

Before the Proposed Porirua District Plan Hearings Panel In Porirua

Under the Resource Management Act 1991 (the Act)

In the matter of the Proposed Porirua District Plan - Hearing Stream 4: Energy, Infrastructure and Transport, General District-Wide Matters

Between **Porirua City Council**
Local authority

And **Transpower New Zealand Limited**
Submitter 60 and Further Submitter FS04

Memorandum of counsel by Transpower NZ Limited regarding filing of Hearing Stream 4 legal submissions

Dated 2 February 2022

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MAY IT PLEASE THE HEARINGS PANEL

- 1 Transpower New Zealand Limited (**'Transpower'**) is a submitter and further submitter on the Proposed Porirua District Plan (**'PDP'**).
- 2 Transpower has filed three statements of evidence and one statement of rebuttal evidence in relation to Hearing Stream 4, and is scheduled to appear before the Hearings Panel on 14 February 2022.
- 3 Transpower will also be filing legal submissions in advance of the hearing and seeks an extension from the Hearings Panel to file these by 1pm on Friday 4 February 2022.
- 4 The need has arisen for Transpower to seek an extension due to a misapprehension of the due date for legal submissions for Hearing Stream 4.
- 5 Minute 2 contained the following direction (generally, in respect of the PDP hearing process, rather than applying to a specific hearing stream):¹

All legal submissions and other written presentations that are longer than three A4 pages in length should be lodged with the Hearing Administrator not less than two working days before the commencement of the relevant hearing.
- 6 Transpower acknowledges that, according to Minute 2, the due date for Hearing Stream 4 legal submissions would be 2 February 2022.
- 7 However, Transpower had considered that direction in Minute 2 to be superseded (based on the principle that “the specific overrides the general”) by the subsequent documents set out below, all of which refer to a due date of (1pm) 4 February 2022:
 - a Minute 7 confirmed the timetable for Hearing Stream 4 at paragraph 30. The due date for “Submitter statements longer than 3 A4 pages and legal submissions” was specified as (1pm) “4 February 2022”;
 - b Minute 15, in relation to an extension sought by Transpower, also adopted Transpower’s reference to legal submissions being due on 4 February 2022;² and

¹ Dated 17 August 2021, para 54.

² Dated 13 December 2021, para 14.

- c Finally, the PDP Hearings Portal sets out the key dates for Hearing Stream 4, including the following due date:³

4 February 2022 - Submitter statements longer than 3 A4 pages and legal submissions.

- 8 Transpower was proceeding on the basis that legal submissions for Hearing Stream 4 were due on (1pm) 4 February 2022. However, an email was sent by the Hearings Administrator to all submitters on the morning of 2 February 2022 which indicated that legal submissions were due on (1pm) 2 February 2022.
- 9 Counsel do acknowledge that there was a reference to the 2 February 2022 date in Minute 22.⁴ Counsel reviewed the Minute on 1 February (returning from Auckland Anniversary) and sought to clarify this with the Hearings Administrator.
- 10 Accordingly, based on its misapprehension that legal submissions were due on 4 February 2022, Transpower seeks an extension to file its legal submissions by 1pm on 4 February 2022.

Dated 2 February 2022



Ezekiel Hudspith/ Liam Bullen
Counsel for Transpower New Zealand Limited

³ <https://pdportal.porirua.govt.nz/hearings-information/hearing-stream-4/>.

⁴ Dated 31 January 2022, para 11.