

BEFORE THE NEW PLYMOUTH DISTRICT COUNCIL Independent Commissioner Mark St Clair

IN THE MATTER of an application by Washer Family Trust Limited to vary consent notices 7890638.35 and 7890638.24 under s 221(3) of the Resource Management Act 1991 (SUB24/50201.01)

SUPPLEMENTARY SUBMISSION OF THE JOINT SUBMITTERS — GEOTECHNICAL SETBACK Handed up 16 June 2026

1. The joint submitters are not engineers. They rely on the applicant's own documents, and on the principle that the burden of demonstrating that the proposed building platform is safe rests on the applicant. This submission responds to the Red Jacket letter (LTR-4317-01 Rev A, 28 April 2025) handed up by the applicant today. The submitters see the correspondence annexed to that letter for the first time today.
2. The platform proposed in the scheme is set back 24.2 metres from the head of the gully. The applicant's own geotechnical report recommended a setback of "at least 40 metres from the head of the gully" (recommendation (a), page 8).
3. The 40-metre recommendation was not corrected by any reassessment. It was corrected by a single email from Tonkin & Taylor dated 20 February 2025 which, following a telephone discussion, agreed the 40 metres was "erroneous" and adopted approximately 23 metres — being the figure the survey plan and architectural drawings already used. No re-analysis accompanies that email.
4. The applicant now characterises the 40 metres as a typographical error. Even if accepted, that does not establish that 24.2 metres is safe. The 40 metres was a stated recommendation — "at least 40 metres" — carried into the reports of two firms, and affirmed by the applicant's own geotechnical expert as recently as 17 September 2025 (at [21]), where she confirmed that report RPT-4317-A-01 "remains valid." That report records the 40-metre setback.
5. We think the conservative figure was corrected to fit the scheme, not the scheme corrected to the conservative figure. The only reason advanced for treating the 40 metres (rather than the 23 metres) as the error is that the plans already used the smaller figure.
6. The only site testing in the RFI response is soakage and permeability testing for the on-site wastewater and stormwater disposal system, undertaken to AS/NZS 1547:2012 — the on-site domestic wastewater standard. That testing measures how fast water drains through the soil; it does not measure slope stability. The underlying Tonkin & Taylor assessment is itself described as a desk study, considered low risk "subject to further investigation and assessment." There is no completed, site-specific slope-stability assessment establishing that 24.2 metres is safe.
7. A desk study draws on existing information. Building-platform suitability for these lots, including Lot 20, was required to be confirmed at the subdivision stage (2006 consent, condition 33), and the developers have held geotechnical information about this land since then. None of that earlier or source data has been produced to the submitters. Neither the 40-metre figure nor the corrected 24.2-metre figure has been reconciled against the primary data on which it ultimately rests, and the submitters have had no opportunity to test it.

8. Nor does the correction address regression. The applicant's own expert describes the head of the gully as regressing at a rate that is difficult to predict (statement of 17 September 2025 at [30]). A setback reduced from 40 metres to 24.2 metres provides less margin against that regression, not more.
9. On the applicant's own documents, the safety of the 24.2-metre platform rests on an unreasoned email, not on any assessment. The burden to demonstrate the platform is safe has not been discharged.
10. The submitters respectfully ask that the applicant be required to answer: (a) What geotechnical reassessment, if any, sits behind the February 2025 email — or is that email the entirety of the correction? (b) The applicant's expert affirms RPT-4317-A-01 remains valid, yet it records 40 metres while the email calls 40 metres an error. Which does the applicant rely on, and if the report is superseded, why is the superseded version in evidence? (c) Setting aside the soakage testing, which goes to disposal not stability, what completed, site-specific slope-stability assessment establishes that 24.2 metres is safe? (d) How does a setback reduced to 24.2 metres provide an adequate margin against the regression the applicant's expert describes? (e) Whether the setback is 40 or 24.2 metres, does the applicant's own likelihood-and-consequence assessment still yield a high-risk rating? (f) What earlier site investigation does the desk study rely on; has that earlier data — including the geotechnical information held since the subdivision stage — been produced; and has the corrected setback been reconciled against it?
11. Unanswered, each of these means the burden has not been met. As the underlying correspondence was produced only today, the submitters seek leave to respond in writing should the Commissioner be minded to give it weight. The application should be declined.