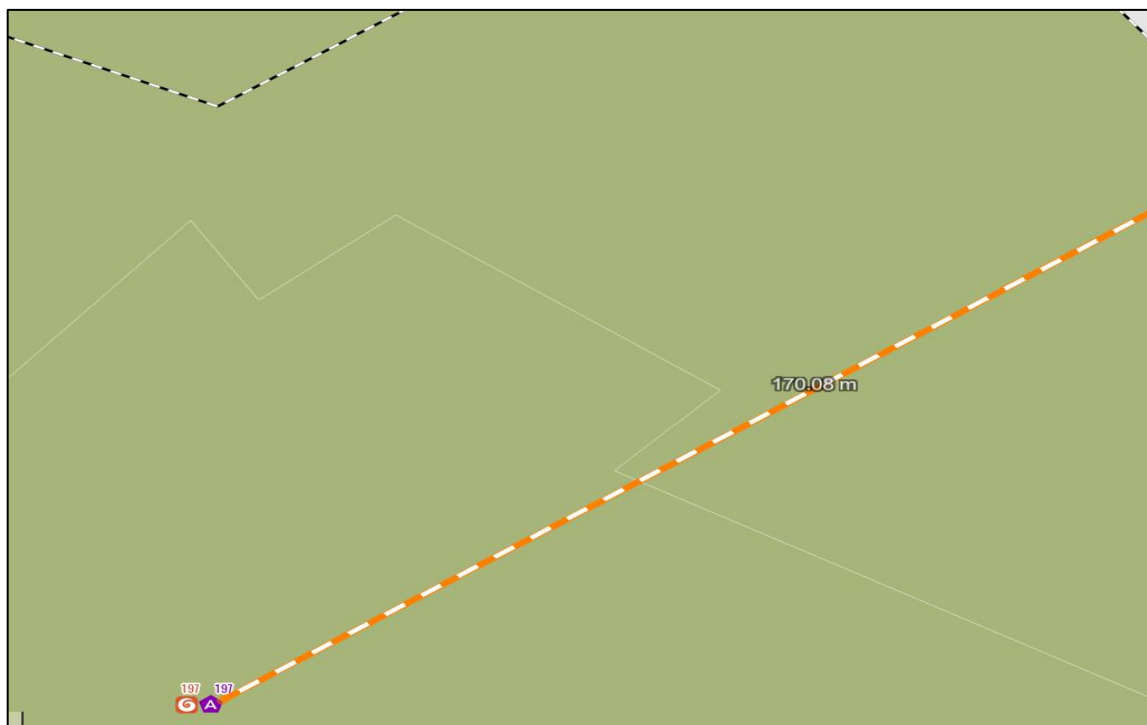


Figure 5. Location of Site ID 197, showing 170m distance from the subdivision site (Source: NPDC PDP E-Plan)

19. In the ODP, the site boundary is more than 200m from Site ID 197, approximately 222m, as the location of Site ID 197 is further to the west in the ODP Planning Map E2 than in the PDP E-Plan . Applying the 200m radius as the 'extent' of SASM/AS Site ID 197, and the 30m permitted setback, the potential building platforms on Lot 2 and Lot 3 are more than 50m but within 100m from the extent of a scheduled site and the habitable buildings will not exceed 10m in height restriction, therefore under Rule OL82 of the ODP, the erection of the habitable building will remain as a permitted activity.
20. The earthworks associated with subdivision that will require consent under the SASM/AS rule of the PDP and overlay rule of the ODP are the establishment of the new vehicle access points on Lot 2 and 3 and the upgrade of existing access point of Lot 5.

21. The iwi/hapu does not consider that the subdivision will impact the pa site since the two sites are separated by Leith Road. I agree with this comment from Mr Manukonga and I consider that there appears to be no or little potential adverse cultural or archaeological effects given the distance of the pa site from the subdivision site.

Consent Condition for Land Use Consent

22. Despite of the subdivision having no significant adverse cultural or archaeological effects, I consider that the following consent condition is appropriate for the land use consent of the access points for Lots 2, 3 and 5:

The consent holder or future owners of proposed Lot 2, 3 and 5 shall stop the earthworks and contact Heritage New Zealand, Nga Maganga A Tairi and Te Kāhui o Taranaki Trust if any archaeological or cultural artefacts are uncovered or are suspected of being uncovered.

Relevant Objectives and Policies under the ODP and the PDP

23. The following objectives and policies of the ODP and the PDP are also considered relevant to the proposal and are tabled below for reference (Table 1):

Table 1. Relevant Operative District Plan and Proposed District Plan Objectives and Policies

Operative District Plan	
Objective/ Policy Number	
Objective 11	To recognise the district's heritage resources, provide for their protection and promote their enhancement.
Policy 11.5	ARCHAEOLOGICAL SITES should be protected from destruction and alteration that will adversely affect their archaeological values.
Objective 19	To recognise and provide for the cultural and spiritual values of TANGATA WHENUA in all aspects of resource management in the district in a manner which respects and accommodates TIKANGA MAORI.
Policy 19.2	Subdivision, land use or development should not adversely affect the relationship, culture or traditions that TANGATA WHENUA have with WAAHI TAONGA/ SITES OF SIGNIFICANCE TO MAORI.
Policy 19.3	The cultural and spiritual values of TANGATA WHENUA should be recognised and provided for in the resource management of the district.
Proposed District Plan	
Objective/ Policy Number	
HC-2	The cultural, spiritual and/or historical values associated with historic heritage and sites and area of significance to Maori are protected.
HC-3	Tanga whenua's relationships, interest and associations with their culture, traditions, ancestral lands, waterbodies, sites, areas and landscapes, and other taonga of significance are recognised and provided for.
TW-9	Recognise that only tangata whenua can identify impacts on their relationship with their culture, traditions, ancestral lands, waterbodies, sites, areas and landscapes and other taonga of significance to Maori
HH-O1	Historic heritage is recognised, protected and maintained.

HH-P13	<p>Protect and maintain archaeological sites from inappropriate activities by:</p> <ol style="list-style-type: none"> 1. ensuring scheduled archaeological sites are not disturbed, destroyed, removed and/or visually encroached upon; and 2. requiring activities on or adjacent to archaeological sites to avoid adverse effects on the sites' historic heritage values.
HH-P14	<p>Allow the following activities on or adjacent to an archaeological site provided they do not compromise the site's historic heritage values:</p> <ol style="list-style-type: none"> 1. land disturbance; 2. demolition or removal of existing buildings and structures; 3. alterations to existing buildings and structures; 4. maintenance and repair or upgrading of existing network utility structures; and 5. erection of signs.
HH-P15	<p>Manage activities that occur on or adjacent to scheduled archaeological sites, including:</p> <ol style="list-style-type: none"> 1. erection of, additions to and relocation of structures; 2. earthworks; and 3. subdivision of land containing archaeological sites.
SASM-O1	Sites and areas of significance to Maori are recognised, protected and maintained.
SASM-O2	The relationship of tangata whenua with sites and areas of significance to Maori is recognised and protected.
SASM-P2	<p>Protect and maintain sites and areas of significance to Māori from inappropriate activities by:</p> <ol style="list-style-type: none"> 1. ensuring identified sites and areas of significance to Māori are not disturbed, destroyed, removed and/or visually encroached upon; and 2. requiring activities on, or in proximity to sites and areas of significance to Māori to avoid adverse effects on cultural, spiritual and/or heritage values, interests or associations of importance to tangata whenua.
SASM-P3	<p>Allow the following activities to occur on, or adjacent to scheduled sites and areas of significance to Māori, while ensuring their design, scale and intensity will not compromise cultural, spiritual and/or heritage values, interests or associations of importance to tangata whenua:</p> <ol style="list-style-type: none"> 1. land disturbance; 2. demolition or removal of existing buildings and structures; 3. alterations to existing buildings and structures; 4. maintenance and repair or upgrading of existing network utility structures; and 5. erection of signs.

SASM-P4	<p>Manage activities that occur on, or adjacent to scheduled sites and areas of significance to Māori that have the potential to compromise cultural, spiritual and/or heritage values, interests or associations of importance to tangata whenua, including:</p> <ol style="list-style-type: none"> 1. erection of, additions to and relocation of structures; 2. earthworks; and 3. subdivision of land containing sites and areas of significance to Māori.
----------------	---

24. Tangata whenua has been consulted again to confirm their approval despite the presence of pa site across the road of the site. It is confirmed that they are aware of the pa site when they originally gave their approval. This is consistent with Objective 19 of the ODP and Objective TW-9 of the PDP.
25. The subdivision site has an adequate distance from the centroid marker of the pa site and Leith Road separates the two sites. Although the subdivision may have little or no adverse effect to pa site, a mitigation measure in the form of consent condition is proposed to be able to stop the earthworks and consult with tangata whenua and Heritage New Zealand in the event of an accidental discovery of cultural or archaeological artefacts.
26. I consider that the proposal is consistent with the relevant objectives and policies of the ODP and the PDP.

Topographical survey of Lot 3

27. In the longitudinal section of Lot 3, it shows that the edge of seal Leith Road RL is 103.54m and the high point RL is 104.902m. There is only a 1.362m difference. Based on this longitudinal section, it is highly unlikely that the 1.5m height restriction will be breached if the driveway will be formed this way. Mr Lumb has also pointed out that it is highly unlikely that the access will be developed this way and it is more likely to follow the contour of the site, thus minimising the cost of the bulk earthworks and softening the visual effects of such earthworks. The topographical survey of Lot 3 confirms that the site can provide an access point and driveway that will not exceed an earthworks cut of 1.5m.

Conclusion

28. The actual and potential earthworks effects relating to archaeological and cultural matters under the Operative District Plan and the Proposed District Plan have been considered. There are no other matters under Section 104(1)(c).
29. The subdivision can provide access points and driveways that can comply with 1.5 m earthworks height restriction as proposed in the consent conditions (listed in my primary Statement of Evidence).

30. I maintain my earlier conclusions contained within my primary Statement of Evidence that any actual and potential adverse effects on the environment of the proposal will be able to be adequately avoided, remedied, or mitigated.
31. For the reasons outlined in my primary Statement of Evidence and in this supplementary evidence, I consider that consent should be granted when the proposal is assessed against the matters in section 104(1)(a)-(c) of the RMA. I stand by my assessment against the objectives and principles in Part 2 of the Act.



Zenaida Gerente
Landpro Ltd

30 May 2022

APPENDIX A – Cross – Section of the Topo Survey of Lot 3



5m Building
Restriction-Knoll
RL 104.9
Centre of knoll 13m
off road boundary



Juffermans Surveyors Ltd
Copyright of this drawing is vested in Juffermans Surveyors Ltd

51 Dawson Street | New Plymouth
199 Bradway | Stratford
79 Princes Street | Hawera
Info@juffermans.co.nz
www.juffermans.co.nz

Rev.	Date	Revision Details	By	Ver.	App.
00	27/05/2022	First Issue			

1:1000 @A3
20198
27/05/2022

Longsection A-A'

SIM
6 LEITH ROAD
OKATO

20198-05



Juffermans Surveyors Ltd
Copyright of this drawing is vested in Juffermans Surveyors Ltd

00	27/05/2022	First Issue	RW	SPL	SPL
Rev.	Date	Revision Details	By	Ver.	App.

Longsection A-A'

20198-06



APPENDIX B – Writtent Statement from Mr Keith Manukonga

Zen Gerente

From: rex <rex@jsl.nz>
Sent: Friday, 27 May 2022 9:07 am
To: Zen Gerente
Cc: Scott Grieve; Stephen Lumb
Subject: 20198 Sims Leith Road - Hapū signoff for Archaeological Site 197

Morning Zen,

Please see the below whakahoki kōrero from Keith M providing endorsement for us to continue with the Sims Subdivision.

Regards

Rex Hurley | Planner | Juffermans Surveyors Ltd
M 027 445 8330
Prospero Place | PO Box 340, Stratford 4332



From: Ani Niwa <keith4ani@gmail.com>
Sent: Friday, 27 May 2022 9:00 am
To: rex <rex@jsl.nz>
Subject: Re: FW: Sim: Summary of discussion today and action plans

Kia Ora Rex, yes we are aware of Puketi Pa across the road from Bruce Simms property which is applying for lot subdivision. We feel that his subdivision will not impact on the Pa site as Leith road is dividing the site from the subdivision. Therefore our approval stands. Kia Ora Keith Manukonga.

On Thu, May 26, 2022 at 7:43 PM rex <rex@jsl.nz> wrote:

Kia ora Keith,

Thank you for your time this evening. As discussed the below is the request we had from NPDC today to provide comment on the Pa site across the road from Bruce Sims property in Leith Road. Could you please provide a comment as you have made to me on the phone that confirms you do not consider that Bruce's development will cause an effect upon the Pa or your heritage values thereon.