
Before New Plymouth District Council
Independent Commissioner Mark St Clair

IN THE MATTER of an application for resource consents LUC24/48662 and SUB24/50201 1 and 9 Washer Road, Omata

Washer Family Trust Limited
Applicant

7 October 2025

MEMORANDUM ON BEHALF OF WASHER FAMILY TRUST REGARDING RMA, S 41C ISSUE

1. The Applicant refers to Commissioner Mark St Clair's "Minute 4" issued in this matter on Monday 6 October 2025.
2. There the Commissioner requested under s 41C that New Plymouth District Council engage a barrister/solicitor to address procedural issues related to Lot 31's consent notice terms.
3. At the hearing the Applicant did not oppose the Commissioner seeking legal advice under s41C. It has since considered the section in further detail.
4. The Applicant wishes to bring to the Commissioner's attention that under s41C's terms, a further report can only be commissioned if:¹
 - i. the activity that is the subject of the hearing **may**, in the authority's opinion, **have a significant adverse environmental effect**
5. As things stand, the Commissioner has not advised if he holds the opinion that the proposed activity may have a significant adverse environmental effect. And in light of the evidence considered at the hearing — the Applicant apprehends that this opinion may not actually be held.

¹ Resource Management Act 1991, s 41C(4)(a).

6. If that is so, then the ability to validly obtain a further legal opinion under s41C is not readily apparent.²
7. The Applicant brings this to the attention of the Commissioner so that if the underlying basis for seeking a s41C report does not exist, then that step should not be taken, and the directions given revisited and amended.

Dated 7 October 2025



A Young

Representative of the Applicants

² If the Commissioner were to decide that he should retract his request for further legal advice and proceed solely on the basis of the Applicant's previously filed written submissions, he can do so under the Legislation Act 2019, s 46(1): "The power to do anything may be exercised to correct an error or omission in a previous exercise of the power."