

NOTES FOR HEARING PRESENTATION – HS3

1. Council staff allocated some of Ms Smith’s 124 submission points to HS1. This should not preclude those same points being referred to (by any submitter), and considered in, other hearing streams, including this HS3.
2. Ms Smith should also not be precluded from cross-referencing any of her submission points in this, or any subsequent, hearing stream.
3. Precluding these options would be equivalent to **dis**integrated management.
4. There is nothing in the Panel’s hearing procedures suggesting preclusion would be the case, and if this is an unwritten legal principle of some sort how would a lay submitter be expected to know.
5. Indeed, the summary table at Para. 66 of Hearing Minute 2 confirms that *“the extent of land the subject of overlay”* would be included in the matters to be considered for each topic in HS3.
6. The Panel Chair in Minute#10 says:

“All parties were given the opportunity to comment on a draft of Minute 2, including the draft allocation of topics to different hearing streams, before it was finalised. Ms Smith did not make any comments.”
7. That comment is incorrect. Ms Smith did make comment about the proposed procedural management of hearings and submissions, albeit somewhat delayed.
8. I wish to table an email dated 15 August 2021 Ms Smith sent to PCC staff [the hearing administrator, and cc’d to Ms Wendy Walker (Chief Executive) and Ms Nicola Etheridge (General Manager - Policy, Planning & Regulatory Services)]. This includes these comments:
 - *“I do not know which of my ‘submission points’, and ‘further submission points’, apply to which of the deemed draft scheduled ‘hearing topics’; and,*
 - *Accordingly, I’m unable to determine what time I require in which of allotted ‘hearing topic’ windows, and therefore I’m not currently able to request the time I require.*
 - *Given the above, please provide me with the ‘hearing topic’ applicable to each of my 124 submission points (as far as the council’s hearing management is concerned).”*
9. These comments likely resulted in the hearing procedures being amended (before release on 17 August 2021) to include Para. 26 which reads:

“Following a request made at the 2 August 2021 Procedures Hearing Conference, the Council will put an annotated version of the Summary of Submissions with an additional column indicating the Stream Hearing each submission point will be heard in, on the Hearings website, to assist submitters to plan their preparation for the hearings.”
10. Ms Smith clearly wanted forewarning of what would be considered and when. Despite the Panel’s assurances in Para. 26 of Minute #2, the annotated version of the submission summary was not placed on the Council’s website until early November 2021, almost three months later.

11. And, this only occurred because, in an email to Ms Etheridge, I (on behalf of Ms Smith) asked what if anything had happened in that regard.
12. It appears the implementing of Para. 26 (Minute#10) was overlooked by council staff and/or the Panel.
13. The Council's portal has this headline: ***"5/11/21 - Find out what submission points are being heard in hearing streams 3 to 6 here"***
14. So, it wasn't until 5 November 2021 that Ms Smith, or any other submitter for that matter, knew which of her submission points would be considered and when.
15. This has resulted in her being significantly disadvantaged particularly because it appears that the Panel will now close-off any further commentary about spatial mapping issues as they relate to topics in HS3, HS4, HS5 and HS7.
16. The Panel will recall hearing from Jenny Blake (submitter no. 17), a resident of Murphys Road. On 2 November 2021 she commented along similar lines in respect of quarrying activities and SNAs.
17. I contacted Ms Blake pointing out that, by early November 2021, PCC had not updated submitters about their allocation to the various hearing streams. In reply, she said this:

"This is very much appreciated as it is incredibly difficult to understand how and when concerns about a range of multiple impacts on the Judgeford area have been arranged to be heard within the hearing streams which have been structured for the administrative convenience of the Porirua City Council."
18. So, Ms Smith has not been alone in wondering where she stands in terms of scheduling and participation.
19. In this vein, I note Mr Ebbert's presentation for the TBRA on 8 December, 2021. He raised similar questions about the PCC's approach to allocating submission points to hearing streams. He mentioned lack of integration with the pNRP, a "mess of regulation", and the lack of definition (delineation on the ground) of the MHWS. On Wednesday, the Panel asked Mr Ebbert questions relating to the CMA jurisdiction in HS3 (as determined by the MHWS) (Commissioner St Clair at 6:03:23 said: *"How do you want this strip dealt with"*). In essence, Mr Ebbert was saying he wanted an agreed delineation of MHWS. He mentioned clarity and certainty. This is also what Ms Smith sought (refer s.6.4.12 of Ms Smith's submission).
20. PCC and the Panel has essentially relegated Ms Smith's interests in this regard to HS1. Mr Ebbert questioned why the TBRA's submission was not allocated to HS1. I think this raises questions about hearing and issue management, preferences by council staff, and what factors PCC used to allocate particular submission points to particular hearing streams.
21. I ask the Panel to consider my written statement on behalf of Ms Smith. This statement relates to 17 submission points comprising those allocated by council staff to HS3 along with another that relates to district plan mapping.

22. Further, I ask the Panel to consider these, and previous points made about the defects in the PDP spatial mapping, in the light of this statement from Mr Iain Dawe for GWRC, in his evidence for HS3.

“It is important that the PDP contains spatially defined hazard maps and information that is [sic] easy to find and interpret so that plan users are able to obtain all information relevant to a property.”

23. Deletion of one word (the word ‘hazard’) would make this statement equally applicable to the matters about spatial mapping raised in Ms Smith’s submission.

24. It is incredible that PCC has spent considerable effort and expense in determining the extent of ‘Coastal Inundation – Current’ but has not chosen to use the seaward edge of that GIS ‘hazard overlay’ polygon (which appears to have a high LIDAR accuracy, perhaps +/- 100mm)¹ as the proxy for the CMA boundary.

25. In its response (received yesterday on 8 December 2021) to my LGOIMA request (PCC’s file no OIA 21-171²), council staff confirmed no consideration was given to using the seaward edge of the ‘Coastal Inundation – Current’ polygon to define the MWHS. On the face of it, this would appear at odds with section 32(1)(b)(i) of the RMA which talks about *“other reasonably practicable options”*.

26. When it comes down to it, the outcomes for mapping hazards Mr Dawe has lauded are the very same outcomes Ms Smith has sought from her submission points relating to much more fundamental (and more important) concepts: ie, delineation of MHWS, the extent of the District, zoning, overlays, and the coastal margin.

27. The significance of these concepts (as they relate to the provisions of the PDP and the RMA) should not be deflated simply because council staff have conflated the submitters’ feedback.

Presented Verbally

10 December 2021



Brian Warburton

¹ A great improvement on +/- 350m that can occur using cadastral boundaries.

² <https://fyi.org.nz/request/17641-use-of-gis-data-with-development-of-proposed-district-plan#incoming-67885>