

**BEFORE THE HEARING PANEL**

**UNDER THE**

Resource Management Act 1991

**IN THE MATTER OF**

Proposed Porirua District Plan

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**MEMORANDUM OF COUNSEL  
FOR THE DIRECTOR-GENERAL OF CONSERVATION**

**22 November 2021**

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**Regarding:**

- **Participation at hearing stream 3 and future hearing streams**
  - **Tabled statement of Mr Graeme La Cock (ecology)**
  - **Tabled statement of Mr Graeme Silver (planning)**

**Director-General of Conservation**

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## **Memorandum regarding Director-General's participation in Hearing Streams 3 - 8**

May it please the panel

### ***Attendance at future hearing streams***

1. The Director-General has opted not to participate in Hearing Stream 3 and subsequent hearings streams due to unexpected resourcing constraints. However, the Director-General is not formally withdrawing her right to be heard in case the situation regarding resourcing changes. If the panel has any particular questions for the Department as the hearing progresses then all attempts will be made to respond in writing.

### ***Tabled statement of Graeme La Cock regarding ecology matters in Hearing Stream 3***

2. Mr La Cock has considered one matter concerning coastal management which is the subject of this hearing stream and has prepared a written statement.
3. CE-R5 is a permitted activity for soft engineering coastal hazard mitigation works undertaken by a Statutory Agency or their nominated contractor or agent in all the Hazard Areas of the Coastal Hazard Overlays. The Director-General sought to add conditions to the exercise of this activity.
4. It is considered that permitted activity status is appropriate for the purposes of encouraging soft protection measures. It is also acknowledged there is some degree of protection with the activity only being available to a 'Statutory Agency' which is defined to mean:
  - 4.1. a central government agency;
  - 4.2. Greater Wellington Regional Council; and
  - 4.3. Porirua City Council.
5. It is submitted that Mr La Cock gives cogent reasons and examples to justify the use of this permitted activity rule being subject to a level of oversight by a qualified coastal management expert. In order of preference the Director-General seeks that rule CE-R5 be subject to:
  - 5.1. Approval by a qualified coastal management expert;
  - 5.2. Supervision by a qualified coastal management expert; or
  - 5.3. Consultation with a qualified coastal management expert.

**Tabled statement of Mr Graeme Silver refining a further submission point**

6. The Director-General supported<sup>1</sup> the Royal Forest and Bird Society submission to 'include "effects on indigenous biodiversity" as a standard matter of discretion for all restricted discretionary rules and as a matter for control for all controlled activity rules.'<sup>2</sup>
7. These submissions were "accepted in part" by Ms Sweetman in her s 42A report "Part B – Natural Environment" dated 24 September 2021.<sup>3</sup> However, they have not been analysed in relation to each rule they affect as those rules have not yet been the subject of a hearing.
8. Since lodging the further submission, further planning analysis has identified which controlled and restricted discretionary rules throughout the plan should have 'indigenous biodiversity' added, and which should not. Mr Silver has tabled a planning statement attaching a table which sets out the results of this analysis.
9. The table is relevant to future hearing streams as it assesses rules throughout the plan.
10. It is being tabled at this point given the Director-General's resourcing constraints with respect to future hearing streams.
11. The inconvenience of not having a planning witness available for questioning is acknowledged. However, the intention is to assist the panel and section 42A report writers in preparing for future hearing streams by significantly refining the Director-General's broad further submission.
12. To clarify, the Director-General now only seeks indigenous biodiversity be added as relevant matters as indicated in the table attached to Mr Silver's statement.

22 November 2021



Katherine Anton and Rosemary Broad  
Counsel for Director-General of Conservation

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<sup>1</sup> DOC [FS39.1].

<sup>2</sup> 225.42.

<sup>3</sup> Officer's Report: Part B – Strategic Directions – Natural Environment; para 45 and Table B at page 29.