

**Before the Hearings Panel
At Porirua City Council**

Under Schedule 1 of the Resource Management Act 1991

In the matter of the Proposed Porirua District Plan

Between **Various**

Submitters

And **Porirua City Council**

Respondent

**Statement of supplementary planning evidence - Torrey James McDonnell on
behalf of Porirua City Council**

Date: 28 October 2021

INTRODUCTION:

- 1 My full name is Torrey James McDonnell. I am employed as a Principal Policy Planner for Porirua City Council.
- 2 I have read the further evidence and statements provided by submitters relevant to the Section 42A Report – Ecosystems and Indigenous Biodiversity and the legal submission relevant to the Section 42A report – Tangata Whenua Strategic Objectives and Papakāinga.
- 3 I have prepared this statement of evidence on behalf of the Porirua City Council (**Council**) in respect of technical related matters arising from the submissions and further submissions on the Proposed Porirua District Plan (**PDP**).
- 4 Specifically, this statement of evidence relates to the matters in the Section 42A Report – Part B Ecosystems and Indigenous Biodiversity, and the Section 42A Report – Part B Tangata Whenua Strategic Objectives and Papakāinga
- 5 I am authorised to provide this evidence on behalf of the Council.

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

- 6 Appendix D of the Section 42A Report – Part B Ecosystems and Indigenous Biodiversity sets out my qualifications and experience.
- 7 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2014.

SCOPE OF EVIDENCE

- 8 My statement of evidence addresses specific matters raised by submitters through expert evidence or submitter statements.

9 I acknowledge that there are a range of matters in contention as outlined in expert evidence and statements from submitters. However, apart from what is outlined in this statement, there is nothing further I wish to add in addition to my analysis in the s42A report for these matters

Tangata Whenua Strategic Objectives and Papakāinga

10 The legal submission by Nick Whittington for Kāinga Ora outlines the agency's broad position that papakāinga should be enabled to the fullest extent possible. However, the submission says that Kāinga Ora are "content to defer to the position of Te Rūnanga o Toa Rangatira, the expert on papakāinga in the Porirua context." There are now no Papakāinga provisions in either the chapter or zones that are in contention.

11 I also note that there is no evidence or statements provided by submitters in relation to the recommendations in respect of the Tangata Whenua Strategic Objectives.

The Department of Conservation's evidence

12 DOC has submitted both expert planning evidence from Joao Paulo Silva and expert ecological evidence from Graeme La Cock. There is a point I would like to respond to from Mr Silva. Mr Goldwater from Wildlands will respond to the evidence of Mr La Cock regarding the methodology for identification of SNA and definition of pest plants.

13 On the issue of wetlands, I have not changed my position in regard to my recommendations in section 3.7 of my s42A report as a result of Mr Silva's evidence.

14 However, there is an omission from my s42A report that has been identified by the submitter in paragraph 7.15 that I would like to address.

- 15 Plan Change 18 for Plimmerton Farm includes setbacks for earthworks, buildings and structures within 20m of wetlands. The earthworks setback is more stringent than the 10m required by the NES-F.
- 16 These rules are not included in the analysis in my s42A report in either section 3.6 and Appendix E. However, I consider the reasons for the differences between PC18 and the PDP are the same as outlined in paragraph 79 of my s42A report. Plimmerton Farm is a single site with single ownership that has been comprehensively structure planned. It also has some complex connections to a particular receiving environment – Te Ara Harakeke (Taupō Swamp). PC18 was subject to its own submissions and hearings process where the provisions evolved in this context to the version that exists now.

Transpower's evidence

- 17 In Pauline Whitney's expert evidence for Transpower, there is some analysis of recommended changes to ECO-P2 based on the draft NPS-IB from paragraph 8.16 onwards. Ms Whitney makes the point that the "recommendation is based on clause 3.9(1) of the draft NPS-IB, with no reference or acknowledgement to clause 3.9(2)."
- 18 I acknowledge this point and consider that this was an oversight to not carry through clause 3.19(2). If this clause had of been carried through, the National Grid would not be subject to the first step I recommend originating from 3.19(1).
- 19 However, Council has had recent discussions with officials from MfE that indicate that there may be changes to the final NPS-IB, including clause 3.19(2). For example, there have been concerns raised by local government, including Porirua City Council, around the practicalities of classifying SNA as either "high" or "medium".
- 20 I also acknowledge the issue raised in paragraph 8.17 about the terms "where possible" or "where practicable". I have revisited the effects

management hierarchy set out in both the PNRP (Policy P32) and Clause 3.21 of the NPS-FM. Both of these documents use both of these terms in their hierarchies. Both use “where practicable” for the first three steps of the hierarchy (avoid, minimise and remedy), and both use “where possible” for offsetting.

21 I note that the need for a definition of the term “minimise” in the PNRP has been recently resolved by consent order on 4 June 2021. The term is now defined in the PNRP as:

*Reduce to the smallest amount reasonably practicable.
Minimised, minimising and minimisation have the
corresponding meaning.*

22 In light of the discussion at Hearing Stream 1, if the Panel was to consider a similar definition is required, it is likely that ECO-P2 would need consequential amendments.

23 Due to the above uncertainties around these emerging policies relating to the effects management hierarchy, I would like to signal to the Panel that I will likely be revisiting the recommendations in relation to adding an additional step to ECO-P2 in Council’s right of reply. I would like the opportunity to consider presentations given by submitters throughout these hearings before making a final recommendation.

Statements relating to schedule 7

24 Various submitters seek amendments to SNA boundaries on their properties. Some have provided some additional new information about species present on their properties, including photographic evidence of the extent of vegetation.

25 I would like to confirm that to the best of my knowledge that the landowners of all of these properties were given the opportunity to request a site visit from an ecologist in June 2018. However, I note that

at least two of these properties appear to have changed hands since June 2018 based on these statements (Juan Qu and Andrew Tierney). Wildlands also undertook site visits where submitters provided new information as part of their original or further submissions, but not all submitters contacted consented or responded to this request.

26 Mr Goldwater from Wildlands has reviewed this new information provided by submitters. He will outline how any new information could be relevant to the delineation of SNA as they relate to these properties.

27 Where Mr Goldwater considers that there is new information that is pertinent, and where this is within scope of submissions, I recommend that there should be the opportunity to revisit SNA mapping prior to the Panel making final decisions.

28 In some instances, this would likely require a site visit where Wildlands can ground truth the information provided and recommend an amended boundary. I am happy to address any recommended amendments to the mapping of SNA through the hearing process including as part of Council's right of reply. The Panel may wish to consider allowing additional time for this part of the reply as Mr Goldwater is situated in Auckland under level 3 Covid 19 restrictions. It is possible that his colleagues based in Porirua may be able to assist with some site visits.

Errors in s42A report

29 I would like to note a drafting error in Appendix A of the s42A report. A new policy ECO-P13 is recommended in relation to wild fire management. The rule that would be triggered to undertake removal of high-flammability vegetation would be ECO-R1-2. This is a restricted discretionary activity, and discretion is restricted to ECO-P2 and ECO-P4. I consider that ECO-P13 should be included as a matter of discretion to make a clear link from the policy through to the rule.

30 I would also like to address a minor and technical error matter relating to the name of a Significant Natural Area (SNA). On page 86 of my s42A report I recommend that SNA 223 be renamed "Te awa ere i Whitireia", this should read "Te awa rere i Whitireia" as I missed the beginning "r" in rere.

Date: 28/10/2021

A handwritten signature in blue ink, appearing to read "M. Donald".

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