

3 February 2022

**Porirua City Council
Proposed District Plan
Hearing Stream 4**

Submission to Hearings Commissioners

1. Submitters Details

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2. Introduction

This written submission to the Hearings Panel is structured on the various separate Section 42A Reports.

3. Infrastructure

INF-S23: Table 1

Our submission was that the road design table required significant roading widths

The Officer's Report makes significant changes to the road design table, which are welcomed.

4. Three Waters

THWT-R3: Water Metering

Our submission was that a rule and standard requiring a water meter to be installed for new buildings is essentially introducing a water metering policy. We consider this rule should be deleted in the absence of Council adopting an actual position on a water metering policy.

The Officer's Report rejects our submission.

It is ironic to note that the officers report confirms that Council does not have a policy to implement water metering, but also expresses the view that the District Plan is an appropriate method to manage demand for water due to future residential growth. The officer also considers that installing a water meter can achieve the energy conservation objectives of the District Plan. However, none of these can be achieved unless a water metering policy is adopted by Council.

Installing a water meter that is not read and not used for charging a water fee can not achieve the outcomes that the officer claims.

Consequently, we remain of the view that Council will use the rule to later justify the implementation of a water metering policy as a 'fait-accompli'.

Section 6.4.11 of the RSWS 2019 (now Section 6.4.13 RSWS 2021) does not require a meter for new residential water connections. All new water manifolds (as required by the RSWS) can be fitted with a water meter, if and when Council decides to adopt a water metering policy.

THWT-S1 / THWT-O1 / THWT-P1: Hydraulic Neutrality

Our submission was that stormwater detention should only be required for the 10% AEP event (i.e. 1 in 10 year event) and not a 1% AEP event (i.e. 1 in 100 year event).

The Officer's Report rejects our submission.

The officer relies on documentation produced by Wellington Water, which states that stormwater detention should be provided for the 1% AEP event.

However, the documentation produced by Wellington Water has not been subject to any robust submission and hearing procedures. We are concerned that Wellington Water are making their own policies without Council / Councillor consideration, and then Council Officers are justifying the District Plan policy based on Wellington Water's publications. This is a reverse policy process that excludes the opportunities for due process and involvement by the public and consideration by elected officials.

Our understanding is that Wellington Water are not mandated to develop matters of Council policy, they are an operational organisation for the running and maintenance of the various Council's three waters infrastructure. Matters of policy regarding the three waters infrastructure still need to be considered and determined by the individual Councils.

DEFINITION: Impervious Surface

Our submission was that the definition is unclear. We also sought the exclusion of specific permeable surfaces such as 'permeable paving' and 'compacted metal areas'.

The Officer's Report accepts our submission in part.

The officer's recommended changes are as follows:

Impervious surface	<p>means a surface which prevents or significantly constrains the soakage or filtration of water into the ground. It includes:</p> <ul style="list-style-type: none"> f. roofs; g. paved areas (<u>excluding areas with permeable paving</u>)⁵² including driveways and sealed or compacted metal parking areas and patios; h. tennis or netball courts; i. sealed and compacted-metal roads; and j. engineered layers such as compacted clay. <p>It excludes:</p> <ul style="list-style-type: none"> h. grass or bush areas; i. gardens and other <u>landscaped vegetated</u>⁵³ areas; j. permeable paving and green roofs; k. permeable artificial surfaces, fields or lawns; l. slatted decks; m. swimming pools, ponds and dammed water; and n. rain tanks.
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<u>Permeable paving</u>	<p><u>means any system providing hard surfaces or areas used for vehicle access or parking, which also provides for downward percolation and retention of all stormwater runoff generated by the area.</u>⁵⁴</p>
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While the proposed changes are an improvement, we do not consider that compacted metal parking areas and compacted metal driveways should be classified as impervious. The officer has accepted that specifically designed and constructed permeable paving can be excluded. Our view is that there is little difference in overall porosity between permeable paving and compacted metal areas, provided both are specifically designed and constructed. We would also expect Council to encourage alternatives to traditional concrete and bitumen based sealed areas to reduce the carbon footprint of new development.

To this end, we consider that ‘compacted metal paving’ would also fit within the new definition of “permeable paving”. We note that ideally the National Planning Standards would adopt a definition for permeable surfaces.

We question if the metal areas are not compacted, does this mean they are pervious and can be excluded?

We remain of the view that specifically designed permeable paving as well as specifically designed metalled driveway / parking areas should be excluded from the definition of “impervious surface”.

THWT-O2: Relevance of Development Contributions Policy

Our submission was that the objective should include or make reference to future works on the three waters networks that are funded through development contributions. That is, the policy should not infer that the current capacity of the three waters network will determine how much development is allowed.

The Officer’s Report rejects our submission.

Nevertheless, the objective is proposed to be substantially changed as follows:

THWT-O2	Three Waters Network capacity
	Use and development within Urban Zones, and the areas of the Settlement Zone and Māori Purpose Zone (Hongoeka) serviced by all or part of the Three Waters Network, have sufficient Three Waters Network capacity to accommodate the resulting demand.
	<u>The Three Waters Network can accommodate use and development within Urban Zones, and the areas of the Settlement Zone and Māori Purpose Zone (Hongoeka) serviced by all or part of the Three Waters Network.</u>

Significantly, the notion of ‘sufficient capacity of the three waters networks’ is removed. The officer considers that the section 32 report has appropriately referred to the interplay with the development contributions policy in the development of the objective. While this may be so, we believe it is important that the objective demonstrates this link to be transparent and thus should also refer to any potential future upgrades / extension of the three waters networks.

THWT-R1: Rainwater Tanks
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THWT-S1: Rainwater Tanks

Our submission was that there are other means to achieve stormwater detention compared to rainwater tanks and the Wellington Water guide “Managing Stormwater Runoff”. We also sought a non-notification provision for the related restricted discretionary rule.

The Officer’s Report accepts our submission in part in relation to alternative methods, but rejects our submission for a non-notification provision.

The rule is proposed to be changed as follows:

THWT-R1 <u>Rainwater tanks for nNew buildings and additions to existing buildings (excluding residential accessory buildings)</u>	
Residential Zones Māori Purpose Zone (Hongoeka) Settlementne	<p>1. Activity status: Permitted</p> <p>Where:</p> <p>a. A rainwater tank is provided that <u>The stormwater management system servicing new buildings and extensions to existing buildings</u> complies with THWT-S1.; or</p> <p>b. The development achieves hydraulic neutrality through an alternative means that <u>has been approved and constructed as part of a previous stage of development.</u></p> <p>Note: Where a development achieves hydraulic neutrality through a<u>n approved alternative means to achieve hydraulic neutrality may include (for example an a catchment-sized engineered wetland or on-site detention pond), that has already been approved and constructed (for example as part of a subdivision), then this rule can be considered to be complied with.</u></p>
Residential Zones Māori Purpose Zone (Hongoeka) Settlement Z	<p>2. Activity status: Restricted discretionary</p> <p>Where:</p> <p>a. Compliance is not achieved with THWT-R1-<u>1.a or THWT-R1-1.b.</u></p> <p>Matters of discretion are restricted to:</p> <p>1. The matters of discretion in THWT-S1.</p>

We consider that the proposed amendments do not achieve the intent of our submission. We sought that the ability for alternate means of achieving hydraulic neutrality are not limited to mechanisms approved as part of previous development stage. We also note that our experience is that the accepted solutions published by Wellington Water are ‘over-engineered’ as they seem to be incorporating a portion of the ‘detention’ as retention for emergency water storage purposes.

Our submission is that a range of alternative methods should be accepted under the permitted standard. We would expect this to involve a specific engineering assessment by an appropriately qualified civil engineer. Thus the rule should allow the submission of certification statement by the civil engineer for a specifically designed hydraulic neutrality system.

We also sought a non-notification provision (as do Kainga Ora) for the restricted discretionary rule THWT-R1.2. This submission is rejected by the officer on the basis that there may be flooding effects in the wider environment. This assessment appears to be over-stating the potential effects and also presumes that no detention would be provided. We consider that any potential adverse effects would be barely noticeable in the downstream flooding environment (assuming there is a downstream flooding issue) and that a compromise on the amount and style of detention would most likely be agreed.

Standard THWT-S1 is proposed to be amended as follows:

THWT-S1	<u>Stormwater detention tanks Hydraulic neutrality devices</u>	
Residential Zones Māori Purpose Zone (Hongoeka) Settlement Zone	<p>1. <u>The stormwater management system servicing buildings and extensions to existing buildings exceeding 40m² in area must have a hydraulic neutrality device installed. Any rainwater tank must be sized in accordance with the minimum requirements in THWT-Table 1:</u></p> <p>a. Where the roof area of the building is between 40m² and 99.9m² – a 2000L capacity rainwater tank.</p> <p>b. Building roof area of ≥ 100m² – < 200m² – 3000L capacity rainwater tank.</p> <p>c. Building roof area ≥ 200m² – 5000L capacity rainwater tank.</p> <p>2. The rain <u>hydraulic neutrality device</u> must meet the specifications <u>of</u>, and be installed in accordance with <u>an</u> Acceptable Solution #1 from the Wellington Water guide Managing Stormwater Runoff, - The use of rain tanks <u>approved solutions</u> for hydraulic neutrality, <u>Acceptable solution #1 version 3</u> dated <u>June 2019-August 2020</u>.</p>	<p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. Any potential impacts on any downstream flooding hazard; 2. The size and scale of the development and the additional stormwater that the proposal will generate compared to the existing situation; 3. The capacity of the local stormwater network; and 4. Whether there are any site-specific constraints or opportunities within the local area that mean that hydraulic neutrality is not required.

A new definition of “Rainwater Tank” is proposed:

<u>Rainwater tank</u>	<u>A system to temporarily store runoff from building roofs to reduce the peak runoff during a storm event, which meets the specifications of and is installed in accordance with Acceptable Solution #1 in Wellington Water’s Managing</u>
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The proposed changes to the rule and the standard do not address our submission. Both the rule and the standard require further changes to allow a range of alternative methods to be accepted.

Therefore, we reiterate our submission that the rule and standard should be amended to allow a range of alternative methods to achieve hydraulic neutrality, and should include a non-notification provision for the restricted discretionary rule.

5. Transport

DEFINITION: Access Area

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DEFINITION: Access Allotment

Our submission was these standards need to be amended to change the threshold for exclusion from 6m to 5m.

The Officer's Report rejects our submissions.

The fact that the officers report reaches the opposite conclusion to us regarding the interpretation of these definitions (regardless of the width threshold for exclusion) indicates that these definitions are poorly worded.

We have reflected on these definitions and are of the view that the 'double exclusions' in the various linked definitions is the source of confusion. Unfortunately, upon reading the officers report, we are not able to follow their explanation.

The purpose of these definitions is to provide clarification on the definition of "net site area". We also note the national planning standard definition of "net site area" has been amended since notification of the proposed district plan. The definition of "net site area" is:

net site area

means the total area of the **site**, but excludes:

- (a) any part of the **site** that provides legal access to another **site**;
- (b) any part of a rear **site** that provides legal access to that **site**;
- (c) any part of the **site** subject to a designation that may be taken or acquired under the Public Works Act 1981.

Thus the proposed definition of "access" informs the application of the "net site area" definition to determine what types of legal access are excluded.

The proposed definition of “access” is:

Access

means an area of land over which vehicle and/or pedestrian and cycling access is obtained to legal road. It includes:

- a. an access area;
- b. an access allotment; and
- c. a right-of-way

Thus the need for the proposed definitions of “access area” and “access allotment”.

The result is that an “access area” and/or an “access allotment” are excluded from the “net site area”.

In respect of an “access area”, if it is (say) 3m wide and not legally encumbered, it is an “access area” and therefore excluded from “net site area”. However, if it is 10m wide (not legally encumbered) it is no longer an access area” and not excluded from “net site area”. The officers interpretation that the area has to be used for access does not apply to unencumbered land in our view.

Consequently, a decision on what width to set as the threshold for exclusion is critical to the measurement of the available “net site area”. The proposed definitions have similarities to the Wellington City Council District Plan’s definitions where the threshold is 5m. The WCC definitions have been in use for some time and have proved to be reasonable and workable. A width of 6m is required for a shared access to 4 or more sites (refer TR-Table 1). However, a shared access will be legally encumbered and thus the width of the land is not subject to the exclusion in any event.

Thus we are of the view that the proposed definitions of “access area” (in particular) and “access allotment” should be amended so that the threshold for excluding the access is set at 5m. A width of 5m is sufficient for most access driveways.

TR-S1: Pedestrian and Cycling Access

Our submission was these standards need to be amended to reduce the width required for shared pedestrian and cycling access to private sites and to allow steeper gradients for private access to sites.

The Officer's Report rejects our submissions.

The officers report primarily bases their assessment on Austroad standards and Waka Kotahi guidelines. These documents are for public accessways and cycleways where there are high numbers of users and there is a need to provide for people with disabilities to have access public spaces. We consider it is not appropriate for private accesses to be designed to public standards. The proposed gradient limit of 1:13 would prevent the development (or redevelopment) of many sloping properties. Therefore, it is better to relax the standards, which would facilitate greater opportunities for private access for pedestrians and cycles.

Given the restrictive gradients for pedestrian and cycle access, we consider that this would instead encourage the use of driveways for vehicle access rather than trying to promote sites with pedestrian and cycling access only.

Therefore, we reiterate our submission that the pedestrian and cycling access standards should be amended to allow less restrictive width and gradient requirements.

TR-S4: Fire Access

Our submission was these standards do not need to be included in the District Plan and should be left to the Building Code.

The Officer's Report rejects our submissions.

The officers report concludes that there is a "regulatory gap" in respect of the fire requirements for single houses and duplex houses. However, our understanding is that there is no gap, as single houses and duplex houses in urban environments are required to be within 135m of a fire hydrant.

Even if there is some sort of regulatory gap, given that the issue is related to safety of life, this should be an urgent matter addressed by central government via amendments to the

building code and related legislature. In this way the issue can be applied throughout the whole country and not on an ad-hoc basis via District Plans.

Therefore, we reiterate our submission that the fire access standards should be removed and the matter advanced with central government via the local government association.

6. Earthworks

EW-S5: Silt & Sediment Standard

Our submission was that the standard relating to the retention of all silt and sediment on a site should be deleted.

The Officer's Report rejects our submissions.

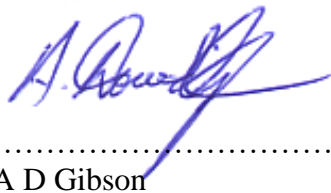
Our view is that it is impossible to retain every molecule of silt and sediment within a sloping site where the surface has been disturbed and is then exposed to rain. Given the zero-tolerance threshold of the standard, we consider that it would be necessary for all earthworks to have to obtain a resource consent for discharge of sediment over the boundary. We consider that this outcome is inefficient, costly and not representative of the potential adverse effects.

We are still of the view that the standard should be deleted. The requirement to put in silt control mechanisms for all earthworks remains. Then the adequacy of the silt control can be subject to monitoring. For earthworks that breach the other standards (particularly the disturbed area limits), the resource consent process can assess whether additional silt control measures are needed to minimise sediment runoff and the consent conditions can also impose a clarity limit for the amount of sediment in any run-off from a site.

7. Summary of Decision Sought

That the Commissioners amend the provisions of the proposed district plan as suggested in our submission.

Signature of person making submission.



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A D Gibson

Date 3 / 2 / 2022

On behalf of Survey and Spatial New Zealand (Wellington Branch)