

SUB24/50201 and LUC24/48662 — Response to Procedural Issue

Further submissions by 8 Freehold Residents of Tapuae Country Estate

Date: 22 October 2025

1) Consent Notice Restriction

The Commissioner's legal advisor has confirmed what was raised in our submissions:

- The proposed boundary adjustment is a subdivision under section 218(1)(a) of the RMA;
- The consent notice on Lot 31 (Instrument 7890638.35) expressly prohibits further subdivision;
- The application cannot proceed unless that consent notice is lawfully varied or cancelled under section 221.

On that basis, the application is procedurally invalid.

2) Settled Legal Position

We support and adopt Mr Duncan Laing's legal advice. His opinion affirms that the consent notice prohibition must be read according to its natural meaning. As he states:

"I do not consider that there is any proper basis for reading down the Consent Notice wording so that it does not extend to boundary adjustments that do not create additional allotments."

As freeholders and co-owners of Lot 31, we rely on the protections registered on our titles. They cannot be circumvented or deferred.

3) No Variation Has Been Sought

No application has been made under section 221 to vary or cancel the consent notice. Nor have we, as affected persons, been invited to participate in such a process. The statutory pathway has not been engaged.

4) Relief — Decline the Application

We respectfully submit that the appropriate outcome is to decline the application, for the following reasons:

- The application is premature and cannot lawfully be considered while the consent notice remains in force.
- There is no uncertainty in the legal position — the independent legal advice confirms this unequivocally.

The correct procedure for varying the consent notice under section 221 of the RMA exists precisely to ensure that affected persons — including us as co-owners of Lot 31 — are properly involved. That is where these matters should be considered, not bypassed through an invalid consent process focusing on a mere boundary adjustment.

If the Washers choose to vary the consent notice under s 221, they are then entitled to apply afresh for resource consent for the subdivision in a manner that is legally valid and procedurally fair. We would expect any future application to respond meaningfully to the concerns we and NPDC have raised, including the requirement to seek co-owner consent.

These further submissions are supported by the following residents:

Section 2: Philip Pryde and Robin Marshall

Section 13: Richard and Lorette Rayner

Section 14: Brent and Maree Schumacher

Section 15: Brenda Moore

Section 19: Maria Vosper-Rink

Section 22: Steve and Fiona Frowde

Section 23: Patrick Cameron and Randy Buckley

Section 24: Jimmy and Denise Seed