

Directions/Minute of the Commissioner #5
LUC24/48662 and SUB24/50201
Application for Washer Family Trust Limited
1 and 9 Washer Road, Omata

1. Further to Minute #4, I have been advised that New Plymouth District Council (NPDC) have engaged Mr Duncan Laing of Duncan Laing Advisory, to provide independent legal advice on the procedural matter as to Applicant's position which, in summary, is that the boundary adjustment being applied for was not within the definition of "subdivision of land" in the Resource Management Act (RMA), and is not prohibited by the consent notice.
2. By way of background, the proposed boundary adjustment affects Lots 31 and 20 DP 385658 where there is a consent notice in place. The Consent Notice 7890638.35, registered against the record of title for Lot 31 DP 385658, that states, "*That Lots 31 and 32 shall not be further subdivide and shall not be disposed other than in conjunction with Lots 1-30 inclusive;*". There is no similar consent notice registered against the record of title for Lot 20 DP 385668.
3. Based on the Applicant's position as set out in the submissions of Mr Young dated 3 Oct 2025, my questions for Mr Laing are as follows:
 - a) Do the boundary adjustments as sought by the applicant and shown on Scheme Plan W-211212-RC01 Sheet 2 (Appendix A to its resource consent application), involve a *subdivision of land* as defined by section 218(1) of the Resource Management Act 1991 (**RMA**) and therefore require a subdivision consent under section 11(1) of the RMA?
 - b) Does Consent Notice 7890638.35 as registered against the record of title for Lot 31 DP 385658 prevent a boundary adjustment application in respect of that lot from proceeding without the consent notice being first varied (or cancelled)?
4. I direct that, Mr Laing be instructed to provide his independent legal advice to questions 3.a) – b) to Ms Claire Kelly (claire.kelly@npdc.govt.nz), Governance Advisor at NPDC, by way of email no later than **3pm on Wednesday 15 October 2025**.
5. As soon as practicable following receipt of the legal advice from Mr Laing, NPDC is to provide a copy to all other parties to these proceedings by way of email with a link to the Council's website.
6. The submitters and/or Section 42A Reporting Officer may then prepare a written response as to the procedural matter, being the Applicant's position and the independent legal advice, which is to be provided to Ms Claire Kelly (claire.kelly@npdc.govt.nz), Governance Advisor at NPDC, by way of email no later than **3pm on Wednesday 22 October 2025**.
7. As soon as practicable following receipt of any written response from the submitters and/or Section 42A Reporting Officer, NPDC is to provide a copy to all other parties to these proceedings by way of email with a link to the Council's website.

8. The Applicant is then to provide any written response to the independent legal advice and any response from the submitters and/or section 42A Reporting officer as to the procedural matter to Ms Claire Kelly (claire.kelly@npdc.govt.nz), Governance Advisor at NPDC, by way of email no later than **3pm on Thursday 30 October 2025**.
9. As soon as practicable following receipt of any written response from the Applicant, NPDC is to provide a copy to all other parties to these proceedings by way of email with a link to the Council's website.
10. I will then review all the information provided and set out the next steps.
11. Any correspondence to the Commissioner should be directed through Claire Kelly, Governance Advisor at NPDC (claire.kelly@npdc.govt.nz).



Mark St.Clair
Independent Commissioner - Chair
Date: 7 October 2025