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

Applicant's submissions regarding application to vary consent notice conditions

15 June 2026

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Applicant's submissions regarding application to vary consent notice conditions

Introduction

1. The Washer Family Trust Limited and Tapuae Country Estate Limited apply to vary consent notices 7890638.35 (in relation to Lot 31 DP 385658) and 7890638.24 (in relation to Lot 20 DP 385658) under s 221(3) of the Resource Management Act 1991.

2. The variations, if granted will permit consideration of other applications (SUB24-50201 and LUC24-48662). In turn, if these are granted, they would permit implementation of a minor boundary adjustment between Lot 20 DP 385658 and Lot 31 DP 385658 and the relocation of Lot 20's building platform (the **substantive application**).

Summary

3. This application should be granted, because:

   (a) The variations preserve the consent notices' original resource management purposes;

   (b) Lot 20 was intended to be, and was consented for, use as a residential lot;

   (c) Natural land instability has materially changed Lot 20's physical circumstances;

   (d) The variations better achieve the consent notices' original resource management purposes than the status quo; and

   (e) Objections to the application concern private property rights and are subjective personal appreciation concerns, rather than objective amenity effects.

4. The draft terms of the consent notice variations have been agreed by Mr Rendall and Mr Robinson. They are contained in the planning expert joint witness statement, dated 12 June 2026.

Issues

5. The issue is whether the existing consent notice conditions should be varied so that the Commissioner may consider a specific boundary

adjustment and building platform relocation affecting Lot 20 and Lot 31. Specifically, whether:

(a) 7890638.35 (in relation to Lot 31 DP 385658) should be varied, so that its prohibitions on "further subdivision" and locating of residential buildings, allow Lot 20's boundary adjustment; and

(b) 7890638.24 (in relation to Lot 20 DP 385658) should be varied, so that buildings and soak holes can be located 15 meters, or more, back from the site's gully edge.

Approach – who and how?

6. Section 221(3) of the RMA allows an owner to apply to a territorial authority to vary or cancel a condition specified in a consent notice. Sections 88 to 121 and 127(4) to 132 apply, with necessary modifications, as if the application were an application for a resource consent.

7. The Trust owns Lot 20 and applies in respect of the Lot 20 consent notice. The Company owns, or is an owner for RMA purposes of, the balance lots[1] and applies in that capacity. The Applicants therefore have standing to seek the variations.

8. An application is subject to the same process that applies to applications for variation of resource consents under s 127 RMA. An application to change or remove a consent notice is a discretionary activity and will be considered in accordance with s 104(1) of the RMA.

What principles apply to consent notice variation applications?

9. The High Court in *Ballantyne Barker Holdings Limited v Queenstown Lakes District Council* discusses relevant case law on the purpose of consent notices and the approach to be taken in respect of their removal.[2] The Court concluded:[3]

> The case law makes it clear that because a consent notice gives a high degree of certainty both to the immediately affected parties at the time subdivision consent is granted, and to the public at large, it should only be altered when there is a material change in circumstances (such as a rezoning through a plan change process), which means the consent notice condition no longer

[1] Resource Management Act 1991, s 5 — definition of owner. The company is the lessor of the balance lot (to Washer & Co under the sublease), and the lessee of the balance lot (under the head lease).

[2] *Ballantyne Barker Holdings Ltd v Queenstown Lakes District Council* [2019] NZHC 2844, (2019) 21 ELRNZ 428 at [41]-[45].

[3] At [45].

> achieves, but rather obstructs, the sustainable management purposes of the RMA. In such circumstances, the ability to vary or cancel the consent notice condition can hardly be seen as objectionable.

10. Further, in *McKinlay Family Trust v Tauranga City Council* the Environment Court stated:[4]

> ... we have concluded that the ability of people and communities to rely on conditions of consent proffered by applicants and imposed by agreement by consent authorities or the Court when making significant investment decisions is central to the enabling purpose of the Act. Such conditions should only be set aside when there are clear benefits to the environment and to the persons who have acted in reliance on them.

11. In *Foster v Rodney District Council,* the Environment Court noted the following criteria may be relevant in considering whether to vary or cancel a consent notice:

    (a) the circumstances in which the condition was imposed;

    (b) the environmental values it sought to protect; or

    (c) pertinent general purposes of the Act as set out in sections 5-8.

12. In considering variation applications the High Court has emphasised that "good planning practice should require an examination of the purpose of the consent notice and an inquiry into whether some change of circumstances has rendered the consent notice of no further value".[5]

Discussion - application of s221 consent notice variation principles

13. The Applicants accept that consent notices play an important planning role, and they have done so at the estate. Tapuae was New Zealand's first farm park subdivision, in hindsight, its final legal structure may not have provided for sufficient flexibility to facilitate its sustainable management.[6]

14. In this case, the resource management aims protected by the consent notices are:

    (a) Keeping buildings and soak holes set back 15m from the gully head (at lot 20).

    (b) Preventing further subdivision at Tapuae that creates more residential lots, beyond the existing 30.

[4] *McKinlay Family Trust v Tauranga City Council* 6 EnvC Auckland A119/08, 29 October 2008 at [52].
[5] *Green v Auckland Council* [2013] NZHC 2364, (2013) 17 ELRNZ 737 at [129].
[6] Expert witness statement of Kathryn Hooper, 29 May 2026 at [18].

(c) Preventing the construction of residential dwellings on the balance lots.

15. The reliance interests protected by the consent notices were those relying on the continuation of the farm-park structure, the absence of additional residential allotments on the balance land, and the control of residential dwelling form within Tapuae.

16. That reliance is not undermined by the variation. This is because it does not add further residential lots, does not permit construction of a dwelling on the balance land, does not change the farm operation, and does not remove the design controls applying to Lot 20. Whereas, refusing the variation would elevate the wording of the notices over their original sustainable management purpose.[7]

17. In addition, the subdivision consent decision relating to the final four lot subdivision at Tapuae, which included Lot 20, accepts that in circumstances where an allotment's existing boundaries do not allow for a suitable building platform, then the boundaries "shall be modified".[8]

18. This flexible approach to boundary changes in response to a change in circumstances was then applied by Commissioner Merrick, in the same resource consent decision.

(a) A kumara pit (site of archaeological significance) had been located within the original boundary of lot 27.

(b) Lot 27's boundary was then amended, to site the kumara pit inside the balance lot.

(c) The boundary adjustment allowed for lot 27 to have a suitable building platform unencumbered by restrictions on building associated with proximity to archaeological sites.

[7] The "RMA does not rest on a no risk philosophy, or have the elimination of all risk as its purpose" — "all RMA decision-making rests on the Act's purpose — contained in s5" *Creswick Valley Residents' Association Incorporated v Wellington City Council* [2015] ELHNZ 204 at [2-32]. A critical element of s5, is the applicant's ability to provide for their social and economic wellbeing by developing Lot 20. Development, which the RMA permits, see: *Royal Forest and Bird Protection Society of New Zealand Inc v Buller District Council (No 2)* — [2013] NZRMA 293 (HC) at [53] referring to Resource Management Act 1991, ss 5(2), 6, 17 and 319.

[8] Subdivision Consent Decision, Hearing Commissioner M Merrick, 41299 21 July 2006 at [33] – [37] (Appendix G to Application for Consent Notice Variation [page 159]).

(d) The Commissioner recorded:

> "Lot 27 is able to have the lot boundaries amended to allow the archaeological site (kumara pit) to be fully within Lot 31".[9]

In this case, amending the boundary remains consistent with the applicable subdivision consent's overall purpose.

Lot 20's consent notice condition variation

19. Lot 20's consent notice should be varied because the present wording may require development too close to the gully edge. Natural instability now makes that inappropriate. The variation allows the building platform to move further back, producing a safer and better environmental outcome.

20. The condition, if unchanged requires a house and soak hole to be constructed too close to the gully head. This could result in additional land instability and ultimately poorer environmental outcomes. It would, as noted in *Barker* "obstruct… the sustainable management purposes of the RMA"[10] — by allowing the house to be constructed further back from the gully edge, adverse effects on the environment are avoided.

Lot 31's consent notice condition variation

21. The restriction on further subdivision was intended to prevent additional residential lots and preserve the farm-park structure. The proposed variation, ultimately facilitating only a boundary change does not create any additional residential lots, does not enable residential development on the balance land, and does not alter the farm-park structure.[11]

The change in circumstances requiring the consent notices to be varied

22. As submitted at the substantive resource consent hearing, and supported by Kristel Franklin's expert geotechnical evidence, varying the consent

[9] Subdivision Consent Decision, Hearing Commissioner M Merrick, above n 8, at page 16.

[10] *Ballantyne v Barker Holdings Ltd*, above n 2 at [89].

[11] LINZ Instrument 7890638.42 (Encumbrance) at page 61, [2.1]. This Encumbrance does not restrict or inhibit subdivision. Statement of John Charles Washer, signed 17 September 2025 (filed as part of the resource consent application process) at [12]. Campbell Robinson, s 42A report regarding Washer Family Trust Ltd's application for resource consent, 10 September 2024 at [76]. File titled: "Additional 4 lots.pdf". Unsigned resource consent decision of Councillor M Merrick — Hearing Commission Chairman (dated 21 July 2006). Consent Notice Pursuant to Section 221 of the Resource Management Act 1991, in the matter of Lot 2 DP 20763, dated 7 March 2008, Signed by Frank Versteeg, Principal Administrative Officer of the New Plymouth District Council.

notice will allow consideration of the substantive application, which will have positive environmental effects by removing natural hazard risk.[12]

23. The boundary adjustment directly responds to geotechnical instability by relocating the building platform to a more stable location, thereby avoiding risk to people and property (NP PODP, SUB-P3(1) and (2)).

24. The Environment Court has held :[13] "*'a change in circumstances' can encompass … changes to the physical environment*".

25. Lot 20's physical environment has changed via natural land instability. Variation is needed for Lot 20 to be used efficiently.[14] Granting the variations would not create a general precedent for relaxing the estate's planning controls. The proposed variations are narrow, site-specific, and specifically tied to Lot 20's changed physical circumstances.

Variation will not see balance lot's "burdened" with a natural hazard

26. Regarding submitters' concerns the balance lot will be burdened by a natural hazard — the variation will help to preserve the farm's natural landform features. The variation does so by assisting to remove the risk of exacerbating ground instability. Any risk of instability presented to lot 31 will not impact the ability of the farm to operate normally.[15] Land instability occurring in Lot 20's gully is a natural feature of the farmland.[16]

27. Deforested, converted land may experience natural disturbance or erosion.[17] Planting, particularly of native trees can help to stabilise land.[18] The sub-lease recognises the farmland may require repair or replanting due to natural erosion.[19] The land instability on Lot 20, that will become part of Lot 31 is a natural feature,[20] that may be addressed with natural

[12] Expert Geotechnical Statement of Kristel Franklin, 17 September 2025: E.g., at [38]: "*The application's purpose is to avoid the natural hazard, and not accelerate or worsen an existing natural hazard, as required under the Building Act (2004, ss 71 and 72"*.
[13] *Drach v Tasman District Council* [2021] NZEnvC 118 at [25].
[14] A key matter for consideration under s 7(b) of the RMA.
[15] Expert Geotechnical Statement of Kristel Franklin, 17 September 2025: at [34(a)].
[16] At [34(a)].
[17] *PF Olsen Limited v Bay of Plenty Regional Council* [2012] NZHC 2392 at [56]; *Federated Farmers of New Zealand (Inc) Mackenzie Branch v Mackenzie District Council* [2017] NZEnvC 53 at [141].
[18] *Federated Farmers of New Zealand Inc v Auckland* Council (as successor to Franklin District Council) [2012] NZEnvC 174 at [40].
[19] JW, A-391, updated sublease at cl., 47.
[20] KF at [27].

solutions, like planting, if required. The balance lot will not be burdened by absorbing a very small portion of naturally unstable land.[21]

28. Moving the building platform to stable land removes the risk of destabilising pre-existing natural land instability.[22] Proceeding with the currently consented building platform will produce a worse outcome for the subdivision as a whole — it generates unacceptable risk for Lot 20's owners, and possible mitigation would blight the landscape.[23]

29. Mitigation would require significant civil engineering works to permanently modify the gully.[24] The works would be extensive, visually obtrusive (during construction, and in perpetuity) and out-of-keeping with the nature and character of the subdivision. Permanent landscape modification options include constructing a significant retaining wall, or shear key.[25] Earthworks would be required to facilitate machinery access alone, for the works.[26]

30. In contrast, the variation will help to preserve the natural landscape, without causing extensive engineering or landscape modification.[27]

31. To the extent the National Policy Statement for Natural Hazards 2025 is relevant it reinforces the Applicants' position. The proposed variation will not lead to or increase natural hazard risk.[28] Mr Robinson accepts the variation will facilitate a stable and flood free building platform and the NPS-NH provides no basis to decline the variation.[29]

Amenity and property right concerns should not be conflated

32. The concept of "effect" is concerned directly with the natural and physical resources and the environment in which they exist[30] — ill-founded perceptions do not fall within the RMA's definition of effect.[31] Discomfort alone does not amount to an adverse effect on amenity values under the

[21] KF at [43].
[22] KF at [25(a)].
[23] KF at [30], [38].
[24] KF at [31].
[25] KF at [25(b)].
[26] KF at [21].
[27] KF at [25(c)], [33]).
[28] Updating expert geotechnical statement of Kristel Franklin, 29 May 2026 at [19] – [21].
[29] Campbell Robinson Section 42a report 22 May 2026 [50] – [52] and [63] – [69].
[30] Resource Management Act 1991, s 2(1) and 3.
[31] *Living in Hope Inc v Tasman DC* [2011] NZEnvC 157 at [1], [124] and [211]. Approved in *SKP Incorporated v Auckland Council* [2018] NZEnvC 81 at [249].

RMA.[32] Otherwise:[33] "any proposal would be vulnerable to the discomforts of its opponents no matter how irrational or ill-founded those discomforts might be." Resource management planning must be based on "realistic" scenarios.[34]

33. Evidence that submitters would feel discomfort, depression and sadness at the thought of a particular activity occurring in their neighbourhood does not constitute an adverse "effect" which a consent authority may consider in determining this application.[35]

34. The reporting officer and the opposing submitters contend the core issue is the variation's effect on their amenity. Properly assessed the opposition rests on subjective perceptions and private property-right concerns, rather than objective adverse effects on amenity values.

35. The expert planning evidence provided on behalf of the Applicants by both Ms Hooper and Mr Rendall confirms that any amenity effects are less than minor.[36] Both planners agree the variation will not enable a loss of rural character, and that Tapuae's nature and character will not be adversely affected by the variation.[37]

36. The expert planners consider that Mr Robinson's s 42a report recommendation to decline errs in its reliance on subjective amenity concerns as a reason to decline, without considering any objective evidence of the scale or significance of the asserted adverse effects within the estate.[38]

Supporting assessment under s 104

37. Section 104 requires the consent authority, subject to Part 2, to have regard to: (a) any actual or potential effects on the environment of allowing the activity; (b) any relevant provisions of the applicable statutory planning documents; and (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

[32] At [124] and [211].
[33] At [124].
[34] *Creswick Valley Residents' Association Incorporated v Wellington City Council* [2015] ELHNZ 204 at [2-30].
[35] *SKP Incorporated v Auckland Council* [2018] NZEnvC 81 at [249].
[36] Expert witness statement of Kathryn Hooper, 29 May 2026 at [13].
[37] At [13].
[38] At [12].

First consideration under section 104 - actual or potential effects on the environment from allowing the activity (s104(1)(a))

38. As noted, "effect" in RMA terms means effects on the environment,[39] not effects on private property rights.[40] Varying the consent notice itself will not directly cause environmental effects. However, the variation (if granted) will consequentially enable the consideration (and implementation) of the substantive application.

39. Varying the consent notice would allow the effects of SUB24/50201 and LUC24/48662 to be considered on their merits. Lot 20 will remain subject to the other existing consent notice conditions requiring any residential dwelling constructed to be high-end and consistent with the estate's design framework. For lot 20 the framework limits the dwelling's visual bulk and maintain the estate's character.

Second consideration under s 104 — the relevant provisions of any statutory instrument (NES, District Plan or Part Operative District Plan) (s104(1)(b))

40. The application complies with all resource management expectations in the New Plymouth Operative District Plan ("PODP")'s rules:

    (a) **Amenity and Character**: The application does not introduce new lots or increase density (SUB-P15). The Estate's existing rural residential character is maintained (RPROZ-04). No adverse light, noise, or traffic effects arise from the proposal (RPROZ-P5).

    (b) The section 42a report agrees with the Applicants' planning evidence that the variation won't lead to a loss of rural character.[41] The variation will facilitate a <0.2% change in the balance lot's pasture area — the effect (if any) will be undetectable.[42]

[39] Resource Management Act 1991, s 3(1). *Dye v Auckland Regional Council* [2002] 1 NZLR 337 at [38]; *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZRMA 424 (CA) at [57]; and *Golden Bay Marine Farmers v Tasman District Council*. [2003] ELHNZ 108 at [194]; *Lysaght v Whakatane District Council District Council* [2022] NZCA 423 at [47].

[40] As above. Property rights arise under the general law or under statutes other than the RMA (*Lysaght*, above n 5(b), at [49]). RMA, s 221 reflects this: a resource consent is not real or personal property

[41] Expert Witness Statement of Christopher Rendall, 29 May 2026 at [28] (**CR2)**. Campbell Robinson Section 42a report 22 May 2026 at [47].

[42] CR2 at [32.4].

(c) **Infrastructure**: Existing onsite systems are already provided for (SUB-P5). No additional demand is created (SUB-P4). There will be no additional demand on the road network; access arrangements remain unchanged.

(d) **Hazard Management**: The adjustment directly responds to geotechnical instability by relocating the building platform to a more stable location, thereby avoiding risk to people and property (SUB-P3(1) and (2)). Considering the relevant instrument (the PODP)'s provisions — adverse effects on the environment are less than minor and, in fact, mitigated through better hazard management.

41. The s42a report puts reliance on "amenity" in the objectives and policies of the district plan, as a reason to recommend declining the application.[43] The report summarizes:

> "I believe the core matter at stake is based around the amenity of the submitters, in particular the use and appreciation of the common land which they are part owner."[44]

42. Mr Robinson concludes the application should be declined on the basis of its impact on the submitters in opposition:

> "[T]he impacts on amenity values, if unmitigated would be significant and that the proposal would permanently impact on the submitter's appreciation, amenity and agreed use of existing Lot 31 … the effects could not be easily undone as the new boundaries would not be easily reversible."[45]

And:

> "[T]he proposal … is, inconsistent with matters related to the maintenance of amenity or avoidance of adverse amenity effects"[46]

43. The section 42a report does not adequately recognise that the application will not result in any change in the scale, nature or intensity of activities which would occur on the site. Ms Hooper and Mr Rendall, both providing expert planning evidence for the Applicants confirm the application will not alter the nature and character of Tapuae, which will remain unchanged as a farm park.[47] Mr Washer's evidence supports this also.[48]

44. The term "amenity values" is broadly defined to encompass "those natural or physical qualities and characteristics of an area that contribute to

[43] CR2 at [14(b)].
[44] Campbell Robinson Section 42a report 22 May 2026 at [91].
[45] Campbell Robinson Section 42a report 22 May 2026 at [92].
[46] Campbell Robinson Section 42a report 22 May 2026 at [57].
[47] KH at [14], CR2 at [17(e)].
[48] Statement of John Charles Washer, 26 May 2026, and 17 September 2025.

people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes."[49] "Character" is associated with the concept of amenity values.[50] For example, a proposal changing the character of an area from rural to industrial has been held to impact amenity.[51] The approach to the definition of amenity in s2 emphasises the "intrinsic" or "present neighbourhood character" in assessing amenity values.[52]

45. At its core, the submitters' issue, is that by exchanging a small amount of native bush, for (what the submitters consider to be) productive pasture — the agreed use of the land will change and that adversely affects amenity. Mr Washer's evidence highlights that the variation won't change how the farm operates.[53]

46. The s 42a report properly observes that granting the application will continue to maintain the estate's rural character, and any effects on character will be acceptable.[54] These findings are an orthodox basis to conclude the application will not affect amenity.

47. The application does not lead to effects that will impact on the lot owners' ability to use or appreciate the land in question. Lot 31 is subject to a 50 year lease, with a 50 year right of renewal, held by the company. Lot 32 is held for the purpose of operating a working commercial farm. It provides amenity to the farm park by operating this way.[55] Washer & Co, have operated a dry stock bull farm on the balance lot since the estate's inception in 2008, and have a lease to operate the farm there until 2030.[56] The submitters cannot access the portions of the balance lot that comprise the farm.[57] Lot owners have covenanted not to do so.[58]

[49] Resource Management Act 1991, s 2(1).
[50] *BP Oil NZ Ltd v Manukau City Council* [1998] ELHNZ 457 (EnvC).
[51] *Guardians of North Taieri Inc v Dunedin City Council* (2004) 10 ELRNZ 286 at [111].
[52] *Shell Oil NZ Ltd v Auckland City Council* (PT) at 15: "This environment is essentially residential/commercial in its character with a strong emphasis on the maintenance of pedestrian amenity. … a service station use on this particular site will not maintain nor enhance those amenity values".
[53] Statement of John Charles Washer, 26 May 2022 at [5].
[54] Campbell Robinson s 42a report 10 September 2025 at [54]; Campbell Robinson Section 42a report 22 May 2026 at [43] – [47].
[55] JW at [11].
[56] JW at [8], A-376, Cl., 1.1-1.2.
[57] JW at [15], A-174, Cl., 2.5; A-177, Cl., 8.1, 8.3; and A-178, Cl. 13.1)
[58] JW at [14], A-188, Cl., 25.1. JW at [9], A-390, 391, Cl., 36. JW, A-390, 391, Cl., 36. JW, A 393-395.

48. Mr Washer's evidence states:

> "[t]he nature and character of the farm and subdivision will not be altered in any way. It will remain a farm park", and after the application is granted, "Washer & Co will continue to farm the same number of cattle in exactly the same way as it presently does".[59]

49. The expert geotechnical evidence highlights that the effect of the substantive application will not constrain the ability of the farm to function as it currently does.[60]

Consent authority cannot consider property rights when determining resource consent application

50. Private property considerations in relation to opposing submitters' share of common property, are not amenity values — they are property rights and cannot be considered in this forum.[61]

51. Section 104 does not address the general lawfulness of a proposed activity.[62] It is trite law that "[d]isputes about private property rights are … generally not considered in determining resource consent applications."[63] Environmental effects of a proposed activity are within a consent authority's remit for consideration — determinations of private property rights are not.[64]

Third consideration under s 104 — any other matter the consent authority considers relevant and reasonably necessary to determine the application (s104(1)(c))

52. The application facilitates sustainable management of the land for residential purposes while safeguarding people and property from natural hazard risks.[65] The variation will help Lot 20's owner to provide for their social and economic wellbeing.[66] This is done by enabling: the efficient development of their land for their family needs, their ability to participate

[59] JW at [23] and [22].
[60] KF at [44].
[61] CR at [17(d)], [72].
[62] *Action for Environment v Wellington City Council* [2012] NZHC 1687 at [24].
[63] *Director-General of Conservation v Marlborough District Council* [2010] NZEnvC 403 at [32].
[64] The Court of Appeal recognises consent authorities are concerned with the effects of proposed activities, not the nature of the applicant's legal rights or interests in the particular land (*MacLaurin v Hexton Holdings Ltd* [2008] NZCA 570 at [47]). The Environment Court has held to the same effect: *Auckland Volcanic Cones Society Inc v Transit NZ Ltd* [2003] NZRMA 54 (EnvC) at [51].
[65] Sections 5(2), 7(b).
[66] Section 5(2) "In [the RMA], sustainable management means managing the … development … of natural and physical resources in a way … which enables people … to provide for their … economic … well-being".

in the estate community, and provide for economic well-being if they were to sell Lot 20.

53. The wider context to the submitters' opposition demonstrates their concern is unrelated to resource management considerations.[67]

Fourth consideration under s 104 — NPDC must disregard the effects on any person who has given written approval to the application (s104(3)(a)(ii))

54. Under s 104(3)(a)(ii), the consent authority must disregard effects on persons who have given written approval to the application. That is relevant here because the owners closest to Lot 20 have provided affected-person approval supporting the application.

The relevance of Part 2 of the Resource Management Act

55. Recourse to Part 2 is unnecessary when considering the application due to the District Plan coming into effect in August 2025.[68] In any event, the application is consistent with Part 2 because it enables Lot 20 to be safely used for its intended residential purpose while avoiding hazard and landscape effects.

Conclusion

56. The Applicants submit the proposed consent notice variations should be granted. The variations are narrow, preserve the consent notice's original resource management purposes, respond to a material change in physical circumstances, and enable Lot 20 to be used safely for its originally intended residential purpose.

57. The submitters' concerns do not justify declining the application, because they are either private property-rights concerns or subjective concerns not supported by objective amenity effects evidence.

[67] See [4.12] – [4.20] of Applicant's legal submissions in substantive application.
[68] Campbell Robinson s 42a report, 10 September 2025 at [20]. Resource Management Act 1991, s 5. *R J Davidson Family Trust v Marlborough District Council* [2018] 3 NZLR 283 (CA) at [74]. *Royal Forest and Bird Protection Society of New Zealand v New Zealand Transport Agency* [2024] 1 NZLR 241 (SC) at [109]. *R J Davidson Family Trust v Marlborough District Council* [2018] 3 NZLR 283 (CA) at [82].

Dated 15 June 2026

A D Young

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