

Oral submission to the PCC PDP Hearings Panel on Significant Natural Areas

From Mary and Philip Major– November 5, 2021

Additional comments following the Section 42 Report

The first point I would make is that several of the points raised in my submission do not seem to have been taken into account. I submitted on 47, 3.15, 171, 213, 224, 3.26.1 in particular.

The only place our submission is mentioned is in 529 (did not specify that the indigenous biodiversity is not significant) and 547 – Rejected.

I don't think that due consideration has been given to our submission.

I respond to various points in the Section 42 report that relate to our submission.

47. ultra vires – title in fee simple. As noted in my original submission *A fee simple title is where the owner of the dwelling has full control and freedom of not only the dwelling but the land surrounding it. The owners can enjoy the freedom of a permanent and absolute ownership of the land.*

It is argued at 47 that the plan does not make the land incapable of reasonable use. Our experience is that we have lost the right to peaceful enjoyment and private ownership through this plan.

Already persons have come onto our property and cut down and ringbarked non-native trees on our land. These trees provide important food sources for wax-eyes and kereru, as noted in my submission to council in 2013. Someone else has been planting trees on our land.

Children have always roamed freely though the bush; this attitude of adults that they now have the right to interfere on our property is something else entirely. There are eco-warriors and zealots in the neighbourhood who need no encouragement.

Also a property was advertised as being adjacent to the Motuhara Reserve. When I advised the agent that there was no reserve, that all the land was privately owned, they said they had been advised it was now reserve.

49 & 67. It does not seem that the provisions of the RMA are as binding as this report makes out. Many councils have decided not to proceed with SNAs on privately owned property - including Hutt City and Upper Hutt city locally

67. PCC says this is not about commons/ public amenity rather it is about "protection from existential threats to indigenous biodiversity from subdivision, land use and development." This is spurious argument because

- Landowners have looked after this bush and protected it over decades; conversely, the council has allowed weed to invade from the public walkway, and allowed workers to cut down trees.
- The land is very steep and not likely to be developed.
- The sections are narrow, the dwellings generally take up most of the width, so access to any second dwelling would be difficult.
- Even without an SNA any development would require council consent and the council could easily put into effect protection of the bush on a one-by- one basis.

If protection is truly the council's brief leave it to the people who have been the custodians for years.

67. The council says compensation to individual landowners would be unfair to other ratepayers. What is unfair is that the council can impose costs on landowners ("works arborists", ecologists and consent fees) to tend their own property. We already pay over \$5,000pa in rates and the consent fee is going to be a minimum of \$1900.00. These are big costs for superannuitants.

Note – the council has already bought sections at 57 and 59 Motuhara Road for the purpose of protecting it from development, so there is precedent.

3.15 Fire Risk

It is noted (**166**) that to allow removal of bush in accordance with FENZ guidance, would mean that some SNAs would disappear entirely. Precisely!

So, of the three options considered by council it is recommended that the council should adopt an approach that in its own words notes – *This option would be more expensive for landowners in terms of consent processing fees and the requirement for ecological advice. It is also considered by some submitters as not being enabling enough of the FENZ guideline.*

I received the following advice regarding consent fees in response to my query

Could you please advise what the consent fee would be if applying to clear vegetation in accordance with FENZ guidance.

Thank you,

Reply 1

From: dpreview <dpreview@porirua.govt.nz>
 Sent: Friday, 8 October 2021 12:47 PM
 To: mary.major33@gmail.com
 Cc: dpreview <dpreview@porirua.govt.nz>
 Subject: RE: [EXTERNAL] Consent fees in a SNA

Morena Mary,

Thank you for your email below.

Our website outlines fees and charges for resource consents: <https://porirua.govt.nz/services/building-consents/resource-consents/>

Please note that the application fee is not a fixed fee. Resource consent officer's would charge per hour beyond what the application fee covers if the time involved in processing the consent exceeds the application fee.

Thank you

Reply 2

From: dpreview <dpreview@porirua.govt.nz>

Date: 8 October 2021 at 12:56:27 PM NZDT

To: mary.major33@gmail.com

Cc: dpreview <dpreview@porirua.govt.nz>

Subject: RE: [EXTERNAL] Consent fees in a SNA

Hi Mary,

*In addition to my previous email below - the deposit fee list can be found here
https://storage.googleapis.com/pcc-wagtail-media/documents/RC_fees_-_Jul21.pdf*

The application deposit fee for this type of application would likely be around \$1,900.00 if the application was processed on a non-notified basis.

The final processing fee may go beyond \$1,900.00 depending on the details of the consent application and whether external specialist input was required.

Thank you
Ngā mihi,

As previously mentioned these fees are exorbitant for property owners on fixed incomes, and they are in addition to the cost of the arborist / ecologist

In **64** the panel's attention is drawn to a submission that states "restrictions should be removed for existing landowners" and "there should be consideration for existing landowners where a different set of relaxed rules apply." I suggest replacing "existing" with "current" will remove the uncertainty in the report writer's mind.

I note that **169** suggests that this issue needs to be better addressed and I recommend that the panel gives some direction on this.

Thank you for considering this and our previous submission.

Attachments:

Original submission on PDP

Previous submission February 2013

RMA FORM 5



Submission on publicly notified Proposed

Porirua District Plan

Clause 6 of the First Schedule, Resource Management Act 1991

To: Porirua City Council

1. Submitter details:

Full Name	<i>Last</i> Major	<i>First</i> Mary and Philip	
Company/Organisation <i>if applicable</i>			
Contact Person <i>if different</i>			
Email Address for Service	Mary.major33@gmail.com philandmarymajor@xtra.co.nz		
Address	43 Motuhara Road Plimmerton		
	<i>City</i> Porirua	<i>Postcode</i> 5026	
Address for Service <i>if different</i>	<i>Postal Address</i>	<i>Courier Address</i>	
Phone	<i>Mobile Mary</i> 0273 582 603	<i>Home</i> 233 9257	<i>Work Phil</i> 0274 954 717

2. This is a **submission** on the **Proposed District Plan** for Porirua.

3. I could I could not
gain an advantage in trade competition through this submission.
(Please tick relevant box)

If **you could** gain an advantage in trade competition through this submission please complete point four below:

4. I am I am not
directly affected by an effect of the subject matter of the submission that:
(a) adversely affects the environment; and
(b) does not relate to trade competition or the effects of trade competition.
(Please tick relevant box if applicable)

Note:

If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

5. I wish I do not wish
To be heard in support of my submission
(Please tick relevant box)

6. I will I will not
Consider presenting a joint case with other submitters, who make a similar submission, at a hearing.
(Please tick relevant box)

Please complete section below (insert additional boxes per provision you are submitting on):

The specific provision of the proposal that my submission relates to:
Significant Natural Areas – Motuhara Bush
Do you: Support? Oppose? Amend?
Oppose
What decision are you seeking from Council? What action would you like: Retain? Amend? Add? Delete?
That the Council removes the designation of Significant Natural Area from this area and specifically from our property.

Reasons:

Thank you for the opportunity to make submission on the proposed Significant Natural Area designation that will take in much of our property and the surrounding properties.

We are the outright owners of the estate described as Fee Simple, 1/1, Lot 6 deposited plan 2093 which has an area of 1,209 square metres.

We have owned this property since 1974.

We note the following definition of a fee simple title : A fee simple title is where the owner of the dwelling has full control and freedom of not only the dwelling but the land surrounding it. The owners can enjoy the freedom of a permanent and absolute ownership of the land.

The proposed designation effectively removes rights from the owners allowing the Council to impose restrictions, regulations and fees on land we own. They are effectively converting our privately owned land into a common ie the so-claimed common good prevails over the ownership rights of the owner.

If the Council wishes to do this they should make an offer to buy the land.

This proposal has devalued the property we own and, if this proposal goes ahead compensation will be sought.

Additionally, if this proposal were to go ahead we would have to pay for a consent to prune or cut trees within the zone, a further expense on top of exorbitant rates.

We have lived on this property for 46 years. Some of the trees now regarded as exceptional were planted by us. Most of the trees the Council now seeks to have control over have only become established over those years. The oldest ones when we first arrived, the big old kanuka, have fallen over and are gone.

Most people who live in this area do so because they value the bush, and choose to look after it. There has been no wholesale cutting down of trees and even pruning has been modest to protect dwellings and allow views. We value the bush and the bird life it brings, but we value our independent rights over our properties more.

Importantly, this proposal takes no cognisance of the changing views on the desirability of have bush / trees in close proximity to private dwellings. When this significant vegetation designation was first proposed several years ago (we have been dealing with the Council on this matter since 2010) wild bushfires were random fluke events. Now, regrettably, climate change has made them a regular occurrence. One factor that has been proven to be a contributor to wild fires is the fuel load.

After the recent Australian bush fires this comment was published –
As former fire chiefs recently pointed out, of all factors driving a fire's severity – temperature, wind speed, topography, fuel moisture and fuel load – fuel load is the only one humans can influence.

This proposal increases the likelihood of a fire gaining hold and running out of control. Any fire is likely to rush up the incline to the houses that sit around Motuhara Road above the bush. Rather than imposing additional protection on the bush the Council should be looking to protect lives and dwellings.

The site summary for Motuhara Bush notes kanuka and manuka as being especially requiring protection. These two species rank highest in the NZ Fire Service list of flammability.

Fire service recommends that trees should be 10 metres from any dwelling. This proposal requires that trees are subject to protection only a few metres from a dwelling. In some cases the boundary is right up to a dwelling. Council imposed restrictions are therefore contrary to fire service guidelines and put the Council at risk of incurring damages claims should a fire occur. You might like to add up the value of the properties around Motuhara Road that are impacted by this proposal to see what the cost of this compensation could amount to.

Summary:

This proposal denies the property rights inherent in a fee simple title and would be worthy of being contested in Court. Such a designation may be appropriate for areas of bush on large land holdings and away from dwellings, though we note that such areas are usually covenanted through the QE11 Trust and are a *voluntary* covenant between a land owner and the Trust. It is entirely inappropriate to land-grab, without compensation, significant proportions of owners' small suburban sections.

Recommendation:

We recommend that the Council removes the Significant Natural Area designation from this area. It has not been proven that any of the activities of the land owners have put this bush area at risk. The proposal brings no benefits and has great actual and potential cost to the property owners.

It also exposes the Council to costs should there be a fire.

Please return this form no later than **5pm on Friday 20 November 2020** to:

- Proposed District Plan, Environment and City Planning, Porirua City Council, PO Box 50-218, PORIRUA CITY or
- email dpreview@pcc.govt.nz

Signature of submitter
*(or person authorised to sign
on behalf of submitter):*

_____ Date: _____

*A signature is not required if you make
your submission by electronic means*

43 Motuhara Road
PLIMMERTON

15 February 2013

Matt Muspratt
Senior Policy Analyst
Porirua City Council
16 Cobham Court
PORIRUA 5022

Dear Matt,

Study of Significant urban Vegetation – Properties within existing Landscape Protection Areas

Thank you for the opportunity to respond to the draft District Plan Provisions document. We are pleased to have been consulted.

As we mentioned at the meeting last year it was a complete surprise to us to know that any of our property already came under regulation under the District Plan in relation to a Landscape Protection Plan. We doubt the legality of this since there had not been the necessary consultation to allow this to have happened.

We own outright the property at 43 Motuhara Road. Have done so for nearly 39 years. It seems that the Council intends to convert at least part of this property into a public amenity and we ask that you provide us with the statutory authority on which this action is based.

We object, in the strongest terms, to the Council having any say over what we do on the land we own.

There are three reasons for this

- 1) We own the land, manage the land, and it is up to us to determine what happens.
- 2) Having the Council in any way involved in the management would undoubtedly end up costing us money. Eg should we wish to top a tree, we would presumably have to pay for a Council consent to do so. This on top of the already exorbitant rates we pay.
- 3) Our experiences with the Council over the years regarding the property have allowed us to form the view that we are better guardians of the property than the Council.

Some examples relating to point 3 might be useful:

- 1) When the steps were redone on the reserve beside our property a wide swathe of bare clay was left beside the steps which quickly became covered with weed that infiltrated our bush. We have been unable to get rid of this weed, and the Council has not provided any assistance. The Regional Council did come out once though and offered advice.
- 2) Council workmen cut down a huge Kanuka tree that was on our property and took it away for firewood.
- 3) The steps were not properly surveyed, resulting in the Council allowing the two properties at the bottom of the steps to extend their properties into the reserve.
We were not consulted, despite having an interest in this. This impacted on us in two ways. It meant that possible access to the bottom of our property from Moana Road is no longer possible and, most importantly, it has meant that we no longer have little blue penguins nesting under our garage.
The penguins used to come from the beach, under the road through the pipe then up through the bush. The extension of the piping so that the Moana Road property could be extended obviously made this route too difficult for the penguins and they abandoned the site.
- 4) Over the years we have had several problems with various pipes breaking on Motuhara Road and stormwater /sewage leaking under our house. Sometimes the Council has been great at attending to this; sometimes they have been absolutely terrible. The worst occasion resulted in the water (actually it was from the sewer line) causing big holes under our house, which the Council refused to remediate.
- 5) We have noticed the way Council contractors mutilate the bush along the road when they come through clearing. This gives us no faith in the Council as caretaker of the bush. This is a cheap way to achieve the objective, and clearly cost is the over-riding factor here.

One other point I would like to make. There is a place for non-native plants in this area and I would counsel against being too doctrinaire about natives.

We had a young kereru collapse on our deck one year. I took it to the vet, who sent it to Nga Manu. When I later spoke to Peter McKenzie he said it was malnourished and would have been unlikely to survive without intervention. He said please plant lupin trees as they are a great source of food for kereru at a time when there is not much else. Likewise Acacia trees, though a pain because they grow fast then fall over, are a great source of food for birds.

I look forward to your response.

Yours sincerely,

Mary Major (Olive)

PS I think the Council letterhead has the wrong postcode on it.