

**BEFORE THE INDEPENDENT HEARINGS COMMISSIONER  
AT NEW PLYMOUTH**

**IN THE MATTER** of the Resource  
Management Act 1991

**AND**

**IN THE MATTER** of an application under  
section 88 of the Act by  
B,M,R Sim to the New  
Plymouth District Council to  
undertake a boundary  
change and five-lot rural  
subdivision etc, at 6 & 42  
Leith Road, Okato  
SUB21/47781 and  
LUC22/48312

---

**MEMORANDUM OF COUNSEL ON BEHALF OF THE APPLICANT B,M,R  
SIM IN RELATION TO EVIDENCE FOR THE APPLICANT**

**Dated: 12 December 2022**

---

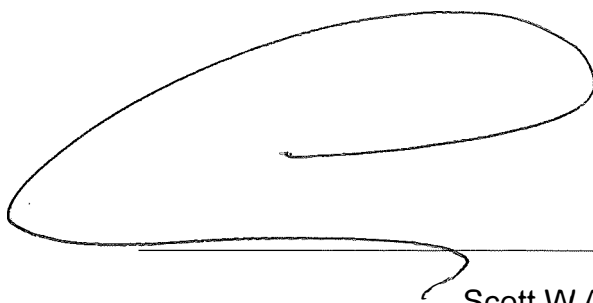
**CONNECT LEGAL TARANAKI  
LAWYERS  
136-138 Powderham Street  
Private Bag 2031  
DX NX10021  
NEWPLYMOUTH  
Telephone No. 06 769 8080  
Fax No. 06 757 9852  
Lawyer acting: SWA Grieve  
Email: scottg@connectlegal.co.nz**

**MAY IT PLEASE THE COMMISSIONER:**

1. This Memorandum is prepared on behalf of the Applicant in relation to the Direction/Minute of the Commissioner [#6] #7 SUB21/4771 dated 23 November 2022.
2. In the Commissioners above mentioned Direction/Minute the Commissioner observed (at paragraph 4) that the National Policy Statement for Highly Productive Land 2022 (“NPS-HPL”) came into force on 17 October 2022 – and has asked the parties to address that matter.
3. Bearing in mind the principles of natural justice – and as a matter of simple fairness - it is respectfully submitted that it is essential for the Applicant to be given a chance to present evidence (as requested by the Commissioner) in respect of the NPS-HPL.
4. The Applicant has recently (as soon as was practicable) engaged an expert witness to present evidence on its behalf in respect of same – and is obtaining expert evidence from James Allen of AgFirst, Waikato.
5. However, due to prior commitments (and the time of year), Mr Allen cannot complete a site visit with the Applicant until this Friday 16 December 2022.
6. Moreover, there will not be sufficient time between 16 December 2022 and the date for the Applicant to submit that evidence (3pm on Tuesday 20 December 2022) for Mr Allen to finalise that evidence; and, moreover, for Counsel to properly check that evidence – and also time needs to be allowed for the Applicant’s expert planning witness (Ms Kathryn Hooper, Landpro) to be able to properly prepare her evidence in the short amount of time available – which will need to draw off the evidence of Mr Allen once finalised.
7. In the circumstances, therefore, it is respectfully requested that the Applicant’s expert evidence be filed by say 3pm on Tuesday 24 January 2023.
8. The reason for the extra time is to allow for that expert evidence to be prepared by Mr Allen – then checked by Counsel (and Ms Hooper in her expert planning capacity) and factored into evidence by Ms Hooper (and of course her evidence subsequently needs to be checked, finalised and filed by Counsel also).

9. With respect, there will not be sufficient time during the week of 19 December 2022 to finalise all matters and file that evidence by 3pm on 20 December 2022 (particularly given the time of year and people's other prior commitments) - and some members in the Applicant's team are going on leave for Christmas holidays on or about 21 December 2022 – and of course the working days under the Resource Management Act 1991 cut out over the Christmas/New Year period.
10. Counsel for the Applicants offices are also closed from 22 December 2022 until a small "skeleton staff" return on 9 January 2023 - however Counsel (and most of the staff at Counsel's office) does not return to the office until 16 January 2023.
11. Therefore, if the Commissioner could please grant an extension until say 24 January 2023 Counsel and witnesses for the Applicant would be most grateful - as that would allow adequate time to properly prepare that evidence and submit it.
12. It is respectfully submitted that this short extension of time would not unduly prejudice any other party – particularly given that there are no outstanding submitters in opposition – and therefore it is not anticipated there will be any other expert evidence filed by any other party after the Applicant files same.
13. If, however, the Commissioner disagrees with Counsel that an extension to 3pm on Tuesday 24 January 2023 is not fair and reasonable in the circumstances then Counsel respectfully requests and urgent telephone conference in the circumstances to discuss matters further and to agree on a date that might be suitable for all parties.
14. We await further urgent Directions from the Commissioner.

Dated at New Plymouth this 12<sup>th</sup> December 2022

A large, stylized handwritten signature in black ink, consisting of a large loop and a long horizontal stroke.

Scott W A Grieve  
Counsel for B, M & R Sim