

**Directions/Minute of the Commissioner #9
SUB21/47781 and LUC22/48312
Application for resource consent for B, M and R Sim for a 6 lot subdivision and land
use at 6 and 42 Leith Road, Okato, New Plymouth.**

1. Pursuant to Minute #8, dated 13 December 2022, the Applicant filed four (4) briefs of evidence in accordance with the revised timetable. I record that there was no evidence filed by the submitter within the specified timetable.
2. I observe that one of those briefs of evidence, the planning evidence dated 24 January 2023 from Ms K Hooper, includes a revised subdivision scheme which appears to reduce the proposal to a boundary adjustment and a three (3) lot subdivision. For completeness I note this new proposal dated 24 January 2023 is different the original proposal dated 7 May 2021 and the first revised proposal dated 21 August 2022.
3. On 8 February 2023, I received an email from Council's reporting officer, Ms Buttimore, noting the change in the proposal and seeking leave to prepare an amended section 42A report to reflect the revised proposal. I see merit in this request for all parties in potentially expediting proceedings.
4. In addition, on the same date 8 February 2023, I received a memorandum from the Applicant's Counsel, Mr Grieve, seeking that the reconvened hearing be delayed so that Mr Grieve could attend the in person or via Video link, post recovery from a surgical procedure. More specifically Mr Grieve's availability would be, subject to rehabilitation progression, via Video Link from 6 March 2023 to 3 April 2023, and from that time on in person.
5. I held a phone conference on 9 Feb 2023, with Mr Grieve and Ms Buttimore to work through the procedural matters leading up to the reconvened hearing and to establish a date suitable for all parties.
6. Having considered all of the above, and noting the agreement of the parties, I find that no party would be unduly prejudiced and hence the procedures and reconvened hearing are set put below.
7. The hearing is to be reconvened at **9am on Friday 19 May 2023**, at the offices of the New Plymouth District Council, 84 Liardet Street, New Plymouth. At this stage the hearing is scheduled for one day. NPDC will separately issue a formal hearing notice to the parties. Consideration to the hearing being conducted by Video Link will be made following the receipt of the section 42A report and any rebuttal evidence.
8. Pursuant to section 103B(2) of the RMA, the Commissioner directs that the NPDC section 42A report be provided to the parties addressing the revised proposal, by way of email with a link to the Council's website, no later than **3pm on Friday 17 March 2023**.
9. Pursuant to section 103B(3) of the RMA, the Commissioner directs that the Applicant is to provide written briefs of any rebuttal evidence to Jane Hickmott (jane.hickmott@npdc.govt.nz), Hearings' Administrator at NPDC, by way of email, no later than **3pm on Friday 21 April 2023**.
10. The Commissioner requests that as soon as practicable following receipt of any such evidence received pursuant to Direction 9, NPDC provides a copy to all other parties to these proceedings by way of email with a link to the Council's website.

11. 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 (jane.hickmott@npdc.govt.nz), Hearings' Administrator at NPDC, by way of email, no later than **3pm on Friday 3 May 2023**.
12. The Commissioner requests that as soon as practicable following receipt of any such evidence received pursuant to Direction 11, NPDC provides a copy to all other parties to these proceedings by way of email with a link to the Council's website.
13. In terms of Directions 9 and 11 the reports and evidence should be provided to NPDC electronically by email. Hard copies of the evidence should only be provided on request.
14. 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:
 - a. The section 42A report(s) will be taken as read;
 - b. The applicant that has provided the pre-circulated evidence is to call the witness in person;
 - c. The witness should be introduced and asked to confirm his or her qualifications and experience;
 - d. The witness should be asked to confirm the matters of fact and opinion contained in the brief of evidence;
 - e. 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;
 - f. The witness may then be questioned by the Commissioner.
15. Any written Legal Submissions should be provided to Jane Hickmott (jane.hickmott@npdc.govt.nz), Hearings' Administrator at NPDC, by way of email, no later than **3pm on Wednesday 17 May 2023** and distributed to the parties. Non-expert evidence (if any) should be tabled and read aloud on the day that the relevant party appears at the hearing.
16. 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 9 February 2023