

OFFICER'S REPORT FOR:

Independent Hearing Commissioners:

Trevor Robinson

Mark St Clair

Miria Pomare

SUBJECT:

**Proposed Porirua District Plan: Strategic
Directions Functioning City FC-O3 and FC-O4**

PREPARED BY:

Gina Sweetman

REPORT DATED:

3 December 2021

DATE OF HEARING:

8-9, 11, 14-15 February 2022

Executive Summary

1. This report considers submissions received by Porirua City Council (the Council) in relation to the Functioning City Strategic Objectives FC-O3 and FC-O4 and their introductory text in the Proposed Porirua District Plan (PDP). The report outlines recommendations in response to the issues that have emerged from these submissions. Strategic Objectives FC-O1 and FC-O2 are addressed in the body of the Infrastructure s42A report.
2. There were 14 submissions and six further submissions received on Strategic Objectives FC-O3 and FC-O4 and their introductory text. The submissions received were primarily to provide greater clarity and certainty of interpretation.
3. This report addresses these submission points.
4. I have recommended some changes to the PDP provisions to address matters raised in submissions which are to provide clarity and certainty of interpretation.
5. Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, I recommend that the PDP should be amended as set out in Appendix A of this report.
6. For the reasons included throughout this report, I consider that the proposed objectives, with the recommended amendments, will be the most appropriate means to achieve the purpose of the Resource Management Act 1991 (RMA) where it is necessary to revert to Part 2 and otherwise give effect to higher order planning documents, in respect to the proposed objectives.

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Interpretation

7. Parts A and B of the Officer's reports utilise a number of abbreviations for brevity as set out in Table 1 below:

Table 1: Abbreviations

Abbreviation	Means
the Act / the RMA	Resource Management Act 1991
the Council	Porirua City Council
the Operative Plan/ODP	Operative Porirua District Plan 1999
the Proposed Plan/PDP	Proposed Porirua District Plan 2020
GWRC	Greater Wellington Regional Council
NES	National Environmental Standard
NES-AQ	National Environmental Standards for Air Quality 2004
NES-CS	National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
NES-ETA	National Environmental Standards for Electricity Transmission Activities 2009
NES-FW	National Environmental Standards for Freshwater 2020
NES-MA	National Environmental Standards for Marine Aquaculture 2020
NES-PF	National Environmental Standards for Plantation Forestry 2017
NES-SDW	National Environmental Standards for Sources of Drinking Water 2007
NES-TF	National Environmental Standards for Telecommunication Facilities 2016
NPS	National Policy Statement
NPS-ET	National Policy Statement on Electricity Transmission 2008
NPS-FM	National Policy Statement for Freshwater Management 2020
NPS-UD	National Policy Statement on Urban Development 2020
NPS-REG	National Policy Statement for Renewable Electricity Generation 2011
NZCPS	New Zealand Coastal Policy Statement 2010
PNRP	Proposed Wellington Natural Resources Plan (Decisions Version) 2019
RPS	Wellington Regional Policy Statement 2013

Table 2: Abbreviations of Submitters' Names

Abbreviation	Means
Dept of Corrections	Ara Poutama Aotearoa the Department of Corrections
DOC	Department of Conservation Te Papa Atawhai
FENZ	Fire and Emergency New Zealand
Foodstuffs	Foodstuffs North Island Limited
Forest and Bird	Royal Forest and Bird Protection Society
GWRC	Greater Wellington Regional Council
Harvey Norman	Harvey Norman Properties (N.Z.) Limited
Heritage NZ	Heritage New Zealand Pouhere Taonga
House Movers Association	House Movers section of the New Zealand Heavy Haulage Association Inc
Kāinga Ora	Kāinga Ora – Homes and Communities
KiwiRail	KiwiRail Holdings Limited

NZDF	New Zealand Defence Force
Oil companies	Z Energy, BP Oil NZ Ltd and Mobil Oil NZ Limited
Oranga Tamariki	Oranga Tamariki – Ministry of Children
PCC	Porirua City Council
QEII	Queen Elizabeth the Second National Trust
RNZ	Radio New Zealand
Survey+Spatial	Survey+Spatial New Zealand (Wellington Branch)
Telco	Spark New Zealand Trading Limited, Chorus New Zealand Limited, Vodafone New Zealand Limited
Transpower	Transpower New Zealand Ltd
TROTR	Te Rūnanga o Toa Rangatira
Waka Kotahi	Waka Kotahi NZ Transport Agency
WE	Wellington Electricity Lines Limited
Woolworths	Woolworths New Zealand Limited

In addition, references to submissions includes further submissions, unless otherwise stated.

1 Introduction

1.1 Purpose

8. The purpose of this report is to provide the Hearing Panel with a summary and analysis of the submissions received on Strategic Objectives FC-O3 and FC-O4 and their introductory text, and to recommend possible amendments to the PDP in response to those submissions.
9. This report is prepared under section 42A of the RMA. It considers submissions received by the Council in relation to FC-O3 and FC-O4 and their introductory text in the PDP. The report outlines recommendations in response to the key issues that have emerged from these submissions. FC-O1 and FC-O2 are addressed in the body of the Infrastructure s42A report.
10. This report discusses general issues, the original and further submissions received following notification of the PDP, makes recommendations as to whether or not those submissions should be accepted or rejected, and concludes with a recommendation for changes to the PDP provisions or maps based on the preceding discussion in the report.
11. This report is provided to assist the Hearings Panel in their role as Independent Commissioners. The Hearings Panel may choose to accept or reject the conclusions and recommendations of this report and may come to different conclusions and make different recommendations, based on the information and evidence provided to them by submitters.
12. This report is intended to be read in conjunction with Officers' Report: Part A – Overview which contains factual background information, statutory context and administrative matters pertaining to the district plan review and PDP.

1.2 Author

13. My name is Gina Sweetman. My qualifications and experience are set out in Appendix E of this report.
14. My role in preparing this report is that of an expert planner.
15. I was involved in the preparation of the PDP and peer-reviewed all of the PDP including the Section 32 Evaluation Reports. I was directly involved in drafting all the Strategic Objectives.
16. Although this is a Council Hearing, I have read the Code of Conduct for Expert Witnesses contained in the Practice Note issued by the Environment Court December 2014. I have complied with that Code when preparing my written statement of evidence and I agree to comply with it when I give any oral evidence.
17. The scope of my evidence relates to FC-O3 and FC-O4 and their introductory text. I confirm that the issues addressed in this statement of evidence are within my area of expertise as an expert policy planner.
18. Any data, information, facts, and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinions. Where I have set out opinions in my evidence, I have given reasons for those opinions.

19. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

1.3 Key Issues in Contention

20. Fourteen submissions and six further submissions were received on Strategic Objectives FC-O3 and FC-O4. The submissions received were primarily to provide greater clarity and certainty of interpretation.

1.4 Procedural Matters

21. At the time of writing this report there has not been any pre-hearing conferences, clause 8AA meetings or expert witness conferencing in relation to submissions on Strategic Objectives FC-O3 and FC-O4.

2 Statutory Considerations

2.1 Resource Management Act 1991

22. The PDP has been prepared in accordance with the RMA and in particular, the requirements of:

- section 74 Matters to be considered by territorial authority, and
- section 75 Contents of district plans,

23. As set out in Section 32 Evaluation Report Part 1 - Overview to s32 Evaluation, there are a number of higher order planning documents and strategic plans that provide direction and guidance for the preparation and content of the PDP. There is further discussion in the Section 32 Evaluation Report Part 1 – Overview to the s32 Evaluation on the approach the Council has taken to giving effect to the NPS-UD and NPS-FM. This is also discussed in the Officer's Report: Part A.

2.2 Section 32AA

24. I have undertaken an evaluation of the recommended amendments to provisions since the initial section 32 evaluation was undertaken in accordance with s32AA . Section 32AA states:

32AA Requirements for undertaking and publishing further evaluations

(1) A further evaluation required under this Act—

(a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and

(b) must be undertaken in accordance with section 32(1) to (4); and

(c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and

(d) must—

(i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or

(ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.

(2) To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).

25. The required section 32AA evaluation for changes proposed as a result of consideration of submissions with respect to Strategic Objectives FC-O3 and FC-O4 and their introductory text is contained within the assessment of the relief sought in submissions in section 3 of this report as required by s32AA(1)(d)(ii).

2.3 Trade Competition

26. Trade competition is not considered relevant to Strategic Objectives FC-O3 and FC-O4 and their introductory text of the PDP.
27. There are no known trade competition issues raised within the submissions.

3 Consideration of Submissions and Further Submissions

3.1 Overview

28. A total of fourteen original submissions and six further submissions were received on Strategic Objectives FC-O3 and FC-O4 and their introductory text.

3.1.1 Report Structure

29. Given the low number of submissions received on FC-O3 and FC-O4 and in accordance with Clause 10(3) of the First Schedule of the RMA, I have undertaken the following evaluation on a submission by submission approach for each provision. I have organised the evaluation in accordance with the layout of chapters of the PDP as notified.

30. Due to the low number of submission points, this evaluation contains specific recommendations on each submission point where an amendment to the PDP is sought. Specific recommendations on each submission point are contained in Appendix B.

31. The following evaluation should be read in conjunction with the summaries of submissions and the submissions themselves. Where I agree with the relief sought and the rationale for that relief, I have noted my agreement, and my recommendation is provided in the summary of submission table in Appendix B. Where I have undertaken further evaluation of the relief sought in a submission(s), the evaluation and recommendations are set out in the body of this report. I have provided a marked-up version of the Chapter with recommended amendments in response to submissions as Appendix A.

3.1.2 Format for Consideration of Submissions

32. For each identified topic, I have considered the submissions that are seeking changes to the PDP in the following format:

- Matters raised by submitters;
- Assessment;
- Summary of recommendations; and
- Section 32AA evaluation.

33. The recommended amendments to the FC chapter is set out in in Appendix A of this report where all text changes are shown in a consolidated manner.

34. I have undertaken a s32AA evaluation in respect to the recommended amendments in my assessment.

3.2 FC-O3

3.2.1 Matters raised by submitters

35. Kāinga Ora [81.204] seeks that FC-O3 be amended as follows:

Porirua City's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.

In this context ~~the~~ the ongoing operation, character and amenity values of existing lawful activities are protected from incompatible activities.

36. The reason provided is that parts of Porirua will be transformed and the amenity values for individual landowners will be changed, as provided for by Objective 4 and Policy 6 of the NPSUD. The submitter considers that the amenity of existing activities should not be protected at all costs and in some cases, it will be appropriate for the urban form to change in such a way that amenity values are detracted for some and improved for others, including when a proposal provides increased and varied housing density and types.

3.2.2 Assessment

37. I agree with Kāinga Ora that there are parts of Porirua that will change as a result of what is provided for through the PDP. The intent of the objective was to address the protection of existing lawful activities from incompatible activities. As such, I agree that it is appropriate to delete "the ongoing operation, character and amenity values" as requested by the submitter. I consider the additional wording sought is unnecessary in the context of this objective and will otherwise be addressed through the UFD and HO strategic objectives in a future hearing stream.

3.2.3 Summary of recommendations

38. I recommend for the reasons given in the assessment, that the Hearings Panel:

- a. **Amend** FC-O3 as set out below and in Appendix A

FC-O3 Existing activities

~~The ongoing operation, character and amenity values of~~ eExisting¹ lawful activities are protected from incompatible activities

39. I recommend that the submission from Kāinga Ora [81.204] be **accepted in part**.

40. My recommendations in relation to further submissions reflect the recommendations on the relevant primary submission.

3.2.4 Section 32AA evaluation

41. In my opinion, the amendment to FC-O3 is more appropriate in giving effect to the NPSUD and achieving the purpose of the RMA than the notified objective. In particular, I consider that the amendment and new objective will better reflect the intent of the objective, which was to ensure that existing lawfully established activities are protected from incompatible activities.

¹ Kainga Ora [81.204]

3.3 FC-04

3.3.1 *Matters raised by submitters*

42. Powerco [83.17] seeks that FC-04 be amended by adding “where technically and operationally feasible for infrastructure” at the end of the chapeau. The reason is that the objective should recognise that infrastructure is needed everywhere a customer chooses to locate.

3.3.2 *Assessment*

43. I do not consider the amendment sought by Powerco is necessary. FC-01 addresses the provision of infrastructure and reference in this objective is not necessary. How FC-01 and FC-04 operate together is addressed through the Infrastructure chapter.

3.3.3 *Summary of recommendations*

44. I recommend for the reasons given in the assessment that the submission from Powerco [83.17] be **rejected**.

45. My recommendations in relation to further submissions reflect the recommendations on the relevant primary submission.

4 Conclusions

46. Submissions have been received in support of, and in opposition to Strategic Objectives FC-O3 and FC-O4 and their introductory text in the PDP.
47. Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, I recommend that PDP should be amended as set out in Appendix A of this report.
48. For the reasons included throughout this report, I consider that the proposed objectives, with the recommended amendments, will be the most appropriate means to achieve the purpose of the Resource Management Act 1991 (RMA) where it is necessary to revert to Part 2 and otherwise give effect to higher order planning documents, in respect to the proposed objectives.

Recommendations:

I recommend that:

1. The Hearing Commissioners accept, accept in part, or reject submissions (and associated further submissions) as outlined in Appendix B of this report; and
2. The PDP is amended in accordance with the changes recommended in Appendix A of this report.

Signed:

Name and Title	Signature
Gina Sweetman Consultant Planner	

Appendix A. Recommended Amendments to the Functioning City Chapter

Where I recommend changes in response to submissions, these are shown as follows:

- Text recommended to be added to the PDP is red and underlined.
- Text recommended to be deleted from the PDP is red and ~~struckthrough~~.

FC- Functioning City

Infrastructure needs to be adequately enabled to provide for the effective, efficient, safe and resilient functioning of the city. Incompatible activities can undermine the ongoing operation and values of existing activities resulting in reverse sensitivity effects, and need to be managed accordingly. To ensure the ongoing operation and functioning of the city, compatible activities should be located together in appropriate areas.

The strategic objectives set the direction for the District Plan and help to implement the Council's community outcomes set out in its Long Term Plan. They reflect the intended outcomes to be achieved through the implementation of the District Plan.

The objectives, policies and rules in Parts 2 and 3 of the District Plan implement the strategic objectives and reconcile any tensions between them.

The strategic objectives will be particularly relevant for any future changes to the Plan and any significant resource consent applications.

Details of the steps Plan users should take when using the District Plan are provided in the [General Approach](#) chapter.

FC-O1 and FC-O2 (see the infrastructure chapter)

FC-O3 Existing activities

~~The ongoing operation, character and amenity values of~~ eExisting² lawful activities are protected from incompatible activities.

FC-O4 Compatible activities

Compatible activities ~~with similar effects and functions~~³ are located together in appropriate areas and:

² Kainga Ora [81.204]

³ Kainga Ora [81.205]

1. Are consistent with the anticipated character and amenity values of the areas where they are located; and
2. Contribute to the efficient use of land, resources and infrastructure.

Appendix B. Recommended Responses to Submissions and Further Submissions

The recommended responses to the submissions made on this topic are presented in Table B 1 below.

Table B 1: Recommended responses to submissions and further submissions

Sub. Ref.	Submitter / Further Submitter	Provision	Decision Requested	Section of this Report where Addressed	Officer's Recommendation	Officers' Reasons/Comments	Recommended Amendments to PDP?
Introduction							
51.22	Telco	General	Retain as notified	n/a	Accept	Agree with submitter	No
264.23	TROTR	General	Retain as notified	n/a	Accept	Agree with submitter	No
FC-03							
81.204	Kāinga Ora	FC-03	Amend: FC-03 Existing activities in urban environments or future urban environments <u>Porirua City's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.</u> <u>In this context the ongoing operation, character and amenity values of existing lawful activities are protected from incompatible activities.</u>	3.2	Accept in part	See body of the report	Yes
85.10 ⁴	WE	FC-03	Retain as currently drafted	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions	No
86.74 ⁵	KiwiRail	FC-03	Retain as proposed	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions	No
83.16 ⁶	Powerco	FC-03	Retain as notified	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions	No
137.86 ⁷	GWRC	FC-03	Retain	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions	No
144.12 ⁸	Harvey Norman	FC-03	Retain as notified	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions	No
134.10 ⁹	Ministry of Education	FC-03	Retain as proposed	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions	No
121.14 ¹⁰	Radio NZ	FC-03	Retain as notified	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions	No
FC-04							
83.17	Powerco	FC-04	Amend the Objective FC – 04 as follows:	3.3	Reject	See body of report	No

⁴ Oppose: Kainga Ora [FS65.70]⁵ Oppose: Kainga Ora [FS65.71]⁶ Oppose: Kainga Ora [FS65.71]⁷ Oppose: Kainga Ora [FS65.71]⁸ Oppose: Kainga Ora [FS65.71]⁹ Oppose: Kainga Ora [FS65.71]¹⁰ Oppose: Kainga Ora [FS65.72]

Sub. Ref.	Submitter / Further Submitter	Provision	Decision Requested	Section of this Report where Addressed	Officer's Recommendation	Officers' Reasons/Comments	Recommended Amendments to PDP?	
			Compatible activities with similar effects and functions are located together in appropriate areas (<u>where technically and operationally feasible for infrastructure</u>) and:...					
<i>FS04.27</i>	<i>Transpower</i>	<i>Support</i>	<i>Transpower supports the policy on the basis it appropriately recognises the technical and operational constraints of the National Grid.</i>					
81.205	Kāinga Ora	FC-O4	Amend: Compatible activities with similar effects and functions are located together in appropriate areas and: 1. Are consistent with the anticipated character and amenity values of the areas where they are located; and 2. Contribute to the efficient use of land, resources and infrastructure.	n/a	Accept	Agree with the submitter	Yes	
<i>FS40.55</i>	<i>GWRC</i>	<i>Support</i>	<i>GWRC supports this change as it recognises that the development of a vibrant city will require changes to the character and amenity of existing development over time. Policy 8 of the RPS only refers to incompatible activities, not necessarily those with similar effects and functions.</i>					
144.13	Harvey Norman	FC-O4	Retain as notified	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions	No	
137.87 ¹¹	GWRC	FC-O4	Retain	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions	No	

¹¹ Oppose: Kainga Ora [FS65.73]

Appendix C. Report Author's Qualifications and Experience

I hold the following qualifications: Masters of Planning (First Class Honours) from the University of Auckland. I am a full member of the New Zealand Planning Institute. I have over 28 years' experience in working as a planner for local and central government and as a private consultant. I am an experienced Independent Commissioner with Chair endorsement and a government-appointed Development Contributions Commissioner and Freshwater Commissioner.

My work experience includes, amongst other matters:

- Independent technical review for several district and regional plan reviews
- Expert witness in the Environment Court
- Author of various chapters of district plans
- Manager, Resource Management Practice, Ministry for the Environment
- Contractor at Te Puni Kōkiri, Office of Treaty Settlements and the Ministry of Agriculture and Forestry

I have been engaged by the Porirua City Council since 2015 as a Consultant Planner for the Environment and City Planning Team.