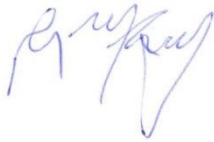


POST HEARING MINUTE #4

APPLICATION BY BRYAN AND KIM ROACH LUC23/48350

1. The following is further to my Post Hearing Minutes dated 28 March 2025, 17 April 2025, and 22 April 2025.
2. The Minute dated 22 April 2025 (Minute 3) provided until Friday 9 May 2025 for the Applicant's team to prepare an amended pergola plan with a PDP assessment of it, and for the Right of Reply to be filed.
3. Mr Grieve's Right of Reply on behalf of the Applicant was received on Friday 9 May 2025, which also attached four 3D model images, being screenshots from the dwelling model with recession planes shown by Mr Arnold at the hearing. A statement of evidence from Mr Lawn was also received, which provided additional comments on the pergola plan and an alternative mitigation option of planter pots with native evergreen specimen trees. Mr Lawn's statement also provides PDP compliance assessment of the additional privacy mitigation of louvers on the eastern bay window, along with draft consent conditions. The draft conditions are set out with three options to account for potentially different determinations of whether the proposed pergola complies with the PDP and whether MRZ-S4 is applied.
4. Mr Grieve's Right of Reply also attached a statement of evidence from the Roach's builder, Mr Christopher Bell, dated 28 April 2025. That statement comments on the feasibility of moving or modifying the dwelling and provides an estimate of the demolition and rebuild cost to achieve a dwelling that is fully compliant with the PDP.
5. On 12 May 2025 Mr Cameron submitted a *'Memorandum of Counsel for the Submitters'* for consideration. That memorandum referred to the Applicant's reply documents, and specifically the statement of evidence from Mr Bell, and records the submitters objection to the admission of that evidence *"at this very late stage"*.
6. Mr Cameron points out that the submitters have not had the opportunity to respond to Mr Bell's evidence given that he did not give evidence to the hearing. Mr Cameron states that the submitters right to natural justice would be unduly prejudiced by the late admission of Mr Bell's evidence. The memorandum seeks a direction that Mr Bell's statement of evidence does not form part of the applicant's reply, nor any part of the formal record of the hearing.
7. I agree with Mr Cameron and find that accepting Mr Bell's evidence without providing an opportunity for the submitters to respond to it would not accord with the principles of natural justice. I am not minded to provide formal opportunity for the submitters to respond to Mr Bell's evidence as I consider that I have sufficient information to decide on this resource consent application without the admission of that evidence.
8. Accordingly, Mr Bell's evidence is to be disregarded and will not form part of the record of this hearing.

9. As mentioned above, with the receipt of the additional statement of evidence from Mr Lawn, and the Right of Reply on behalf of the Applicant, I now have sufficient information to decide on this application. I therefore declare this hearing closed as of today, Tuesday 13 May 2025, and will seek to have a decision issued by **Wednesday 4 June 2025**.¹



Philip McKay

Independent Commissioner

On behalf of New Plymouth District Council

Dated: 13 May 2025