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**BEFORE COMMISSIONER MARK ST. CLAIR APPOINTED BY NEW PLYMOUTH
DISTRICT COUNCIL**

UNDER

the Resource Management Act
1991 ("RMA")

IN THE MATTER

of an application under section 88
of the Act by **ROBE AND ROCHE
INVESTMENTS LIMITED** to the
**NEW PLYMOUTH DISTRICT
COUNCIL** for a subdivision to
create 113 residential lots and
additional road and recreational
reserves at 56 Pohutukawa Place,
Bell Block. (SUB21/47803)

SUPPLEMENTARY PLANNING STATEMENT

TODD WHITTAKER (S.42A AUTHOR) ON BEHALF OF NPDC

DATED: 15 April 2025

1. SUMMARY

- 1.1 This Supplementary Statement addresses the matters discussed over the hearing process.
- 1.2 My overall assessment remains that the application for subdivision consent merits consent. My reasons for this opinion and assessment of the application are set out in my S.42A report dated 21 March 2025 and are further discussed in the Planning JWS dated 11 April 2025.
- 1.3 As discussed in the JWS, it is respectfully requested that additional time is provided to finalise the consent conditions.

2. LAND USE CONSENT - EARTHWORKS

- 2.1 There has been much focus on the earthwork rules and need for a separate land use consent for earthworks.

- 2.2 I defer to the legal submissions presented by Scott Grieve as Counsel for the Applicant on the scope to include a separate land use decision as part of the current proceedings and hearing process.
- 2.3 Certainly the 2021 application included reference to the earthworks rule that were notified as part of the PDP process with legal effect (SASM-R8). There was also some assessment of earthworks and the RedJacket Plan of earthworks (100-433) Sheet C5-1 provided details of bulk earthworks along the proposed road corridors.
- 2.4 In my opinion, a land use consent was required at the time of the application lodgement and a land use consent is still required at the current time. To confirm, I have no opposition to a land use consent being granted for the identified earthworks if there is legal scope to do so. If a land use consent is issued for earthworks, then in my opinion, this should be limited to the details set out in the application and relevant plans. I note these only provides details for the roading alignment and contours including battering around the Road 3/Road 5 intersection.
- 2.5 I consider that there will need to be further details and a decision made in respect of any final bulk earthworks that may be undertaken across any of the residential lots. It appears that any earthworks across the residential lots may be minimal given the nature of the landform. In my opinion, the issue is that without clear details of the scope and nature of earthworks across the residential lots, then the Commissioner cannot grant consent for an indeterminate degree and scale of earthworks across the residential lots.
- 2.6 There will also need to be an assessment of any future site works associated with a building consent and or activities that future landowners may seek in terms of levelling or changing the finished levels of their site. I note that Rule EW-R10 provides for *Earthworks for Building Activities* and Rule EW-R13 provides a general earthworks rule which has been subject to appeal.

EW-R10	Earthworks for building activities
(1) All zones	Activity status: PER Where: <ol style="list-style-type: none"> 1. the building activity is authorised by a building consent; 2. the earthworks are not for the purpose of constructing a driveway, right of way or accessway; 3. the total earthworks area does not exceed 150% of the area of the building activity; and 4. EW-S2, EW-S3, EW-S4 and EW-S5 are complied with.

EW-R13 Earthworks not otherwise provided for in this table	
(1) Commercial and Mixed Use Zones	Activity status: PER Where: 1. in any 12 month period, the total volume of earthworks does not exceed 250m ³ per site; and
Residential Zones	2. all Earthworks Effects Standards are complied with.
Open Space and Recreation Zones	
Māori Purpose Zone	
Rural Lifestyle Zone	

- 2.7 The current Rule EW-R10 only provides a narrow and limited scope of earthworks as a permitted activity. As such, Council and the Applicant will need to discuss what additional consents, if any, may also be required taking into account the above rules on a per lot basis, including any potential for a multi-lot/catchment consent.

3. NPS-BIODIVERSITY

- 3.1 In my opinion, any relevant matters of NPS-Biodiversity have been addressed in relation to the matters which have been considered within the District Plan framework and in relation to the discharge and works that have been assessed by TRC and the regional council consents. There is no direct loss of biodiversity with the proposed subdivision and development works on the subject site and it appears that the only matter arising is in relation to interface issues including dumping of rubbish and predator control.
- 3.2 I note that the SNA 169 area does not extend over the subject site however it does extend to the northeastern boundary.

4. BECA MEMO – CVA REFERENCE

- 4.1 I am advised that the BECA memo which has been referred to in evidence has only been issued to Council as a draft. A copy of this will be made available to the Commissioner.

5. TIMING OF ROAD EXTENSIONS

- 5.1 The Commissioner has asked about the timing of the road connections that extend through the subdivision site.

5.2 While Council is keen to support the urbanisation and progress of the roading connections to Pohutukawa Place and to the west of the site, there are no programs in place or Council projects to advance the funding and development of these specific roading connections separately to or outside any subdivision consent process. As such, any future road connections will be determined by the timing and progress of private subdivisions across the existing residential areas in the first instance.

5.3 As discussed by the traffic experts, Council is proactively working to identify upgrades to the existing network and to the Parkland Road extension to Airport Drive which will assist with traffic distribution over the medium to long term. These projects are also subject to funding and annual plan decisions by Council.

6. CONDITIONS

6.1 As discussed in evidence and in the Planning JWS, there is a need for further work on the consent conditions. The conditions associated with the vesting of reserves and interface with the Waipu Lagoons will require some careful consideration.

6.2 I can confirm that the Applicant's engineers and project team have engaged with Council staff in terms of the subdivision layout and infrastructure/services design. This included meetings to discuss the design principles for the subdivision and infrastructure design, the stormwater treatment and management process, how cultural concerns and values can be addressed and the nature of the design parameters to support the TRC applications.

6.3 I can also confirm that I have received advice from Matt Sanger (Development Engineer) dated 10 April 2025 that Council is generally comfortable with the proposed changes to the engineering conditions. As such, these can be amended as part of the final provision of consent conditions to be submitted to the Commissioner.

6.4 I remain reticent to the Applicant's proposal for a condition to limit each residential property to three cats which I consider will be difficult to monitor and enforce. However, it appears from the ecological evidence of Willie Shaw that this is an appropriate mitigation measure. I will take further advice from Council's Monitoring team and report this back as part of the final conditions schedule.

7. S.176 APPROVAL

7.1 Council's Reserves and Asset Managers have reviewed the scheme plan and have had input into the reserve areas, locations and conditions. However, a formal S.176 approval has not been issued from the requiring authority.

7.2 Mr Watkins and I will engage with Council staff to obtain this formal approval.

8. CONCLUSION

8.1 As per the JWS, all planners support the granting of the subdivision consent with appropriate conditions.

8.2 I continue to support the granting of consent for the subdivision and also any land use consent which the Commissioner has legal scope to issue subject to the limitation of any earthworks to those set out in the application material.

8.3 I wish to again recognise and commend the mahi completed to date by the Applicant and Puketapu Hapū in coming together to support this application and hearing process. This has taken genuine commitment, patience and openness to share and understand how urbanisation and cultural recognition and protection can be done well in this area.

8.4 As part of the JWS, I also respectfully seek the opportunity to work on an agreed set of conditions that can be issued to the Commissioner by **2 May 2025**.



Todd Whittaker
S.42A Planner for New Plymouth District Council.

15 April 2025