

**Before the Hearings Panel
At Porirua City Council**

Under Schedule 1 of the Resource Management Act 1991

In the matter of the Proposed Porirua District Plan

Between **Various**

Submitters

And **Porirua City Council**

Respondent

**Statement of supplementary planning evidence of Rory Smeaton on behalf of
Porirua City Council**

Date: 12 May 2022

INTRODUCTION:

1 My full name is Rory McLaren Smeaton. I am employed as a Senior Policy Planner at Porirua City Council.

2 I have read the respective evidence of:

a. Mr Dean Raymond, Planner for Heritage New Zealand Pouhere Taonga (HNZPT);

b. Mr Graeme McCarrison for Spark Trading New Zealand Limited;

c. Ms Claudia Jones for Waka Kotahi New Zealand Transport Agency; and

d. Ms Natalie Webb for First Gas Limited.

3 I have prepared this statement of evidence on behalf of the Porirua City Council (**Council**) in respect of technical related matters arising from the submissions and further submissions on the Proposed Porirua District Plan (**PDP**).

4 Specifically, this statement of evidence relates to the matters in the SUB – Subdivision chapter.

5 I am authorised to provide this evidence on behalf of the Council.

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

6 Appendix C of my section 42A report for the SUB – Subdivision chapter sets out my qualifications and experience.

7 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2014.

SCOPE OF EVIDENCE

- 8 My statement of evidence addresses the following matters:
- 8.1 SUB-R10 – Relating to subdivision and heritage settings, items and sites; and
 - 8.2 SUB-S7 – Relating to subdivision and telecommunication infrastructure; and
 - 8.3 Other minor matters.

SUBDIVISION AND HERITAGE SETTINGS, ITEMS AND SITES

- 9 In my section 42A report for the SUB – Subdivision chapter, I recommended amendments to SUB-R10 in response to a submission point from HNZPT [65.52]. In his evidence for NZHPT, Mr Raymond identifies that the submitter generally agrees with my recommended amendments.
- 10 However, Mr Raymond’s evidence identifies a potential implementation issue where a heritage setting exists on a site which is larger than its setting, and a subdivision of the site is proposed which does not directly impact the heritage item or the heritage setting. Mr Raymond includes suggested amendments to SUB-R10 in paragraph 10 of his evidence.
- 11 I consider that the rule wording as recommended in my section 42A report captures the scenario described by Mr Raymond, as it would involve subdivision of land that contains a heritage item or site. I note that section 218 of the RMA sets out the meaning of the term ‘subdivision of land’.
- 12 I therefore consider that there is no need to further amend the rule heading to address the perceived ambiguity.

SUBDIVISION AND TELECOMMUNICATION INFRASTRUCTURE

13 In my section 42A report for the SUB – Subdivision chapter, I recommended amendments to SUB-S7 in response to the submissions from Kāinga Ora [81.476] and the Telcos [63.1]. These recommended amendments removed the requirement for fibre connection to be provided in non-urban zones, and instead require subdivision applicants to provide confirmation that connection to a telecommunication network can be achieved.

14 In his evidence for Spark Trading New Zealand Limited, Mr McCarrison states in paragraph 1.6 that my recommendations on amendments to the SUB – Subdivision chapter are accepted subject to amendments. The amendments sought by Mr McCarrison to SUB-S7, as recommended in my section 42A report, are:

- a. The inclusion of ‘wireless and mobile’ in SUB-S7-2.b, providing clarification to the term ‘connection’ used in the clause; and
- b. An additional clause relating to ‘All zones’, requiring that:

The applicant for subdivision of 100 allotments or more or 200 premises/dwellings shall consult with the network operators to determine what existing telecommunication services (fixed line, wireless and mobile) are available to support the subdivision. The outcome of the consultation will be used to inform the need for land to be set aside as provided in requirement SUB-S7.4

15 In relation to the inclusion of ‘wireless and mobile’ in SUB-S7-2.b, I do not consider that this additional wording is necessary or desirable. I consider that the inclusion of the additional wording may in fact be contrary to the intention of the clause, which is to provide flexibility as

to the type of telecommunication network and method of connection that is to be provided.

16 In relation to the additional clause for 'All zones', I consider that such a requirement would be ultra vires. While Clause 6(1)(f) of Schedule 4 requires an assessment of environmental effects to include 'identification of the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted', section 36A of the RMA makes it clear that an applicant for a resource consent has no duty to consult any person. As such, while at a policy level a reference to the outcome of consultation is appropriate, as is included in SUB-P1-4, a requirement to consult within a standard is not.

17 Even if requiring consultation within a standard was an available method, I consider that the wording of the clause is less than ideal, as it refers to the outcome of consultation being used to inform other standards. This matter is appropriately addressed by existing policies, specifically SUB-P1, SUB-P5 and SUB-P11. Additionally, Mr McCarrison's evidence does not include any evidence or rationale as to the appropriateness of the 100 allotment/200 premises or dwellings threshold included in the clause. Further, if it were to be included, there is no policy rationale to support the threshold sought by Mr McCarrison.

18 I also note that the FUZ – Future Urban Zone identifies future urban growth areas within Porirua. These areas are likely to be the only location of any subdivisions involving more than 100 allotments over the lifetime of the PDP. Development of the FUZ – Future Urban Zone requires a Structure Plan to be developed in accordance with the contents of Appendix 11 of the PDP. This includes identification of the location, scale and capacity of existing and new infrastructure to serve the structure plan area.

19 Consequently, I continue to support the amendments to SUB-S7 as included in my section 42A report and consider that no further amendments are necessary.

OTHER MATTERS

20 I note for completeness that the evidence of Ms Claudia Jones for Waka Kotahi identified that Ms Jones agreed with my recommendations in the SUB – Subdivision section 42A report.

21 Similarly, Ms Natalie Webb in her evidence for Firstgas identified that she agrees my recommendations in the SUB – Subdivision section 42A report.

Date: 12 May 2022



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Rory Smeaton