

**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**

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**Statement of supplementary planning evidence of Torrey James McDonnell  
on behalf of Porirua City Council**

**Date: 12 May 2022**

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## **INTRODUCTION:**

- 1 My full name is Torrey James McDonnell. I am a Principal Policy Planner at Porirua City Council (the Council).
- 2 I have read the respective expert evidence relevant to s42A reports I have authored:
  - a. Peter Coop for BRANZ (BRANZ Special Purpose Zone)
  - b. Natalie Webb for Firstgas (various zones)
  - c. Claudia Jones for Waka Kotahi (various zones)
  - d. Sean Grace for Ara Poutama Aotearoa, the Department of Corrections (various zones)
  - e. Graeme Mathieson for Rural Contractors NZ (General Rural Zone)
- 3 I have prepared this statement of evidence on behalf of the Council in respect of technical related matters arising from the submissions and further submissions on the PDP.
- 4 Specifically, this statement of evidence relates to the matters in the above zones, in Part 2 of the PDP.
- 5 I am authorised to provide this evidence on behalf of the Council.

## **QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT**

- 6 The relevant appendices of my section 42A reports set 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 in contention:

- a. Height controls in the BRANZ Zone
- b. Community corrections facilities

9 I have read the following expert evidence on behalf of submitters: Mr Mathieson on behalf of Rural Contractors NZ<sup>1</sup> and Ms Webb on behalf of Firstgas Limited<sup>2</sup>, and Ms Jones on behalf of Waka Kotahi<sup>3</sup>. I note that there are no matters in contention with regard to my recommendations on these submission points.

#### **HEIGHT CONTROLS IN THE BRANZ ZONE**

10 BRANZ submitted on the Zone seeking SPZ-S1 be amended “to provide for permitted building heights for the Structures Laboratory building, Shared Storage building and Fire Laboratory building”.

11 Mr Coop’s statement of evidence outlines the specific heights sought as follows:

- fire laboratory building - 22.6m,
- structures laboratory building - 13.52m; and
- existing building height of the shared storage building - 12.2m.

12 Mr Coop states that he concurs with the s42A recommendation that it would be inappropriate for increased building heights for the footprints of the buildings to be permitted activity standards, as “it could have adverse implications for the maintenance of the conditions of the resource consent for the buildings”.

13 Mr Coop seeks amended relief as follows:

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<sup>1</sup> Definition of rural industry (179.1); GRUZ-R15A (179.2); GRUZ-R18 (179.3)

<sup>2</sup> OSZ-R12 (84.28); GRUZ-R14 & RLZ-R14 (84.25 & 84.26)

<sup>3</sup> GRUZ-R9 and RLZ-R7 (82.254 and 82.267); GRUZ-R11 (82.257); 82.26 GRUZ-P3 (882.250); GRUZ-R17, GRUZ-R18, GRUZ-R19 and GRUZ-R20 (82.258, 82.259, 82.260, 82.261); GRUZ-R10 (82.255); GRUZ-R10 (82.256); RLZ-R11 (82.269); GRUZ-P7 (82.253), GRUZ-S7 (82.262), RLZ-S7 (82.270)

*To address BRANZ's concerns and to enable the Council to be able to reimpose the same or similar conditions of resource consent for any replacement of the two buildings on similar footprints, I consider that a controlled activity provision would be appropriate with controlled activity standards of 22.6m for the fire laboratory footprint and 13.52m for the structures laboratory footprint as per the attached drawing prepared by Warren and Mahoney Architects Ltd, and with preclusion from public and limited notification. 25 If this is accepted, it would be useful if a specific policy was added to the SPZ- BRANZ that supports the replacement of the buildings should that need arise. This would help inform existing and potential future adjoining and adjacent landowners that replacement buildings up to the presently consented heights and within the specified footprints can be anticipated. It would also help BRANZ to be confident of its long-term future in Porirua.*

14 Mr Coop states that BRANZ's main concern is that should the buildings need to be replaced for example after a natural hazard, that reliance on existing use rights is "unsatisfactory for a nationally important facility and is made more uncertain by the RMA reforms which appear not to carry over an existing use mechanism as presently exists under s 10 RMA 1991".

15 I do not agree with this amended relief being sought for several reasons.

16 Firstly, under sections 123 and 125 of the RMA, a resource consent for a land use does not lapse once it has been given effect to and has unlimited duration, unless a specific expiry condition is included. In conjunction with s10 addressed below, it is unclear why the applicant could not continue to rely on this consent, once it has been given effect to, including the potential need to rebuild.

17 Second, in my view the controlled activity rule sought by the submitter would need to build in the extensive conditions of consent that need to

apply to those buildings and their surrounds that have been designed to address adverse effects. These total 12 pages of the resource consent decision. These conditions in my view are also not all of a nature that could be included as part of a rule or as standards to a rule.

18 Third, taking Mr Coop's recommended approach, we should be amending all the bulk and location standards in the Plan to reflect resource consents that have already been granted.

19 Finally, at present, the RMA specifically allows for existing use rights. If this changes, it is highly likely that there would be a transitional period while councils need to develop new plans - and that could be reflected then.

20 For the reasons given above, my recommendation remains to reject submission point 116.2.

#### **COMMUNITY CORRECITONS FACILITIES**

21 Ara Poutama Aotearoa, the Department of Corrections seeks that community corrections activities be a discretionary activity in various zones.

22 I recommended that the submission be accepted in part where no "catch all" rule exists. In other zones, I recommended that this submission be accepted through introduction of a new rule.

23 Mr Grace in his tabbed statement for the Ara Poutama supports this approach, but notes that there is a minor drafting error in MPZ-R26. In this rule "Community corrections facilities" are referred to, this should instead refer to "Community corrections activities" to be consistent with the definition provided for under the PDP.

24 I agree that this error should be addressed, and will amend my recommendation in the reply version of these provisions.

**Date:** 12 May 2022

Torrey McDonnell

A handwritten signature in blue ink, appearing to read "T McDonnell", is positioned in the upper right quadrant of the page.