

**BEFORE THE HEARING PANEL**

**UNDER THE**

Resource Management Act 1991

**IN THE MATTER OF**

Proposed Porirua District Plan

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**LEGAL SUBMISSIONS  
FOR THE DIRECTOR-GENERAL OF CONSERVATION**

**4 February 2022**

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**Hearing stream 4**

**Director-General of Conservation**  
P O Box 10 420, WELLINGTON 6011

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May it please the panel

### ***Introduction***

1. By memorandum of counsel dated 22 November 2021, the Director-General indicated she would not participate in Hearing Stream 3 and subsequent hearing streams due to unexpected resourcing constraints.
2. However, in keeping a watching brief on matters, the Director-General considers it necessary to file legal submissions in relation to the policies before this hearing stream that implement both the New Zealand Coastal Policy Statement (NZCPS) and National Policy Statement for Electricity Transmission (NPSET). In particular, these policies are INF-P7, INF-P8 and INF-P9.
3. In summary, the Director-General supports the section 42A report recommendations in relation to these policies. The Director-General opposes aspects of the amendments that Transpower seeks to the above policies as set out in the planning evidence of Pauline Whitney (21 January 2022). However, the Director-General and Transpower are working together to resolve these issues prior to the hearing.

### ***Director-General's submission***

4. The Director-General's original submission sought to ensure the Proposed District Plan gives effect to the NZCPS. The Director-General's further submission opposed in part the amendments sought by Transpower to INF-P6 [now INF-P8] and INF-P7 [now INF-P9], to the extent those amendments did not adequately give effect to the NZCPS.
5. The Director-General's further submission identified as a cause for concern the lack of clarity about what policy direction applies after 'seeking to avoid' adverse effects (the wording proposed by Transpower). This is because the NZCPS provides that significant adverse effects must be avoided in the coastal environment (NZCPS policies 11(b), 13(b), 15(b)).
6. The Director-General also supported Forest and Bird's submission on INF-P6 (now INF-P8) and INF-P7 (now INF-P9).

### ***Legal concerns with Transpower's recommendations to amend INF-P7, INF-P8 and INF-P9***

7. INF-P7 (operation, maintenance and minor upgrade): deletes reference to any effects limitations. It is submitted that the version in the s 42A report better achieves the purpose of the RMA.
8. INF-P8 (major upgrade): 'have regard to extent to which adverse effects have been avoided, remedied or mitigated' does not give effect to NZCPS directives. This should have the 'seek to avoid' in first instance structure (similar to INF-P9).
9. INF-P9 (development): SNAs are treated with an 'avoid, remedy, mitigate' approach. We think all SNAs should be in clause 3 (with ONFL and CHNC in the coastal environment). At the very least, SNAs in the coastal environment should be in clause 3.
10. There is no implementation of NZCPS policy direction to avoid significant adverse effects on certain matters in the coastal environment (NZCPS p11(b), 13(b) and 15(b)).

***DOC and Transpower are working together to resolve differences before hearing***

11. Department of Conservation staff and Transpower representatives have been working to reconcile these differences. Both parties wish to be able to table a statement of agreed amendments to the above policies when Transpower gives planning evidence (Monday 14 February).
12. Counsel apologises for this not happening earlier, but hopes that tabling amended provisions during the hearing will be timely for the panel to consider.
13. DOC staff are happy to address any legal or planning questions the panel may have.

4 February 2022

A handwritten signature in blue ink, appearing to read 'Anton R Broad', is written over a faint, light blue rectangular stamp or watermark.

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