

**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

**Council reply on Hearing Stream 6: Designations – Rory Smeaton on behalf of
Porirua City Council**

Date: 25 July 2022

INTRODUCTION:

- 1 My full name is Rory McLaren Smeaton. I am employed as a Senior Policy Planner for Porirua City Council.
- 2 I have read the evidence and tabled statements provided by submitters relevant to the Section 42A Report – Designations.
- 3 I have prepared this Council reply on behalf of the Porirua City Council (**Council**) in respect of matters raised through Hearing Stream 6.
- 4 Specifically, this statement of evidence relates to the matters in the Section 42A Report - Designations.
- 5 I am authorised to provide this evidence on behalf of the Council.

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

- 6 Appendix E of my section 42A report 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 REPLY

- 8 This reply follows Hearing Stream 6 held on 27 June 2022. Minute 41 provided for the s42A report author to submit a written reply following the adjournment of the hearing by 1pm on 25 July 2022.
- 9 The main topics addressed in this reply include:
 - Answers to questions posed by the Panel in Minute 41;
 - Answers to questions posed by the Panel during the hearing;
 - Matters remaining in contention; and

- Changes to recommendations in s42A report.

- 10 Appendix A has a list of materials provided by submitters including expert evidence, legal submissions, submitter statements etc. This information is all available on the Council's Hearing Portal website.
- 11 Appendix B has recommended amendments to PDP provisions, with updated recommendations differentiated from those made in Appendix A of the s42A report.
- 12 Appendix C identifies the roll-over designations and the relevant overlays, and overlaps of the various designations.
- 13 Appendix D provides larger scale maps of the SNAs within the designated area of FGL-01.
- 14 Appendix E has a memo confirming PCC agreement to change of requiring authority.
- 15 Appendix F provides memoranda outlining legal advice obtained on various matters.
- 16 Appendix G provides a response from the Ministry of Education on the question posed by the Panel in relation to the interest in the land associated with the new designations sought by the Minister of Education.
- 17 Appendix H reproduces section 43D of the RMA.

Answers to questions posed by the Panel

In particular, we discussed with Mr Smeaton the desirability of his providing with the Council's Reply, an analysis of the 'rolled-over' designations to see if any overlays applied that would indicate a need for additional conditions.

- 18 I have provided tables identifying the overlays that intersect each rolled-over designation at Appendix D. I note that, for completeness, I have also included a table identifying the overlays affecting the new designations included in the PDP.
- 19 The Panel questioned the lack of any conditions on roll-over designation relating to overlays within the PDP as notified or recommended in my section 42A report. The approaches to addressing overlays within roll-over designations was discussed, including approaches of other territorial authorities.
- 20 I note that the approach to dealing with items, sites or areas with particular values on land which is proposed to be designated within a proposed district plan would generally be determined prior to notification of that proposed plan. I was not involved in that part of the PDP at the time, and as such I unfortunately am not able to provide greater detail on that part of the process.
- 21 I also note that, aside from NZTA-01 and FGL-01, there are no submissions on designation conditions. I have addressed the scope of the Panel's recommendations to requiring authorities on roll-over designations below.
- 22 I address the designations in relation to each of the requiring authorities below and provide a summary as to whether I consider that additional conditions are necessary in relation to avoiding, remedying or mitigation adverse effects on or from relevant overlays.
- 23 I note that I generally do not consider that conditions are required on designations to address noise corridor or natural hazard overlays. All designations are either rolled-over from the ODP and are noted in the PDP as 'Given effect to (i.e. no lapse date)', or relate to an existing facility. As such the facilities to which the designations relate are already operational. Any additional effects on or from any future development proposed within the designations in relation to the noise corridor or

natural hazards can be addressed through outline plan processes. Such effects would be incremental in relation to the existing development on the sites. Specifically, such matters would be addressed through subsections 176A(3) (a), (b), (c) and (f).

- 24 I also note for completeness that any proposed future development within the designations would also be subject to the provisions in the Natural Resources Plan for the Wellington Region. As such, any effects on matters controlled under that plan are not required to be addressed through conditions on designations within the PDP.

CNZ - Chorus New Zealand Limited

- 25 Chorus only has one designation in the PDP, being CNZ-01. The only overlays relate to the noise corridor and the one in 1,000 year tsunami hazard extent. I do not consider that any conditions are required on this designation.

FGL - First Gas Limited

- 26 The only designation sought by First Gas Limited (FGL-01) is a new designation. The recommended conditions for this designation are addressed below.

GWRC - Greater Wellington Regional Council

- 27 The three GWRC designations are located in the northeast of the district. Designation GWRC-03 relates to the Battle Hill Regional Park, and is designated for recreational and water supply purposes. Two SNAs overlap the designation. This regional park is administered under the Local Government Act 2002 and Reserves Act 1977, and is managed in accordance with Greater Wellington's Toitū Te Whenua Parks Network Plan 2020–30, which was approved by GWRC on 10 December 2020.

28 Two smaller areas (GWC-01 and GWRC-02) are designated for water supply purposes, one of which is directly adjacent to the regional park. GWRC-01 includes two SNAs, while GWRC-02 has a number of overlays including SNAs and a SASM.

29 I consider that as GWRC is itself a local authority that has functions under the RMA, and the purposes of the designations being for recreational and water supply purpose, no conditions are necessary to impose on the designations to address the relevant overlays.

KRH - KiwiRail Holdings Limited

30 KiwiRail Holdings Limited has one designation in the PDP, being KRH-01 which provides for the North Island Main Trunk (NIMT) line. As shown in Appendix C a large number of overlays intersect to the designation.

31 In relation to the SNAs, while large areas are located within the designation, these generally do not extend into the area of the NIMT line tracks or vehicle access tracks which are specifically excluded from the extent of the relevant SNAs. I consider it unlikely that KiwiRail would seek to clear vegetation from within the designation outside of these areas as there does not appear to be any operational need to do so, as under the ODP KiwiRail have been able to clear vegetation within the designation with no restrictions.

32 Plimmerton Station is identified as a historic heritage site, and is currently undergoing upgrades, including construction of a new platform and shelter, due for completion in early 2024 with the bulk of the physical works to be completed by early 2023. I understand that this has been subject to outline plan processes. Mana Machine Gun Post is another historic heritage site within the designation. This site is located approximately 10 metres from the area of the rail tracks, on the other side of a coastal pedestrian pathway, and is therefore unlikely to be affected by works undertaken by KiwiRail.

33 Railway infrastructure has historically been located within the rail corridor area, and therefore the effects of any changes to this infrastructure within ONFL areas can be managed through outline plan processes. Hazard overlays can also be managed through outline plan processes.

34 Overall, therefore, I consider that outline plan processes appropriately address any future proposed development enabled by designation KRH-01, and conditions are not required to be imposed.

MJUS - Minister of Justice

35 The Minister of Justice (sought to be amended to Minister of Courts) has one designation that relates to the Porirua Courthouse. The only overlays affecting this site are Active Street Frontage and the Ohariu Fault Rupture Zone.

36 I do not consider that any conditions are necessary to impose on the designation to address the relevant overlays.

MEDU - Minister of Education

37 The Minister of Education has 28 designations in the PDP. There are a number of overlays overlapping with many of these designations.

38 However, overall, as set out in Appendix C, I do not consider that any conditions need to be imposed on these designations to address the relevant overlays.

39 Specifically in relation to SNAs, these are generally located on steeper parts of the sites and are therefore less likely to be developed for school facilities.

MPOL - Minister of Police

40 The Minister of Police has three designations in the PDP. Two of these designations (MPOL-02 and MPOL-3) have Active Street Frontage and Flood Hazard - Ponding as the only overlays affecting the sites. I do not consider that any conditions are required to address these overlays.

41 In relation to MPOL-01 which provides for the Royal New Zealand Police College, which is an existing developed site, there are four overlays which affect the site being; Noise Corridor – State Highway, SNA107 Police College Kānuka Forest, Coastal Hazard – Future Inundation (with 1m SLR) and Coastal Environment Inland Extent. I consider that any effects relating to Noise Corridor – State Highway, Coastal Hazard – Future Inundation (with 1m SLR) and Coastal Environment Inland Extent can be addressed through the outline plan process.

42 In relation to SNA107 Police College Kānuka Forest, this SNA is wholly contained within the extent of MPOL-01, as shown in Figure 1 below.



Figure 1: MPOL-01 and SNA107

43 I note that the gazette notice for the site acquiring it for the police training college is from 1983. Based on historic aerials available on the

Council website, the extent of vegetation on the site has been increasing since 1942 when it was largely cleared other than relatively small patches. Additionally, I note that based on the contours of the site the area of the SNA on the site is relatively steep, while there appears to be undeveloped flat land in the western part of the site. I therefore consider that there is lower risk of the area featuring the SNA being sought to be developed.

44 For these reasons, I do not consider that conditions are required to be imposed on MPOL-01.

NZTA - New Zealand Transport Agency

45 The New Zealand Transport Agency (Waka Kotahi) has four designations in the PDP, which were amalgamated from the ODP designations as discussed in my section 42A report.

46 State Highway 59 is designated as NZTA-01. The current SH59 road corridor is a result of upgrade works undertaken prior to Transmission Gully opening in accordance with designation conditions. Works will quite possibly occur in the future; however, such works are unlikely to extend the road widths given the anecdotal reports of a significant drop in traffic volumes following the opening of Transmission Gully. As such, effects on values associated with overlays would likely be due to construction effects which can be managed through outline plan processes.

47 In relation to SH58 (NZTA-02), the first stage of safety upgrades, from the SH2 interchange to Mount Cecil Road, were completed late 2021 in accordance with designation K0410 and K0407 and outline plan processes. Outside of this area the SNA, CHNCA and SAL overlaps with the designation are relatively marginal.

48 In relation to NZTA-03 and NZAT-04, these are relatively new designations providing for the Transmission Gully Motorway and

Kenepuru Link Road with a comprehensive set of conditions included in APP14 - Designation Conditions. Therefore, I consider that any relevant matters would have been considered in detail and no additional conditions are required.

49 For these reasons, I do not consider that additional conditions are required to be imposed on NZTA designations.

PCC - Porirua City Council

50 The PCC has 28 designations in the PDP rolled over from the ODP. While a number of these have overlays located on them, I do not consider that any of these require conditions to be imposed.

51 In relation to SNAs located within the designations, PCC is a territorial authority with functions under s31 of the RMA including control of any actual or potential effects of the use, development, or protection of land, including for the purpose of the maintenance of indigenous biological diversity. Additionally, the purpose of local government under the LGA2002 include “to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future”. Effects of development enabled by the designation would be subject to consideration of these statutory obligations. Specifically in relation to the construction of walking tracks through SNA on public land, the INF - Infrastructure chapter of the PDP enables this as a permitted activity where conditions are met. As such, no additional conditions to protect the SNAs are considered necessary.

RNZ - Radio New Zealand Limited and NZME Radio Limited

52 Radio New Zealand Limited and NZME Radio Limited have one designation in the PDP, which provides for the transmission site on the Whitiareia peninsula. There are a number of overlays that relate to the site, including flood hazard, heritage site and item extent, SNA, ONFL,

CHNCA and SASM. The overlays are and designation boundary are shown in Figure 2 below.

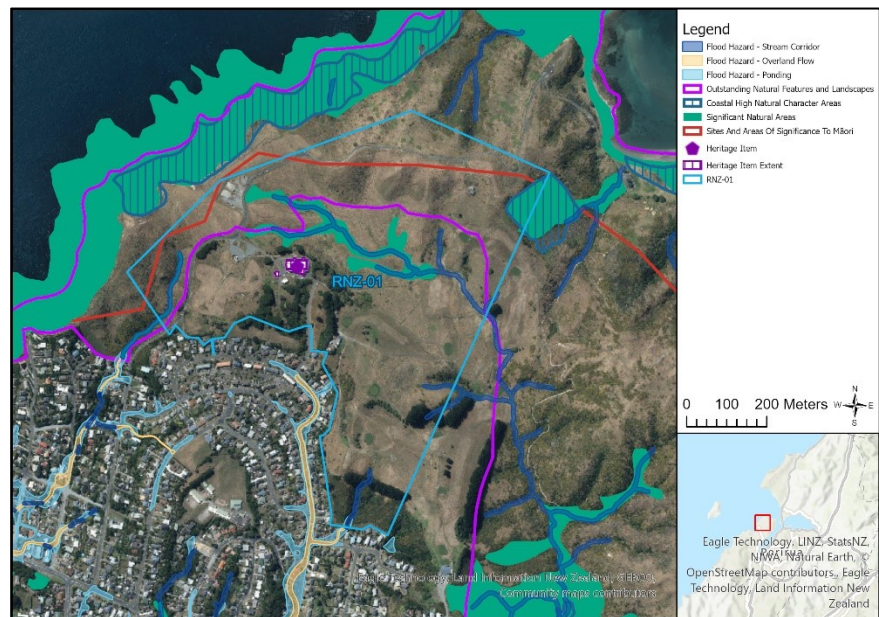


Figure 2: RNZ-01 and overlays

53 The heritage site relates to the transmission building which was opened in 1937 and renovated in 2004. A 50 metre tower was removed in 2015, while a 220 metre tower was removed in 2016, leaving just one 137 metre transmission tower on the site.

54 While there is the potential for new infrastructure to be installed on the site, such as new transmission towers, I consider that there is a low risk of adverse effects from development of the site due to the current trend of removal of infrastructure from the site and the large area of the designation free from overlays. Specifically in relation to the SNAs, SNA138 Whitireia Spring Wetland is within a deep valley and associated with a wetland, and therefore would also be subject to the regulations under the NES-F. The other SNA (SNA136) and Coastal High Natural Character Area (CHNC010) are both located in the northeast of the site and cover a relatively small area compared to the overall size of the designation.

55 In relation to the ONFL on the site, I note that the reply of Ms Caroline Rachlin (dated 22 December 2021) recommended based on evidence from Ms Rose Armstrong in relation to the RNZ land that the ONFL boundary as defined in the PDP be retained and that this land is not included as SAL in the PDP.

56 In relation to the historic heritage of the buildings on the site, as the main building was refurbished in the recent past, I consider that there is a relatively low likelihood of adverse effects on the heritage values from development on the site.

57 Overall, therefore, I consider that outline plan processes can appropriately address any future proposed development enabled by designation RNZ-01, and conditions are not required to be imposed.

SPK - Spark New Zealand Trading Limited

58 Spark New Zealand Trading Limited has one designation in the PDP, which provides for the Spark Exchange. This is a new designation and was assessed at section 3.13 of my section 42A report. Active Street Frontage and Flood Hazard (overland flow and ponding) are relevant to the site. I continue to support my conclusion in that report that no additional conditions are necessary.

TPR - Transpower New Zealand Limited

59 Transpower New Zealand Limited has one designation in the PDP, which provides for the Pāuatahanui Substation. Only noise corridor and flood and coastal hazard overlays relate to the designated land. I do not consider that any conditions are required.

(a) The possibility of an advisory note recording the potential relevance of National Environmental Standards to the Designations in the Plan

60 The potential relevance of National Environmental Standards to designations was discussed at the hearing. The Panel suggested that an advisory note be included in the introduction to the designations chapters addressing this relevance.

61 I agree that an advisory note would benefit plan users. I have included such an advisory note in my recommendations attached at Appendix B.

(b) The potential need to address hazard issues raised by the Firstgas Designation (FGL-01)

62 The Panel asked during the hearing whether activities for venting and flaring of the gas transmission pipeline covered by condition FGL-01 requires conditions to be imposed relating to hazard risk.

63 I responded at the hearing that this matter would likely be addressed through other legislation, namely the Hazardous Substances and New Organisms Act 1996 and the Health and Safety at Work Act 2015. I remain of that view.

64 I note that while the planning maps for the South Taranaki District Plan include an alert layer to identify potential presence of contaminants from abnormal flare operation at a petroleum facility, this layer is non-regulatory, and it triggers no District Plan rules.

65 More generally, I note that the Gas Act 1992 provides for the regulation, supply and use of gas, the regulation of the gas industry, and to protect the health and safety of members of the public in connection with the supply and use of gas in New Zealand, while the Health and Safety at Work (Pipelines) Regulations 1999 provide for the management of hazardous gases being transported via pipelines including requirements for a pipeline operation to be designed, constructed, operated, and maintained in accordance with specified standards.

(c) Potential amendments to the conditions recommended for the Firstgas Designation clarifying their interrelationship with the Outline Plan process, if any, and providing greater certainty around implementation of the CEMP he recommended be required.

66 The Panel discussed additions to the conditions recommended in my section 42A report for designation FGL-01 to ensure they are clear and robust.

67 In terms of the risk of acting or not acting, I considered the risks of not confirming the designation (with or without modifications) in relation to the alternative of continued reliance on the easements and plan provisions. I agreed with Firstgas that the designation is an appropriate method. I note that I considered in my section 42A report the risk of confirming the designation as notified, where I stated that there is the potential for significant effects, particularly in relation to ecological effects. This led me to recommending the additional conditions to avoid, remedy or mitigate the potential adverse effects of the activities enabled by the designation.

68 The Panel requested further consideration of wording of the conditions in relation to the outline plan process, specifically in relation to potential circumstances where no outline plan is required for activities sought to be undertaken. In relation to this I note that the recommended conditions relating to the CEMP and Ecological Assessment specify that these must be provided along with any outline plan, while the conditions relating to accidental discovery and reinstatement of earthworks areas do not. The conditions relating to accidental discovery and reinstatement of earthworks areas would therefore apply to any activities undertaken within the designation.

69 As the CEMP required under recommended Condition 1 specifically relates to construction activities, I do not consider that this condition should be amended to apply more generally to activities within the designation.

- 70 In relation to Ecological Assessments, I note that the INF – Infrastructure chapter provides for some clearance of indigenous vegetation within SNAs. Activities that require clearance of indigenous vegetation within these limits would not require an outline plan to be submitted, in accordance with section 176(1)(2)(a). While I consider that it is unlikely that Firstgas would seek to clear indigenous vegetation within an SNA without this being associated with construction activities that would consequently require an outline plan to be provided, this could be clarified by including an additional condition specifying that any activities within an SNA not permitted in the PDP requires an outline plan to be submitted in accordance with section 176A of the RMA. Consequently, I have recommended such an additional condition in Appendix B.
- 71 I note that the requirement to submit an outline plan for any works within an SNA would also trigger the need for a CEMP, which would provide Council with detailed information on the timing and nature of the works, and also include the recommendations of the Ecological Assessment.
- 72 The Panel asked whether the condition should refer to ‘approval’ rather than ‘certification’. I agree that the wording of the designation conditions should not refer to certification, as there is no subsequent certification process able to be undertaken unlike a resource consent condition. I have therefore recommended that this be amended to ‘approval’ in Appendix B.
- 73 The Panel also asked whether additional conditions are required to ensure that no works commence until the CEMP has been approved, and that any works are undertaken in accordance with the approved CEMP. I agree that such conditions would provide greater certainty for the Council in relation to the implementation of the CEMP.
- 74 In terms of underground versus aboveground infrastructure, I note that the aboveground infrastructure of the transmission pipeline is identified on the PDP maps as ‘Gas Transmission Aboveground Stations’. Three

aboveground stations are identified. Two of these aboveground stations have no overlays. The only overlay affecting the third is SAL004 Cannons Creek Ridge. As these aboveground structures are existing and the designation enables operation and maintenance, I do not consider that any additional conditions are required to address these structures.

(d) Providing further information where designations overlap, as to which is the primary designation

75 The designations which overlap with other designations are identified in the tables attached at Appendix C.

76 The designations that overlap are summarised in Table 1 below. The identified s177 hierarchy notations for the designations in Table 1 as included in the notified version of the PDP are all 'Primary' other than FGL-01 which is 'Varies'. I note that in my section 42A report I recommended that KRH-01, NZTA-01, NZTA-02, NZTA-03 and NZTA-04 are amended to state 'Varies' in relation to the s177 hierarchy notation.

Table 1: Designation overlaps

| Designation | Overlaps with |
|---|----------------------|
| GWRC-03 Regional Recreation and Water Collection Area (Battle Hill Regional Park) | FGL-01 |
| | NZTA-03 |
| KRH-01 Railway | NZTA-04 |
| | PCC-27 |
| | NZTA-01 |
| NZTA-01 State Highway 1 | KRH-01 |
| NZTA-02 State Highway 58 | FGL-01 |
| | NZTA-03 |
| NZTA-03 Transmission Gully | GWRC-03 |
| | NZTA-02 |
| | FGL-01 |
| NZTA-04 Kenepuru Link Road | KRH-01 |
| PCC-04 Plimmerton Domain | PCC-21 |
| PCC-12 Stemhead Lane Reservoir | PCC-26 |
| PCC-16 Broken Hill Reservoir | PCC-23 |
| PCC-21 Taupō Stream Drainage Reserve | PCC-04 |
| PCC-23 Spicer Landfill | PCC-16 |
| PCC-26 Whitby Link Road and Waitangirua Link Road | PCC-12 |
| | FGL-01 |
| PCC-27 Mana Esplanade Service Lane | KRH-01 |

| Designation | Overlaps with |
|---------------------------------|---------------|
| FGL-01 Gas Transmission Network | GWRC-03 |
| | NZTA-02 |
| | NZTA-03 |
| | PCC-26 |

77 In relation to PCC-04, PCC-12, PCC-16, PCC-21, PCC-23, PCC-26 and PCC-27 I do not consider that any amendments are required, as the overlapping designations are either other PCC designations or KRH-01 which I have already recommended being amended to 'Varies'. Similarly, in relation to the overlap of NZTA-02 and NZTA03, I do not consider that any additional notations are required.

78 While there are another 16 rows of overlaps identified in Table 1 above, these rows count each overlap twice so there are in fact eight instances of overlaps where the hierarchy of the designations should be stated in the designation notations. I have summarised the relevant hierarchy of these designation overlaps in Table 2 below. In doing so, I have assumed that the older designation is the primary designation. I have also taken into account the amendments in my section 42A report that were accepted by the relevant requiring authorities.

Table 2: Designation overlap hierarchy summary

| Designation overlap | Primary | Secondary |
|---------------------|---------|-----------|
| GWRC-03 and NZTA-03 | GRWC-03 | NZTA-03 |
| GWRC-03 and FGL-01 | GWRC-03 | FGL-01 |
| KRH-01 and NZTA-01 | KRH-01 | NZTA-01 |
| KRH-01 and NZTA-04 | KRH-01 | NZTA-04 |
| KRH-01 and PCC-27 | PCC-27 | KRH-01 |
| NZTA-02 and FGL-01 | NZTA-02 | FGL-01 |
| NZTA-03 and FGL-01 | NZTA-03 | FGL-01 |
| PCC-26 and FGL-01 | PCC-26 | FGL-01 |

79 At the hearing, I noted that the National Planning Standards only allow the hierarchy field of the designation notations to state 'Primary', 'Secondary' or 'Varies'. I do not consider that the notations recommended in my section 42A report need to be amended, given the hierarchy noted in Table 2 above, other than NZTA-02 which can be identified as 'Primary' as notified rather than 'Varies' as I recommended in my section 42A report.

80 I also noted at the hearing that the 'Additional information' field of the designation notations may provide an appropriate place for the explanations of the designation hierarchies. I have consequently recommended amendments in Appendix B to the 'Additional information' fields for KRH-01, NZTA-01, NZTA-02, NZTA-03, NZTA-04 and FGL-01. I note that GWRC-03 and PCC-27 do not require amendment as these are always 'Primary'.

(e) Considering whether the Minister of Education has a sufficient interest in the land the subject of the proposed new designations to remove the need for consideration of alternatives

81 The Chair questioned at the hearing whether the Integration Agreements (or relevant legislation) provide property rights over the integrated schools, for the purpose of the assessment of alternatives required under section 171(1)(b).

82 I note that the notices of requirement for the new designations included consideration of alternatives, with the following statements made:

The site which is the subject of this Notice of Requirement is currently an established activity. It represents a considerable taxpayer investment and is a facility that provides for the educational needs of individuals and communities

The preference for the designation technique and alternative methods available are discussed below.

83 The notice goes on to assess the need for the designation, as opposed to relying on a rule framework within the PDP. As such, the notices of requirement provided an assessment of alternatives in relation to methods.

84 In relation to sites and routes, as the designations are for educational facilities, and not linear infrastructure, the assessment of alternative routes is not a relevant consideration. As identified in my section 42A

report, the designations are proposed for existing school sites, and therefore, at a general level, consideration of alternative sites may have included identifying potential new school sites or designation of other undesignated existing school sites. I consider that, as the school facilities sought to be designated are already in existence and the educational activities on the sites have been undertaken for many decades, consideration of such alternatives would likely have been inconsequential and therefore unnecessary.

85 I have also requested advice from Council's legal advisors Simpson Grierson, who in summary consider that:

Based on the information provided in support of the five new notices of requirement (NOR) for the integrated schools, it is unclear whether the Minister of Education has an interest in the land sufficient for undertaking the work, such that an alternatives assessment under section 171(1)(b) is not required. In our view, whether the integration agreements give the Minister a sufficient interest in the land in terms of section 171(1)(b) will depend on the terms of those agreements.

Despite the above, we acknowledge that a limited alternatives analysis has been undertaken in considering whether the schools could be provided for through the inclusion of specific provisions within the District Plan (including zoning). Given the schools already exist, it is unclear whether a more robust alternatives analysis would materially assist the Panel in terms of making a recommendation on the requested NORs.

86 The full legal advice provided by Simpson Grierson is attached at Appendix F.

87 I have also requested a response from the Ministry of Education as to whether it considers that the Integration Agreement provides 'an interest in the land sufficient for undertaking the work' under section 171(1)(b)(i). The Ministry's response is attached at Appendix G. In

summary, the Ministry considers that the Minister of Education has a sufficient interest in the land to remove the need for consideration of alternatives.

88 For these reasons, I do not consider that any further consideration of alternatives is required in relation to the new designations sought by the Minister of Education.

(f) Providing a larger scale version of Figure 5 from the Section 42A Report

89 The overlap of FGL-01 with SNAs identified in SCHED7 – Significant Natural Areas of the PDP was shown in Figure 5 of my section 42A report.

90 I have provided larger scale versions of that figure, focussed on the overlap with the SNAs, in Appendix D.

(g) Confirm whether Porirua City Council, in its capacity as relevant territorial authority, formally agrees to the recommended change of requiring authority for notified Designation [M]JUS-01.

91 I can confirm that the Porirua City Council, in its capacity as a relevant territorial authority, formally agrees to the recommended change of requiring authority for MJUS-01.

92 A memo confirming this agreement is attached at Appendix E.

Other questions raised at the hearing

Jurisdiction to make recommendations on existing designations

93 Extensive discussion was held on the jurisdiction of the Panel to make recommendations on rolled-over designations. I stated that there is jurisdiction to make recommendations as submissions were received on each of the designation chapters, and therefore subclause 9(3) of Schedule 1 of the RMA does not apply, notwithstanding that the majority of those conditions were in support of retaining the chapters.

94 On this matter, I note that the Quality Planning guidance note ‘Processes applying to existing designations’¹ states that:

Rolled-over designations

If a rolled-over designation is included in the proposed plan without modification and no submissions are received, the council cannot make a recommendation or decision. The council must simply include the rolled-over designation in the proposed district plan.

[...]

Conditions on designations

The territorial authority can recommend that conditions be imposed on a new requirement or a rolled over designation, where it considers that conditions are necessary (or impose conditions where it is both the requiring authority and ‘recommending authority’).

They cannot be imposed on rolled-over designations where these are not being modified and no submissions have been made.

95 I note this guidance is consistent with my statements in my section 42A report and at the hearing, as it states that a council cannot make a recommendation if a rolled-over designation is included in the proposed plan without modification and no submissions are received.

96 I have requested legal advice on this matter from Council’s lawyers Simpson Grierson who considered that, in summary:

*Generally we do not consider that the Panel will be limited by the scope of submissions when making a recommendation on a designation. However, where an existing designation is rolled over with no modifications (under Schedule 1 clause 4), **and no***

¹ Available from: <https://www.qualityplanning.org.nz/sites/default/files/2018-11/Designations%20Notices%20of%20Requirements.pdf>

submissions are received on that designation, then the Panel cannot make a recommendation on that designation.

97 The full legal advice provided by Simpson Grierson is attached at Appendix F.

98 The modifications to roll-over designations and the submissions received are set out in my section 42A report, along with the relationship with Clause 9(3) of Schedule 1 of the RMA.

99 Therefore, in relation to designations where the requiring authority is not PCC, the scope of matters that the Panel may consider when making its recommendation is set out in section 171. In relation to decisions on PCC designations, the Panel's decision must be made in accordance with section 168A(3). There is no indication that the Panel's decision should be constrained by the substance of submissions.

Requests for additional mitigation through outline plans

100 The Panel questioned whether I had discussed with the consents team whether requests from Council for additional mitigation through outline plan processes were generally accepted by requiring authorities.

101 I have subsequently discussed this matter with the consents team who inform me that, generally, the team seek to engage at an early stage with requiring authorities to set out expectations for information and mitigation requirements for any works proposed to be enabled through an outline plan. This is in an effort to ensure that processing of the outline plan is as straightforward as possible. As such, with this early engagement, outline plans are generally processed without the need to request changes under section 176A(4).

102 Where changes to an outline plan are requested, it is the general experience of the consents team that requiring authorities are amenable to changes where reasonable.

Designation notations

- 103 The Panel asked whether I had considered the designation purposes as part of my consideration of the designations. On this matter, I note that the purposes of the designations are included in the tables set out in Appendix C.
- 104 My section 42A report addressed the purposes of the designations where I considered this to be relevant to the overall consideration of the designation. I have subsequently reviewed the designation purposes included in the PDP, and do not consider that any designation purposes require amendment. I note that while some are less descriptive than others, this is not unusual in other district plans. For example, KiwiRail's purpose of 'Railway purposes' is not uncommon given the age of the Railway, and is also used in the Christchurch District Plan for example.
- 105 Specifically in relation to the matters raised at the hearing on the purpose of designations from the Minister for Education, being 'Education purposes', I note that at the hearing I responded that the Minister also sought a definition of 'Education purposes' which has been include in the 'Additional information' part of the designation tables.
- 106 The Panel questioned whether the inclusion of education of preschool aged children in the definition of 'education purposes' is appropriate without any associated conditions, given that noise is often a relevant issue for such activities. I responded at the hearing that this is a matter that would likely be addressed through an outline plan process. I also note that other district plans, including the Hamilton City District Plan and Christchurch District Plan enable schools to include early childhood education through designations with no associated conditions. As such, I do not consider this to be an unusual circumstance.

Radiocommunication and telecommunication and ancillary purposes

107 The Panel asked a question on the interpretation of the purpose of Chorus New Zealand Limited’s designations, being ‘Radiocommunication and telecommunication and ancillary purposes’.

108 Specifically, the Panel questioned the inclusion of ‘ancillary purposes’. At the hearing I noted that the PDP includes the National Planning Standards definition of ‘ancillary activity’, which is reproduced below.

| | | |
|---------------------------|--|----------------|
| Ancillary activity | means an activity that supports and is subsidiary to a primary activity. | NPS definition |
|---------------------------|--|----------------|

109 Additionally, I note that the PDP includes definitions of ‘radiocommunication’ and ‘telecommunication’, both of which refer to definitions in relevant legislation, as set out below.

| | |
|---------------------------|--|
| Radiocommunication | has the same meaning as given in section 2 of the Radiocommunications Act 1989: means any transmission or reception of signs, signals, writing, images, sounds, or intelligence of any nature by radio waves. |
| Telecommunication | has the same meaning as given in section 5 of the Telecommunications Act 2001: means the conveyance by electromagnetic means from one device to another of any encrypted or non-encrypted sign, signal, impulse, writing, image, sound, instruction, information, or intelligence of any nature, whether for the information of any person using the device or not. |

110 As such, I consider that there is sufficient certainty in the designation purpose, given the relevant definitions in the PDP.

111 Additionally, the Panel noted potential concerns around the use of such sites for the location of cellular antennas, specifically questioning whether Council can rely on the National Environmental Standards for Telecommunication Facilities (NES-TF) if cell sites were proposed. This matter is discussed further below in relation to section 43D of the RMA

which sets out the relationship between national environmental standards and designations.

Section 43D interpretation

112 As was discussed at the hearing, section 43D of the RMA sets out the relationship between national environmental standards and designations. Section 43D is set out in full at Appendix H.

113 In relation to the applicability of the NES-TF, this will apply to all new designations made since 2016 including the new designations included in the PDP. As such if new cellular antennas were to be proposed for these sites the NES-TF would need to be complied with, or a resource consent sought for any proposed non-compliance. The only existing designation in the ODP relating to a telecommunication activity is K0301 which is now CNZ-01 Plimmerton Exchange in the PDP.

114 In relation to the discussion of the interpretation of 'when a designation is made', I asked for legal advice on this matter from Council's lawyers Simpson Grierson. The full legal advice provided by Simpson Grierson is attached at Appendix F, but in summary the advice notes that:

We consider that a rolled-over designation will continue to prevail over a National Environmental Standard (NES) that was made after the designation was originally inserted into the Plan.

Where a designation is modified through the district plan review process, we consider that the modified part of the designation is "made" at the time it is confirmed, and included in the newly operative district plan. A NES made after the designation was originally made, but before it was modified, will prevail over the modified aspects of the rolled-over designation but will not prevail over the parts of the designation that were not altered through the plan review process.

115 As such, where the designation has been rolled over with no modifications, the designation will continue to prevail over a NES made after the designation was originally made.

116 However, where a designation has been modified, those parts that were modified will not prevail over an NES that is in place at the time of the notification of the PDP. For example, those school sites where the designation extent has been extended to include an adjoining kindergarten, the kindergarten site would be subject to any relevant NES.

Alternative map availability

117 The Chair noted the discussion in section 3.2 of my section 42A report on the availability of alternative maps on the Council website which include the PDP data. It was suggested that it may be beneficial to alert plan users to the availability of these maps through text within the PDP.

118 I responded at the hearing that there may also be other methods of assisting plan users, including through directing them to open GIS data available on the Council website. As such, I consider that it would be most beneficial to include text that states that Council staff may be able to assist plan users in interpreting designation maps and providing GIS data. I have included additional wording to this effect in my recommended amendments in Appendix B.

Chorus objectives for rolled-over designations

119 The Chair questioned the statement in paragraph 62 of my section 42A report relating to the objectives of Chorus New Zealand Limited for designation CNZ-01. That paragraph states:

I consider the designation to be necessary to achieve the objectives of the requiring authority in respect of ensuring the

*ongoing security and resilience of the communication services
the facilities provide.*

120 While no explicit statement of the requiring authority's objectives is included in the notice to the Council, section 3 of the notice states that:

The designation to be rolled over relates to an established telecommunications site. Designation of this existing facility continues to be required to ensure the on-going security and resilience of essential communication services, and to provide for flexibility for the networks to adapt to changing technologies and community expectations.

121 It is therefore the statement of the continued requirement for the designation that I have taken as the objectives of the requiring authority for this designation.

FGL-01

122 The Panel asked questions relating to the need for conditions on FGL-01 and the need for the designation more generally.

123 In relation to the need for conditions on FGL-01 as opposed to other designations within the PDP that do not contain conditions, I stated at the hearing that this primarily relates to the extent of the designation, its intersection with a number of overlays and other sensitive environments, and the activities that would be enabled by the designation. As the pipeline is buried, maintenance activities would likely involve significant earthworks. As the pipeline intersects sensitive environment, such as the Pāuatahanui Wildlife Reserve, significant adverse effects may result from these works. As such, comprehensive conditions are warranted.

124 In relation to the need for the designation, I note that the purpose of the designation only enables operation and maintenance of the existing pipeline. Upgrading of the existing and any new gas transmission

pipelines would be subject to specific rules within INF – Infrastructure chapter of the PDP, unless the designation was modified.

125 The INF – Infrastructure chapter of the PDP also sets out the relevant consenting requirements for maintenance if the designation were not to be confirmed. Outside of overlays, maintenance activities are controlled by INF-R3 which includes a requirement to comply with standards for earthworks. If the standards are met, the activity is permitted. Trenching is generally enabled within these standards, which would likely be used for maintenance of the pipeline, where specific standards are met such as being progressively closed so that no more than 120 metres is open at any one time.

126 However, as noted, the pipeline intersects a number of overlays, and as such maintenance activities would be controlled by INF-R5 in these areas. This rule requires compliance with a range of standards specific to the particular overlay. These include limits on removal of indigenous vegetation within SNAs, and earthworks within SNAs, CHNCAs, SASMs and SALs. Where these standards are met, the activity is permitted. The rule generally requires consent as a restricted discretionary activity if the standards are not met.

127 The likelihood of requiring consent would very much depend on the location and extent of works proposed by Firstgas. However, given the relevant limits set in the standards, I consider that there would be a high likelihood that consent would be required for maintenance activities involving anything other than very minor activities of limited extent.

ODP Designation K1047

128 The Panel questioned the reference to K1047 in paragraph 156 of my section 42A report.

129 K1047 is the PCC designation for the service land that runs parallel to Mana Esplanade adjacent to the NIMT rail line (PCC-27 in the PDP). The

designation partially overlaps with KiwiRail's designation in the area of Redoubt Lane.

Conditions on K1062 and K1063

130 The Panel sought identifications of the conditions carried over or deleted from K1062 and K1063 in the ODP, relating to the Whitby Link Road and Waitangirua Link Road.

131 No conditions were carried over from K1062 and K1063 into the PDP. The existing designation conditions can be found in my previous Right of Reply for Hearing Stream 4 at Appendix 7 'ODP - Part K Designations'.

PCC designations

132 The Panel questioned whether PCC has an interest in the land to which its designations apply.

133 I note that PCC did not seek any new designations. As such all of PCC's designations included in the PDP were rolled-over from the ODP.

134 I have reviewed the ownership of the underlying land for PCC designations, and note the following:

- For designations PCC-01 to PCC-19, PCC-22, and PCC-24, PCC directly owns the underlying land;
- PCC-20 and PCC-21 are designated as drainage reserves with the land, or part of the land, privately owned.
- PCC-23 is Spicer landfill, which partially covers adjacent land owned by Department of Conservation. I understand that PCC has a concession granted by the Department of Conservation for this land;

- PCC-25 relates to the Te Rauparaha Arena, the underlying land for which is Gazetted as local purpose reserve (civic);²
- PCC-26 relates to the Whitby Link Road and Waitangirua Link Road, which is partially owned by PCC, Waka Kotahi, and Landcorp Holdings Limited, or held as Road parcels vested in PCC; and
- PCC-27 relates to Mana Esplanade Service Lane, which includes land vested in PCC as Road or is Crown land (Railway).

135 As all PCC designations are rolled-over from the ODP, whether there was a sufficient interest in the land for the designation, and any relevant alternatives, would have been considered at the time the designations were confirmed. In my opinion, it does not need to be considered again.

CNZ-03 recommended condition 3

136 The Panel questioned the formulation of my recommended conditions on CNZ-03, specifically Condition 3. Consideration of the method used by the Christchurch City Council was requested.

137 The Christchurch District Plan (CDP) includes a range of conditions on designations. The Panel discussed the use of conditions to exclude designations from applying to specific overlays or scheduled items. An example is condition 1 on L206 Middleton Grange School, as below:

The designation shall not apply to the alteration, relocation, demolition, reconstruction or heritage upgrade works on the heritage item schedule in the District Plan as 'Former Dwelling, Middleton' (heritage item number 27), shown on Heritage Aerial Map no.28 and Attachment 1.

² New Zealand Gazette 1984 p 2188

138 I also note that the Auckland Unitary Plan (AUP) includes similar conditions in the standard conditions for all education designations, including, relevantly:

5. Scheduled Trees

No tree or group of trees specifically scheduled in the Unitary Plan may be cut, damaged, altered, injured, destroyed or partly destroyed, or works undertaken within the drip line of any such tree(s), other than in accordance with an outline plan submitted and processed in accordance with the s176A of the Resource Management Act 1991. This condition shall not apply to minor trimming or maintenance undertaken by hand operated secateurs or pruning shears in accordance with accepted arboricultural practice, or where removal or trimming is required to safeguard life or property.

139 These conditions are similar in that they exclude the rights afforded to the requiring authority by a designation under section 176(1)(a) of the RMA for specific matters. However, while the Christchurch District Plan condition would direct the requiring authority to the plan provisions, the Auckland Unitary Plan condition directs the need for an outline plan process.

140 In relation to my recommended conditions on CNZ-03, specifically Condition 3, as noted in the hearing these replicate the standards in INF-S19. By including these as conditions, the effect is that if works are proposed that would not comply with the conditions, an alteration to the designation would be required.

141 If the approach in the AUP were to be adopted, a breach of the standard would be considered through an outline plan process. This has a similar outcome as my recommended conditions on CNZ-03, albeit through a different process, in that in both cases the decision ultimately rests with the requiring authority. I also note that these are similar in that provision is made for removal required to safeguard life or property.

142 If the approach taken in the CDP were to be adopted, the effect would be that resource consent would be required to be sought for any breaches of the standards in the INF – Infrastructure chapter relating to the notable tree. A potential benefit to the Council of this approach over the AUP approach, and my current recommended condition set, is that a resource consent considered under the provisions of the plan would be able to be declined. This would provide certainty to the Council that the tree would not be removed without its approval

143 However, this benefit to Council also results in a cost to the requiring authority due to a reduction in its certainty in efficiently and effectively using its site for the purposes of the designation. The notable tree schedule and associated provisions are generally responding to section 7 matters in the RMA (noting that there are no identified section 6(e) values associated with TREE006). There are no specific RPS provisions relevant to notable trees. However, the benefits of regionally significant infrastructure are required to be recognised and protected through RPS Objective 10 and Policy 7 and 39. Therefore, I consider that it is appropriate to leave the final decision to the requiring authority rather than the Council. As such, I do not recommend any amendment to Condition 3 of CNZ-03.

144 I do recommend additional wording to Conditions 1 and 2 to include reference to outline plan processes under section 176A, similar to the AUP approach noted above. This would enable non-compliance with these conditions to be considered through an outline plan, rather than requiring an alteration to the designation under 181. While both processes ultimately provide the requiring authority with the final decision, there would be reduced costs in time and resources for the requiring authority and Council through an outline plan process.

Waka Kotahi conditions

145 The Panel had a number of questions relating to the conditions included on the Waka Kotahi designation NZTA-01, including those I

recommended to be rolled-over from the ODP designation in my section 42A report.

146 The Panel questioned the use of the term ‘maintain’ in Conditions 12, 13 and 15 as recommended to be carried over in my section 42A report. The reference to PCC Manager providing discretion within the conditions was also questioned. As noted at the hearing, the wording of these conditions was taken directly from the conditions contained in the existing condition set in the ODP.

147 The Chair questioned whether Condition 2 of K0411, which refers to ‘implementation of the works’, creates an ongoing requirement, and specifically, whether there is any work left to be implemented. On this matter, I note that the roll-over report prepared by Waka Kotahi NZ Transport Agency states at page 6 that:

Designation K0411 has conditions relating to the rural upgrade of SH1 (from Pukerua Bay to Plimmerton). Designation K0412 has conditions relating to the urban upgrade of SH1 (from Plimmerton to Paremata). The conditions for K0411 are no longer relevant as the works they related to has already been completed. Most of the conditions for K0412 are no longer relevant as the works they related to has also already been completed.

148 As such, the Panel can be confident that the works associated with designations K0411 and K0412 have been completed. As such, I continue to consider that Condition 2 of K0411 is no longer relevant.

149 In relation to condition 6(d) of K0411 the Chair questioned whether the regional consent conditions for the road for stormwater preclude discharge of floatable material. I have looked at the regional consent conditions for State Highway 1 Upgrade Plimmerton to Paremata Section (WGN 970226) in relation to this question, but I am unable to definitively state whether the conditions expressly preclude discharge of floatable

material with stormwater. However, I note that the RMA states at section 70 that:

Before a regional council includes in a regional plan a rule that allows as a permitted activity—

(a) a discharge of a contaminant or water into water; or

(b) a discharge of a contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water,—

the regional council shall be satisfied that none of the following effects are likely to arise in the receiving waters, after reasonable mixing, as a result of the discharge of the contaminant (either by itself or in combination with the same, similar, or other contaminants):

*(c) the production of conspicuous oil or grease films, scums or foams, **or floatable or suspended materials:***

(emphasis added)

150 This section of the RMA has not been amended since its introduction. As such, the production of floatable or suspended material from discharges of stormwater would have been considered by the regional council at the time the works were consented.

151 The Chair also asked whether existing condition 15 on K0411 which requires a Landscape Management Plan to specify the continuing steps to be taken to fulfil the intention of the conditions creates a different requirement to simply replacing plants. I note that the recommended carrying over condition 7A from K0412 requires that all landscaping be maintained. I consider that, as the works have been completed, the requirement for maintenance of the existing landscape mitigation work is sufficient.

152 I recommended condition 11 of K0412 not be carried over, as the standard referred to 9 (AS/NZS 1158:1997) has been superseded. The Panel asked whether a new condition with new standard reference is

required. I am unable to say whether reference to the new AS/NZS standard would be appropriate. However, I note that Waka Kotahi released the document 'M30 Specification and Guidelines for Road Lighting Design' in 2014 which is referenced in the INF – Infrastructure chapter of the PDP in relation to standards for streetlighting. This document references the standards in AS/NZS 1158 where relevant, as well as a range of other lighting standards. I consider that as this document sets out Waka Kotahi's own standards for road lighting and would therefore be referred to if the lighting were to be amended, there is no need to include a new condition relating to lighting for NZTA-01.

153 The Chair questioned whether condition 52.2 of K0412 remains relevant as it requires Waka Kotahi to 'form, seal and maintain the car parking area'. I agree that the reference to maintenance of the car parking area establishes an on-going requirement, and therefore have included an additional condition in Appendix B to carry over this requirement. I have amended the wording of the condition to simply say that it requires NZTA to maintain the car parking area at 91 Mana Esplanade (Redoubt Lane) in 'reasonable condition'.

154 The Panel asked whether the conditions for K0411 and K0412 could be made available. The conditions are contained in the appendices to the designation chapter (Part K) of the ODP. These could easily be maintained in an appropriate location on the Council website, for example on a page providing background information on the development of the PDP.

Matters remaining in contention

Conditions on NZTA-01

155 I have reviewed the information provided by the Paremata Residents Association on 30 June 2022.

156 Notwithstanding the amendments recommended above in response to questions from the Panel, I do not agree with the reasons put forward by the Paremata Residents Association for retaining the conditions on K0411 and K0412. These reasons generally appear to be that they provide context, may be of interest during consultation, or identify the matters of importance to the community at the time they were imposed.

157 I note that the notation for NZTA-01 in the PDP includes in the 'Additional Information' section, a reference to the previous designation identifiers under the ODP (K0401, K0402, K0403, K0411 and K0412). As discussed at the hearing and above, the content of the conditions on these designations could be maintained on the Council website for any person wishing to view these for contextual purposes.

158 As such, I do not recommend any additional conditions are imposed on NZTA-01 in response to the additional information provided by the Paremata Residents Association.

159 I also note that the Paremata Residents Association state in relation to the requirements of Condition 11 on NZTA-01 (which was rolled over from condition 59 of K0412), that:

After Waka Kotahi officers appear to have discovered the existence of the BOI decision in May last year, however, they then chose to give it precedence over condition 59.

160 This statement reflects that the Board of Inquiry (BOI) decision on Transmission Gully at condition NZTA.3B, included in APP14 - Designation Conditions for NZTA-03 and NZTA-04 of the PDP, states:

No earlier than six months after the commencement of the Project and no later than 12 months from that date the Requiring Authority shall: ...

161 This is in contrast to the wording of condition 59 of K0412 which states that the consultation must occur 'Prior to the completion of the

construction of Transmission Gully Motorway'. NZTA.3B otherwise generally reiterates the same obligations of condition 59 to consult, report and the matters to be addressed.

162 The Paremata Residents Association is correct that Waka Kotahi has taken the wording of condition NZTA.3B over that of condition 59. As I understand it, this was decided following analysis of both designation conditions, and based on the greater specificity of NZTA.3B.

Conclusion

163 I have addressed the questions posed by the Panel through Minute 41 on Hearing Stream 6, the other questions raised by the Panel during the hearing, and any other outstanding matters. I trust that the information provided above sufficiently addresses the Panel's questions on these matters.

Date: 25 July 2022



.....
Rory Smeaton

Appendix A. List of materials provided by submitters

Tabled Evidence

Meghan Stenner on behalf of Firstgas

Emily Hunt on behalf of Waka Kotahi NZ Transport Agency

Tabled Submitter Statements

Chorus New Zealand Limited and Spark New Zealand Trading Limited

Ministry of Education

KiwiRail

Transpower

Submitter statement

Paremata Residents Association [190 & FS08]

Submitter Presentations

Firstgas Limited [84 & FS63]

Appendix B. Recommended amendments to PDP provisions

In order to distinguish between the recommendations made in the s42A report and the recommendations that arise from this report:

- s42A recommendations are shown in red text (with underline and ~~strike-out~~ as appropriate);
and
- Recommendations from supplementary planning evidence and this report in response to evidence are shown in blue text (with underline and ~~strike-out~~ as appropriate).

Introduction to Designations

What is a Designation?

A Notice of Requirement is the term for an application made by a Requiring Authority under the RMA to create a new Designation (a form of 'spot zoning') over land or to alter an existing Designation. It is a mechanism used by Ministers of the Crown, local authorities and network utility operators approved as requiring authorities under the RMA to obtain planning authorisation and protect land for public works. Requiring authorities can only designate land where they are financially responsible for the project, work or operation on the designated land. A designation enables a requiring authority to undertake works in the designated area without the need for resource consent under the District Plan, unless works will be undertaken that are outside the scope of the designation. However, they may still need to obtain resource consents from the Greater Wellington Regional Council. [A designation may also need to comply with relevant National Environmental Standards depending on when the designation was made.](#)

[Note: All designations are identified in the District Plan maps by a blue outline. Council may be able to assist plan users with any issues experienced in defining the geographic extent of designations and providing GIS data.³](#)

When does a Notice of Requirement for a new Designation take effect?

A Notice of Requirement has immediate interim effect when it is notified, meaning that no person may do anything that would prevent or hinder the public work, project, or work to which the designation relates unless the person has the prior written consent of the requiring authority.

Once the Requiring Authority accepts the local authority's recommendation on the Notice of Requirement (if the recommendation is approval) it becomes a new Designation or the existing Designation is altered in accordance with what the Requiring Authority has accepted.

Overview of Designations in the Proposed District Plan

- ~~1. There are 12 Requiring Authorities that have Designations in the Proposed District Plan 2020~~
- ~~2. There are 11 new Designations in the Proposed District Plan 2020~~
- ~~3. There are 70 existing Designations that have been 'rolled over' into the Proposed District Plan 2020 from the Operative District Plan 1999. All of these Designations include minor changes to align with the requirements of the National Planning Standards and some involve amendments to spatial boundaries, legal descriptions, site addresses, the 'purpose' description of the Designation as well as the inclusion of or modification of designation conditions. Some existing designations have been amalgamated into one designation such as a number of designations for the New Zealand Transport Agency.~~
- ~~4. Existing designations in the Operative District Plan 1999 that were requested not to be 'rolled over' include:
 - ~~a. Porirua City Council designation known as K1054 titled "Existing public roads".~~
 - ~~b. Porirua City Council designation known as K1021 titled "Proposed Reservoir" as this site was decommissioned~~~~

³ Clause 16

The 11 new Designations that are being included under the Proposed District Plan 2020 include:

- ~~1. CNZ-02 Pukokura Bay Exchange~~
- ~~2. CNZ-03 Titahi Bay Exchange~~
- ~~3. CNZ-04 Waitangirua Exchange~~
- ~~4. CNZ-05 Whitby Exchange~~
- ~~5. FGL-01 Gas Transmission Network~~
- ~~6. MEDU-29 Bishop Viard College~~
- ~~7. MEDU-30 Holy Family School (Porirua)~~
- ~~8. MEDU-31 St Pius X School (Titahi Bay)~~
- ~~9. MEDU-32 St Theresa's School (Plimmerton)~~
- ~~10. MEDU-33 Wellington S-D-A School~~
- ~~11. SPK-01 Spark Exchange~~

[...]

CNZ - Chorus New Zealand Limited

[...]

| | |
|---|--|
| CNZ-03 | Titahi Bay Exchange |
| Designation unique identifier | CNZ-03 |
| Designation purpose | Telecommunication and Radio communication and Ancillary Purposes |
| Site identifier | 2 Tireti Road, Titahi Bay, Section 1 on SO 35629 |
| Lapse date | Given effect to (i.e no lapse date) |
| Designation hierarchy under section 177 of the Resource Management Act | Primary |
| Conditions | No <u>Yes</u> |
| Additional information | Existing facility New Designation (Notice of Requirement under Section 168 of the RMA 1991). |
| <u>Conditions for CNZ-03</u> | |
| <u>Condition 1</u> | |
| <u>Other than in accordance with an outline plan submitted and processed in accordance with the s176A of the Resource Management Act 1991, Aany trimming</u> | |

or pruning of the Norfolk Island Pine located on the site identified as TREE006 in SCHED5 – Notable Trees:

- a. Must not exceed a branch diameter of 50mm at severance unless it is the removal of deadwood;
- b. Must ~~R~~retain the natural shape, form and branch habitat of the tree; and
- c. Must be ~~is~~ undertaken or supervised by a works arborist.

Condition 2

Other than in accordance with an outline plan submitted and processed in accordance with the s176A of the Resource Management Act 1991, Any works within the root protection area of the Norfolk Island Pine located on the site identified as TREE006 in SCHED5 – Notable Trees must only undertaken where:

- a. The works are undertaken or supervised by a technician arborist;
- b. Any machinery associated with undertaking the earthworks is operated on top of paved surfaces and/or ground protection measures;
- c. Any excavation is undertaken by:
 - i. Hand-digging, air spade, or hydro vac, where it is an open cut excavation;
 - ii. Directional drilling machine where the excavation is at a depth of 1m or greater;
- d. The pruning of roots is limited to roots 35mm in diameter or less at the point of severance; and
- e. The works do not create new impermeable surfaces (including sealing, paving, soil compaction), buildings or structures within the root protection area; and
- f. The works will affect less than 10% of the protected root area.

Condition 3

Removal of the Norfolk Island Pine located on the site identified as TREE006 in SCHED5 – Notable Trees must only be undertaken where:

- a. It is essential due to a serious imminent threat to the safety of people or property;
- b. The tree is confirmed to be dead by a technician arborist;
- c. Porirua City Council is advised as soon as reasonably practicable prior to work commencing;
- d. The works are undertaken or supervised by a technician arborist; and
- e. Porirua City Council is provided with written documentation by a technician arborist confirming that the works were necessary and undertaken in accordance with good arboricultural practice no more than 10 working days after the works have been completed.

[...]

FGL - First Gas Limited

| | |
|--------------------------------------|--|
| FGL-01 | Gas Transmission Network |
| Designation unique identifier | FGL-01 |
| Designation purpose | Ongoing operation and maintenance of the Gas Transmission Network within the Porirua District, inclusive of above-ground incidental equipment. |

| | |
|--|--|
| Site identifier | <p>Includes land that contains the Gas Transmission Network via a legal easement in favour of the Gas Transmission Pipeline or land that is owned by Firstgas.</p> <p>Includes land 6m either side of the Gas Transmission Pipeline (aligning with the 12m gas easement), and all associated above or below-ground fitting, appurtenance, fixture or equipment required for the conveyance of the product or material in the pipeline and/or for its safe, efficient or effective operation.</p> |
| Lapse date | Given effect to (i.e no lapse date) |
| Designation hierarchy under section 177 of the Resource Management Act | Varies |
| Conditions | Yes Conditions are included below this table |
| Additional information | <p>New Designation (Notice of Requirement under Section 168 of the RMA 1991).</p> <p>In terms of the designation hierarchy under section 177 of the Resource Management Act:</p> <ul style="list-style-type: none"> • Secondary where overlaps with GWRC-03, NZTA-02, NZTA-03 and PCC-26. |
| Conditions for FGL-01 | |
| Condition 1 – Maintenance <u>Construction Environmental Management Plan</u> | |
| <p>Firstgas shall be exempt from providing an Outline Plan of Works for ongoing maintenance works (including the repair and replacement of existing assets) enabled by this designation.</p> <p><u>1. The Requiring Authority shall submit a Construction Environmental Management Plan (or Plans) (CEMP) to the Council for certification approval with any Outline Plan submitted in accordance with section 176A of the RMA. The purpose of the CEMP is to detail the methods, processes and practices to avoid, remedy or mitigate the adverse effects of construction activities associated with operation or maintenance of the Gas Transmission Network. The CEMP shall be prepared with sufficient detail corresponding with the scale and extent of the works, and shall as a minimum include details of construction management methods, practices and processes to address:</u></p> <ol style="list-style-type: none"> <u>Description of the works;</u> <u>Construction vehicle access and parking;</u> <u>Traffic management;</u> <u>Noise and vibration;</u> <u>Air quality (dust);</u> <u>Erosion and sediment control;</u> <u>Earthworks stability;</u> <u>Accidental discovery protocol management;</u> <u>Incident management;</u> <u>Complaints management; and</u> <u>Roles and responsibilities.</u> | |

The CEMP shall also address the matters identified in conditions 3 and 4, where relevant.

2. Any works for which an Outline Plan is submitted in accordance with section 176A of the RMA must be undertaken in accordance with the CEMP required in Condition 1(1). No works shall commence until the CEMP has been approved.

Condition 2 – Accidental Discovery Protocol ~~for the Discovery of Taonga and Artefacts~~

1. If Taonga (treasure or prized possession, including a natural resource, having tangible or intangible value) is discovered in any area, the Requiring Authority is to contact the Ngāti Toa Rangatira through Te Rūnanga o Te Rangatira Incorporated, the New Zealand Historic Places Trust and Porirua City Council. The Requiring Authority is to cease all work in the area until a site inspection is carried out by Ngāti Toa representatives (the site inspection by Ngāti Toa representatives will be undertaken within 48 hours from date of notice) and Council staff and approval to continue is given by the General Manager, Environment and Regulatory Services, Porirua City Council. Ngāti Toa representatives shall be given access to the site for the purpose of monitoring at any time subject to giving the applicant or applicants' agent 24 hours notice.

2. If during construction activities, the Requiring Authority uncovers any skeletal remains or similar material, operations are to cease in the vicinity immediately and the Requiring Authority is to notify the New Zealand Police, Te Rūnanga o Toa Rangitira, the General Manager, Environment and Regulatory Services, Porirua City Council and where appropriate the New Zealand Historic Places Trust.

Note: Under the Heritage New Zealand Pouhere Taonga Act 2014 it is unlawful to destroy, damage or modify an archaeological site (regardless of whether the site is identified in the District Plan or not) without obtaining an archaeological authority from Heritage New Zealand Pouhere Taonga (HNZPT) before you start work. An archaeological authority is required in addition to any resource consents required by the Council.

An archaeological site is defined in this act as any place in New Zealand (including buildings, structures or shipwrecks) that was associated with pre-1900 human activity, where there is evidence relating to the history of New Zealand that can be investigated using archaeological methods.

If you discover a previously unknown archaeological site (for example, when you are conducting Earthworks) you must stop any work that could affect it and contact HNZPT for advice on how to proceed.

The Police will also need to be notified if human remains are revealed. If any artefacts are found, they must be handed over to the Ministry for Culture and Heritage.

[include accidental discovery protocol from new Appendix 16]

~~If Taonga (treasure or prized possession, including a natural resource, having tangible or intangible value) is discovered in any area, the Requiring Authority is to contact the Ngāti Toa Rangatira through Te Rūnanga o Te Rangatira Incorporated, the New Zealand Historic Places Trust and Porirua City Council. The Requiring Authority is to cease all work in the area until a site inspection is carried out by Ngāti Toa representatives (the site inspection by Ngāti Toa representatives will be undertaken within 48 hours from date of notice) and Council staff and approval to continue is given by the General Manager, Environment and Regulatory Services, Porirua City Council. Ngāti Toa representatives shall be given access to the site for the purpose of monitoring at any time subject to giving the applicant or applicants' agent 24 hours notice.~~

~~Condition 3 – Protocol for the Discovery of Skeletal Remains~~

~~If during construction activities, the Requiring Authority uncovers any skeletal remains or similar material, operations are to cease in the vicinity immediately and the Requiring Authority is to notify the New Zealand Police, Te Rūnanga o Teo Rangitira, the General Manager, Environment and Regulatory Services, Porirua City Council and where appropriate the New Zealand Historic Places Trust.~~

Condition 3 – Significant Natural Areas

1. The Requiring Authority shall submit an Outline Plan to the Council in accordance with section 176A of the RMA for any works that include or result in the trimming, pruning or removal of indigenous vegetation or any earthworks within a Significant Natural Area identified in SCHED7 - Significant Natural Areas.

Note: This condition shall not apply to any work that has been otherwise approved under the RMA.

~~12. Where any works result in the trimming, pruning or removal of indigenous vegetation or any earthworks within a Significant Natural Area identified in SCHED7 – Significant Natural Areas, t~~The Requiring Authority shall provide an Ecological Assessment prepared by a suitably qualified and experienced ecologist to the Council with any Outline Plan submitted in accordance with Condition 3(1)-section 176A of the RMA.

The Ecological Assessment must include recommendations on the management of the works within the Significant Natural Area, so that:

- a. The works avoid adverse effects on indigenous biodiversity values in relation to:
 - i. Loss of ecosystem representation and extent;
 - ii. Disruption to sequences, mosaics or ecosystem function;
 - iii. Fragmentation or loss of buffering or connectivity within the SNA and between other indigenous habitats and ecosystems; and
 - iv. A reduction in population size or occupancy of threatened species using the SNA for any part of their life cycle; and
- b. Any other adverse effects on the identified indigenous biodiversity as a result of the works are:
 - i. Avoided where possible;
 - ii. Minimised where avoidance is not possible;
 - iii. Remedied where they cannot be avoided or minimised;
 - iv. Only addressed through biodiversity offsetting where residual adverse effects cannot otherwise be avoided, minimised or remedied; and
 - v. Only addressed through biodiversity compensation after first considering biodiversity offsetting and where the principles of APP9 – Biodiversity Compensation are met.

2. The recommendations of an Ecological Assessment required under Condition 3(1) must be incorporated as far as practicable into the CEMP required under Condition 1.

Condition 4 – Reinstatement of earthwork areas

Any area disturbed by earthworks as a result of works within the designation area shall be reinstated as soon as practicable so that:

- a. The ground level following completion of the works matches as far as practicable the level that existed prior to the works being undertaken;
- b. The area is replanted, with any vegetation, grass, or other groundcover that existed prior to the works being undertaken being replaced as far as practicable with equivalent vegetation, grass, or groundcover; and
- c. Any replanting required under Condition 4(b) is maintained for a period of three years, with any dead or dying plants replaced to achieve sufficient coverage to the

[satisfaction of the Manager Resource Consents & Monitoring, Porirua City Council.](#)

[...]

KRH - KiwiRail Holdings Limited

| | |
|---|---|
| KRH-01 | Railway |
| Designation unique identifier | KRH-01 |
| Designation purpose | Railway Purposes |
| Site identifier | Railway, as shown on the district planning maps |
| Lapse date | Given effect to (i.e no lapse date) |
| Designation hierarchy under section 177 of the Resource Management Act | Primary Varies |
| Conditions | No |
| Additional information | <p>Formerly K0101 Rollover designation (updated to be in accordance with the National Planning Standards including an update to the Requiring Authority Name and mapping boundaries to accurately reflect the rail land and assets.</p> <p>In terms of the designation hierarchy under section 177 of the Resource Management Act:</p> <ul style="list-style-type: none">• Primary where overlaps with NZTA-01 and NZTA-04; and• Secondary where overlaps with PCC-27. |

[...]

NZTA - New Zealand Transport Agency

| | |
|---|--|
| NZTA-01 | State Highway 4 <u>59</u>⁴ |
| Designation unique identifier | NZTA-01 |
| Designation purpose | To undertake construction, maintenance, operation, use and improvement of the state highway network and associated infrastructure. |
| Site identifier | State Highway 4 <u>59</u> ⁵ from the Kāpiti Coast District Council boundary to the north to the Wellington City Council boundary to the south. |
| Lapse date | Given effect to (i.e no lapse date) |
| Designation hierarchy under section 177 of the Resource Management Act | Primary <u>Varies</u> |
| Conditions | Yes Conditions are included below this table |
| Additional information | <p>Formerly K0401, K0402, K0403, K0411 and K0412 Rollover designation updated to be in accordance with the National Planning Standards</p> <p>In terms of the designation hierarchy under section 177 of the Resource Management Act:</p> <ul style="list-style-type: none"> • Secondary where overlaps with KRH-01. <p>Additional minor amendments include:</p> <ol style="list-style-type: none"> 1. Amalgamating the five existing designations relating to SH1 (K0401, K0402, K0403, K0411 and K0412) into one designation, modifying the purpose of the designation, and remove all irrelevant conditions, and retain Condition 55.1a through to 55.8, 55A, 56 and 59 of K0412. 2. Minor modifications to the designation boundaries to: <ol style="list-style-type: none"> a. Adjust the Transport Agency’s designations to align with the legal road corridor to ensure that surveyed legal road boundaries are accurately reflected in the designation overlay; and b. Widen the designation boundary in a small number of places to designate land that is already currently owned and also maintained by the Transport Agency (under the draft agreement with Porirua |

⁴ Clause 16 minor amendment

⁵ Clause 16 minor amendment

- City Council on the state highway network maintenance boundaries); and
- c. Reduce the state highway designation in a small number of places, where the designation is surplus to requirements.

Notes:

1. The following section of State Highway ~~459~~⁶ is Limited Access Road, as declared under Section 88 of the Government Roding Powers Act 1989:
 - a. From Gray Street, Pukerua Bay (RS/RP 01N1035/7750*) to James Street, Plimmerton (RS/RP 01N 1035/1315*).
2. The following section of State Highway ~~459~~⁷ is classified as a 'Motorway' under Section 71 of the Government Roding Powers Act 1989:
 - a. From south of the SH1/Mungavin Road interchange to the north (RS/RP 01N 1050/5006*) to the Wellington City Council boundary to the south.

* Approximate location as per Argonaut Roadrunner

Conditions for NZTA-01

Condition 1

In its operation of the Work as SH~~459~~⁸, the NZ Transport Agency ('NZTA') shall ensure that practical provision is made to enable those portions of the northbound and southbound kerbside lanes shown marked 'Parking Permitted Except When Clearway Operates' on Plans Ga to Ja in Appendix 1a ('Northbound and Southbound Lanes') to be available for kerbside vehicle parking except during the periods which are specified in condition 2 below, or during any altered no-parking periods notified under condition 5 following the NZTA undertaking the process set out in conditions 3 and 4 ('Clearway Hours').

The NZTA may at any time extend the areas available for kerbside parking and may amend the Plans Ga (November 2010) to Ja (and hence the areas where Clearway Hours will operate) accordingly.

Condition 2

From commencement of the operation of the Clearways and unless and until the NZTA decides to alter the Clearway Hours (as provided in conditions 3 and 4), the Clearway Hours shall be as set out below:

- a. There is to be no parking in the Southbound Kerbside Lane, except for emergency vehicles, and passenger service vehicles picking up or setting down passengers at authorised bus stops or parking bays during the following periods:
 - i. Monday to Friday (other than Public Holidays), from 6.30am to 9.30am; and

⁶ Clause 16 minor amendment

⁷ Clause 16 minor amendment

⁸ Clause 16 minor amendment

- ii. Sunday and Public Holidays, from 3.30pm to 6.30pm.
- b. There is to be no parking in the Northbound Kerbside Lane, except for emergency vehicles, and passenger vehicles picking up or setting down passengers at authorised bus stops or parking bays, during the following periods:
 - i. Monday to Friday (other than Public Holidays), from 3.30pm to 6.30pm; and
 - ii. Saturday from 11.30pm to 2.30pm.

Condition 3

The NZTA may undertake reviews of the Clearway Hours for the purposes of determining whether or not it would be desirable for the days and hours of operation to be altered. The first review should be undertaken within 18 months of the commencement of the Clearway Hours. Subsequent reviews may be undertaken when:

- a. Significant regular traffic back-ups are observed;
- b. Traffic volumes in one direction along Mana Esplanade exceed 1,400 vehicles per hour on a regular basis (generally over the same period for eight continuous weeks) outside Clearway Hours; or
- c. Significant changes in traffic volumes or patterns warrant such a review.

Any such review shall include an assessment of whether or not traffic patterns and volumes warrant altering the days and/or hours of clearway operation.

Condition 4

If, during a review undertaken under condition 3, the NZTA considers that it might be desirable for the days and/or hours of Clearway operation to be altered, then the NZTA shall:

- a. Give written notice to the Chief Executive of PCC (Porirua City Council) that the Clearway Hours are proposed to be altered, specifying the proposed alterations to the hours and the proposed date for the altered hours to come into force;
- b. Consult, on the proposed alterations to the Clearway Hours and the proposed date for the altered hours to come into force, with the New Zealand Automobile Association, the Road Transport Association, the Paremata Residents Association Inc, the Plimmerton Residents Association Inc, Ngāti Toa Rangatira and anyone else whom the Chief Executive of PCC or their nominee recommends that the NZTA should consult with by notice in writing received by the NZTA within 10 working days of NZTA giving notice to PCC under condition 4(a). (Nothing in this condition shall prevent NZTA from consulting with any other person in respect of proposed alterations to the Clearway Hours or the proposed date for any altered hours to come into force);
- c. Provide a report that summarises any issues raised during the consultation undertaken under condition 4(b) to the Chief Executive of PCC;
- d. Allow the Chief Executive of PCC 15 working days, from the date on which the NZTA provides PCC with a report under condition.4(c), in which to provide the NZTA with any comments on the proposed alterations to the Clearway Hours and the proposed date for the altered hours to come into force;
- e. Consider any comments on the proposed alterations to the Clearway Hours and proposed date for the altered hours to come into force, provided during the consultation undertaken under condition 4(b) or by PCC within the timeframe specified under condition 4(d), in making any decision as

to whether or not to alter the Clearway Hours and when any altered Clearway Hours should come into force;

- f. Decide whether or not to alter the days and/or hours of the clearway operation and, if so, when the altered Clearway Hours will come into force; provided that, if the NZTA decides that it would be desirable to increase the Clearway Hours beyond a maximum of 3.5 hours on any day in each of the northbound and southbound kerbside lanes, the NZTA must apply for an Alteration of the Designation under section 181 of the Resource Management Act 1991; and
- g. If the NZTA decides to alter the Clearway Hours, comply with the obligations in relation to alterations to the Clearway Hours in conditions 5 and 6.

Advice Note: For the avoidance of doubt, this condition enables the requiring authority to introduce and alter Clearway Hours on any day of the week, including Public Holidays.

Condition 5

At least one month prior to the commencement of Clearway operation, and again at least one month prior to any subsequent alterations to the Clearway Hours coming into force, the NZTA shall:

- a. Place notices in a newspaper or newspapers circulating in the greater Wellington area, and on a radio station or radio stations broadcasting in the greater Wellington area;
- b. Notify the New Zealand Automobile Association, the Road Transport Association, the Paremata Residents Association, the Plimmerton Residents Association and Ngāti Toa Rangatira; and
- c. Undertake a mail drop to properties fronting, or located within 100m of the Northbound or Southbound Lanes.

The publicity shall set out the new Clearway Hours and any alterations and when they will come into force, and shall:

- a. Encourage all heavy motor vehicles to use the centre lanes between the Paremata bridges (in the south) and the intersection at Steyne Avenue (in the north) at all times, unless turning; and
- b. Encourage all vehicles to use the centre lanes whenever the clearways are not in operation, unless turning.

Condition 6

From commencement of clearway operation, NZTA shall display electronic messaging signs to:

- a. Advise motorists whether or not the clearways are operating at the time;
- b. Encourage, through the use of instructional language, all heavy motor vehicles to use the centre lanes between the Paremata bridges (in the south) and the Steyne Avenue intersection (in the north) at all times unless turning;
- c. Encourage, through the use of instructional language, all vehicles to use the centre lanes whenever the clearways are not in operation, unless turning; and
- d. Advise motorists of road incidents.

In determining the location and wording of signs, the NZTA shall first:

- a. Advise the Paremata Residents and Plimmerton Residents Associations of its intention to consult with the PCC; and then
- b. Consult with PCC.

Condition 7

Within 18 months of the Clearway Hours becoming operational, the Requiring Authority shall consult with PCC on the terms of reference for a report which shall include:

- a. Effectiveness of measures to:
 - i. Encourage all heavy motor vehicles to use the centre lanes between the Paremata bridges (in the south) and the intersection at Steyne Avenue (in the north) at all times, unless turning;
 - ii. Encourage all vehicles to use the centre lanes whenever the clearways are not in operation, unless turning;
- b. Feedback from Stakeholders; and
- c. Recommendations.

The Requiring Authority shall implement recommendations as it considers appropriate.

Condition 8

Within 18 months of the clearway lanes becoming operational, or earlier if significant problems eventuate and if requested by PCC, the NZTA shall complete a safety and operational audit of the stretch of road between the Paremata and Plimmerton roundabouts, and provide a report to PCC, GWRC (Greater Wellington Regional Council), the Paremata and Plimmerton Residents Associations and Ngāti Toa Rangatira on the results of that audit.

Condition 9

The NZTA shall monitor vehicle use and parking activity on the road, and keep records of any feedback from the public that may be relevant in enabling the reviews, reports or audits under conditions 3,7 and 8 to be carried out.

Condition 10

Where, in accordance with any condition of this designation, NZTA is required to give written notice of anything to any person, then NZTA shall be treated as having duly given such notice once:

- a. Any notice sent by pre-paid post addressed to the person at the usual or last known place of residence or business of that person, Post Office box or private bag or document exchange would have been delivered in the ordinary course of post or delivery;
- b. Any notice sent by facsimile to the usual or last known facsimile number is shown by the sender's facsimile records to have been transmitted.

Condition 11

Prior to the completion of the construction of Transmission Gully Motorway NZTA shall:

- a. Consult with PCC, GWRC, Paremata Residents Association Inc, Plimmerton Residents Association Inc, and Ngāti Toa Rangatira in relation to its proposals for the Work following the construction of the Transmission Gully Motorway, including the following matters:
 - i. Ownership and control of the Work;
 - ii. Options relating to the future of the existing Paremata Bridge;
 - iii. The continuation of four Laning of St Andrews Road between Acheron Road and James Street;
 - iv. Measures (to the extent that they are legally available) to restrict or discourage heavy vehicle movements through the Work;
 - v. Other measures required to ensure an adequate level of service for the traffic volumes and traffic type expected to use the Work;

- vi. Provision of arrangements for cyclists;
 - vii. Alteration of footpath widths;
 - viii. Removal of traffic lights;
 - ix. Changes to the operation of the clearway or HOV lanes;
 - x. Alteration of arrangements in relation to capacity;
 - xi. Any changes to be sought to the designation in relation to those matters; and
- b. Report on the outcomes of that consultation to PCC and GWRC for the purposes of ensuring that the PCC and GWRC are fully informed of the views of the public and those bodies, and of NZTA's intended response to that consultation.

Condition 12

NZTA shall maintain the following structures located within the designation boundaries:

- a. Cut face at Steyne Avenue intersection;
- b. Goat Point access way;
- c. Lighting;
- d. Acoustic fence on the western side of SH 59, north of Steyne Avenue (75 to 91 St Andrews Road);
- e. Plimmerton Pedestrian over bridge;
- f. Signage north of the Acheron Road/service lane intersection ensuring clear direction is provided to SH 59 motorists wishing to use the services accessed to or from the service lane; and
- g. Handrails between the footpath and the carriageway.

Condition 13

NZTA shall maintain all landscaping work within the designation boundaries. Maintenance shall include replacement of any plants that perish or are damaged by the Work (e.g. because of changes to ground water or damage to root systems or canopies).

Condition 14

NZTA shall provide the following signage:

- a. A sign north of the Acheron Road/service lane intersection with SH59, to ensure clear direction is provided to SH 59 motorists wishing to use the services accessed to or from the service lane. The sign shall incorporate generic identification of the services offered.
- b. At the northern approach to Plimmerton and the southern approach to Mana to advise heavy goods drivers that they are entering a residential area and that the use of engine brakes should be avoided.
- c. Directional signage at the Plimmerton Roundabout clearly identifying the Plimmerton Industrial Estate, and clarifying the route to be taken to the state. The signage shall be constructed and erected following consultation with the owners and occupiers of the Estate.

Condition 15

NZTA shall maintain a permanent record of any complaints alleging adverse effects from its operations within the designation or any breach of these conditions or other comments received. The record shall include the name and address (as far as practicable) of the person who made the complaint or comment, and where a complaint is made, identification of the nature of the matter complained about, date and time of the complaint and of the alleged event, weather conditions at the time of

the alleged event (as far as practicable), and any remedial action taken. This record shall be made available to the PCC on request.

Condition 16

To retain key views of the Taupō Swamp from the State highway (in particular between meterages 4500-4650, 4900-5200 and 6200-6300), NZTA shall, to the satisfaction of the General Manager, Policy, Planning & Regulatory Services, PCC, undertake the following measures within the boundaries of the designation, in general accordance with the Landscape Mitigation and Enhancement Proposal Plans in Appendix 3 and as summarized in Table 1 in Appendix 2:

- a. Use wire rope (or similar suitable barrier) instead of concrete for any safety barrier at meterages 4400-6550 unless the General Manager, Environment and Regulatory Services, PCC, certifies that an alternative is acceptable; and
- b. Keep mown any strips of grass along the edge of the highway.

Condition 17

NZTA shall ensure that at the Airlie Road intersection:

- a. The road surface in the vicinity of the intersection shall be designed and constructed so the operational noise at the Whenua Tapu Cemetery or houses in the vicinity from vehicles using the road shall be no greater than that which would arise from the use of a small grade chip seal surface finish; and
- b. Any new or changed overhead lighting shall be designed so as not to exceed 8 lux on the face of any residential houses close to the intersection.⁹

Condition 18

NZTA shall maintain the car parking area at 91 Mana Esplanade (Redoubt Lane) in a reasonable condition.¹⁰

| | |
|---|--|
| NZTA-02 | State Highway 58 |
| Designation unique identifier | NZTA-02 |
| Designation purpose | To undertake construction, maintenance, operation, use and improvement of the state highway network and associated infrastructure |
| Site identifier | State Highway 58 from the intersection with State Highway 459 to the west to the Upper Hutt City and Hutt City Council boundaries to the southeast. |
| Lapse date | Given effect to (i.e no lapse date) |
| Designation hierarchy under section 177 of the Resource Management Act | Primary <u>Varies</u> <u>Primary</u> |
| Conditions | No |

⁹ Paremata Residents Association [FS08.1] and (Name withheld) [FS17.11]

¹⁰ Paremata Residents Association [FS08.1] and (Name withheld) [FS17.11]

| | |
|---|---|
| Additional information | <p>Formerly K0404, K0407 and K0410 Rollover designation updated to be in accordance with the National Planning Standards</p> <p>Additional minor amendments include:</p> <ol style="list-style-type: none"> 1. Amalgamating the three existing designations relating to SH58 (K0404, K0407 and K0410) into one designation and modifying the purpose of the designation 2. Minor modifications to the designation boundaries to: <ul style="list-style-type: none"> • Adjust the Transport Agency’s designations to align with the legal road corridor to ensure that surveyed legal road boundaries are accurately reflected in the designation overlay; and • Widen the designation boundary in a small number of places to designate land that is already currently owned and also maintained by the Transport Agency (under the draft agreement with Porirua City Council on the state highway network maintenance boundaries); and • Reduce the state highway designation in a small number of places, where the designation is surplus to requirements. <p>Notes:</p> <ol style="list-style-type: none"> 1. The following section of State Highway 58 is Limited Access Road, as declared under Section 88 of the Government Roding Powers Act 1989: <ol style="list-style-type: none"> a. Near 160 Paremata Road to the west (RS/RP 058 00/1386*) to the Upper Hutt City and Hutt City Council boundaries to the southeast. <p><i>* Approximate location as per Argonaut Roadrunner</i></p> |
| NZTA-03 | <u>Te Ara Nui o Te Rangihaeata (State Highway 1, Transmission Gully)</u> |
| Designation unique identifier | NZTA-03 |
| Designation purpose | To undertake construction, maintenance, operation, use and improvement of the state highway network and associated infrastructure. |
| Site identifier | Transmission Gully Main Alignment from the intersection with the Kāpiti Coast District Council and Upper Hutt City boundaries to the north to the Wellington City Council boundary to the south. |
| Lapse date | Given effect to (i.e no lapse date) |
| Designation hierarchy under section 177 of the Resource Management Act | Primary <u>Varies</u> |
| Conditions | Yes Conditions NZTA.1 – NZTA.89 apply See APP14 - Designation Conditions for NZTA-03 and NZTA-04 |

| | |
|---|---|
| Additional information | <p>Formerly K0408 Rollover designation updated to be in accordance with the National Planning Standards</p> <p>In terms of the designation hierarchy under section 177 of the Resource Management Act:</p> <ul style="list-style-type: none"> • Secondary where overlaps with GWRC-03. <p>Additional minor amendments include:</p> <ol style="list-style-type: none"> 1. Modifying the purpose of the designation 2. Minor modifications to the designation boundaries to: <ul style="list-style-type: none"> • Adjust the Transport Agency’s designations to align with the legal road corridor to ensure that surveyed legal road boundaries are accurately reflected in the designation overlay; and • Widen the designation boundary in a small number of places to designate land that is already currently owned and also maintained by the Transport Agency (under the draft agreement with Porirua City Council on the state highway network maintenance boundaries); and • Reduce the state highway designation in a small number of places, where the designation is surplus to requirements. |
| NZTA-04 | Kenepuru Link Road |
| Designation unique identifier | NZTA-04 |
| Designation purpose | To undertake construction, maintenance, operation, use and improvement of the state highway network and associated infrastructure. |
| Site identifier | Kenepuru Link Road from the Transmission Gully Main Alignment at Ranui Heights to Kenepuru Road which is adjacent to and partially within the Wellington City Council boundary to the south. |
| Lapse date | Given effect to (i.e no lapse date) |
| Designation hierarchy under section 177 of the Resource Management Act | Primary Varies |
| Conditions | Yes Conditions NZTA.1 – NZTA.89 apply See APP14 - Designation Conditions for NZTA-03 and NZTA-04 |
| Additional information | <p>Formerly K0409 Rollover designation updated to be in accordance with the National Planning Standards</p> <p>In terms of the designation hierarchy under section 177 of the Resource Management Act:</p> <ul style="list-style-type: none"> • Secondary where overlaps with KRH-01. |

Additional minor amendments include:

1. Modifying the purpose of the designation
2. Minor modifications to the designation boundaries to:
 - Adjust the Transport Agency's designations to align with the legal road corridor to ensure that surveyed legal road boundaries are accurately reflected in the designation overlay; and
 - Widen the designation boundary in a small number of places to designate land that is already currently owned and also maintained by the Transport Agency (under the draft agreement with Porirua City Council on the state highway network maintenance boundaries); and
 - Reduce the state highway designation in a small number of places, where the designation is surplus to requirements.

Appendix C. Roll-over Designations, Overlaps and Overlays

CNZ – Chorus New Zealand Limited

| Designation | Purpose | Zone | Overlaps | Overlays | Additional conditions required? |
|----------------------------|--|------|----------|--|--|
| CNZ-01 Plimmerton Exchange | Telecommunication and radio communication and ancillary purposes | GRZ | No | Noise Corridor - Railway Corridor Tsunami Hazard - 1:1000yr Inundation Extent | No. The facility is not sensitive to road noise, or a 'hazard-sensitive' or 'potentially-hazard-sensitive' activity as defined in the PDP. |

GWRC – Greater Wellington Regional Council

| Designation | Purpose | Zone | Overlaps | Overlays | Additional conditions required? |
|---|--|-------------|----------|--|--|
| GWRC-01 Water collection area (Akatarawa Road) | Water supply purposes | GRUZ | No | SNA209 Akatarawa Ranges (South), SNA210 Upper Eastern Horokiri Face and Tributary | No. Given the purpose of the designation and the requiring authority, the SNAs within the area are at very low risk. |
| GWRC-02 Water collection area (Battle Hill Regional Park) | Water supply purposes | GRUZ | No | - | No. |
| GWRC-03 Regional Recreation and Water Collection Area (Battle Hill Regional Park) | Regional Recreation Purposes and Water Supply Purposes | GRUZ OSZ | Yes | Noise Corridor – State Highway SASM003 Battle Hill Farm Forest Park SNA189 Battle Hill Gully Forest, SNA203 Battle Hill Bush Reserve, SNA205 Swampy Gully Battle Hill, SNA206 Battle | No. The activities are not sensitive to road noise and will not generate reverse sensitivity effects on the gas transmission pipeline. Given the purpose of the designation and the requiring authority being GWRC, the SNAs, |

| Designation | Purpose | Zone | Overlaps | Overlays | Additional conditions required? |
|-------------|---------|------|----------|---|---|
| | | | | Hill Ponds, SNA207 Puketiro Forest Remnants (South) Gas Transmission Pipeline Corridor | SASMs and statutory acknowledgement areas within the area are at very low risk from development enabled by the designation. |

KRH - KiwiRail Holdings Limited

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|----------------|------------------|-------|---------|--|--|
| KRH-01 Railway | Railway Purposes | Multi | Yes | Noise Corridor – State Highway, Railway Corridor HHB022 Mana Machine Gun Post, HHB023 Plimmerton Railway Station SNA115 Porirua South Riparian Margins, SNA114 Lower Porirua Stream and Riparian Margin, SNA117 Bothamley Park, SNA113 Aotea Lagoon Harbour Edge, SNA096 Paremata Beach Reclamation, SNA054 Ngatitua Domain Dunes, SNA042 Taupō Swamp, SNA039 Plimmerton School Bush, SNA047 Taupō Swamp West (south), SNA046 Taupō Swamp West (central), SNA045 Taupō Swamp Western Remnant, SNA033 Whenua Tapu Cemetery Bush, SNA027 Whenua Tapu Highway Forest, SNA011 Bell's Bush, SNA026 Takutai Reserve, | No. While large areas of SNA are located within the designation, these generally do not extend in the area of the NIMT line tracks. This is visible in the north of the designation extent in the vicinity of the Pukerua Bay - Paekākāriki Coastal Escarpment, where areas of the track are specifically excluded from the extent of the SNA. Plimmerton Station currently undergoing upgrades, including construction of a new platform and shelter, due for completion in early 2024 with the bulk of the physical works to be completed by early |

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|-------------|---------|------|---------|--|---|
| | | | | <p>SNA013 Upper Haunui Gully, SNA014 Pukerua Bay Main Trunk Line Margin, SNA004 Pukerua Bay Kohekohe Bush B & C, SNA017 Northern entrance Pukerua Bay SH1, SNA003 Pukerua Bay Kohekohe Bush A, SNA002 Pukerua Bay - Paekākāriki Coastal Scarp</p> <p>ONFL004 Paekakariki Escarpment, ONFL002 Taupo Swamp</p> <p>Coastal Environment Inland Extent</p> <p>Flood Hazard - Stream Corridor, Overland Flow, Ponding</p> <p>Coastal Hazard - Current Inundation, Future Inundation (with 1m SLR), Current Erosion, Future Erosion (with 1m SLR)</p> <p>Tsunami Hazard - 1:100yr Inundation Extent, 1:500yr Inundation Extent, 1:1000yr Inundation Extent</p> <p>Ohariu Fault Rupture Zone</p> | <p>2023. Mana Machine Gun Post is located approximate 10m from the area of the rail tracks, on the other side of a coastal pedestrian pathway, and is therefore unlikely to be affected.</p> <p>Railway infrastructure has historically been located within the rail corridor area, and therefore the effects of any changes to this infrastructure within ONFL areas can be managed through outline plan processes.</p> <p>Hazard overlays can also be managed through outline plan processes.</p> |

MJUS - Minister of Justice

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|----------------------------|---|------|---------|---|---|
| MJUS-01 Porirua Courthouse | Judicial, court, tribunal and related purposes including the collection of fines and reparation, administration, support, custodial services, and ancillary works. Works include development and operation of land and buildings for aforementioned purposes. | CCZ | No | Active Street Frontage Ohariu Fault Rupture Zone | No. The site is already developed. Any seismic risk from further development or redevelopment of the site would be appropriately taken into account through central government internal processes and building consent processes. |

MEDU - Minister of Education

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|----------------------------|--------------------|------|---------|--|---|
| MEDU-01 Pukerua Bay School | Education Purposes | GRZ | No | Noise Corridor – State Highway Pukerua Fault Rupture Zone | No. Reverse sensitivity and seismic hazard can be appropriately addressed through outline plan process. |
| MEDU-02 Plimmerton School | | GRZ | No | Noise Corridor - Railway Corridor SNA039 Plimmerton School Bush Flood Hazard – Overland, Ponding | No. SNA is located on relatively steep slope on the north, so less likely to be developed if additional facilities required. |

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|---|---------|------|---------|---|--|
| | | | | Coastal Hazard – Future Inundation (with 1m SLR) Tsunami Hazard - 1:1000yr Inundation Extent | Flood, coastal and tsunami hazards can be appropriately addressed through outline plan process. |
| MEDU-03 Titahi Bay North School | | GRZ | No | - | No. |
| MEDU-04 Titahi Bay School | | MRZ | No | Flood Hazard - Ponding | No. Flood hazard can be appropriately addressed through outline plan process. |
| MEDU-05 Titahi Bay Intermediate | | GRZ | No | Flood Hazard - Ponding Coastal Hazard – Future Inundation (with 1m SLR) Tsunami Hazard - 1:500yr Inundation Extent, 1:1000yr Inundation Extent | No. Flood, coastal and tsunami hazards can be appropriately addressed through outline plan process. |
| MEDU-06 Ngāti Toa School | | GRZ | No | Precinct - Takapūwāhia Precinct Flood Hazard - Overland Flow, Ponding | No. Flood hazard can be appropriately addressed through outline plan process. |
| MEDU-07 Mana College and Mahinawa Specialist School and Resource Centre | | MRZ | No | SNA131 Mahinawa Stream Flood Hazard - Stream Corridor, Overland Flow, Ponding Coastal Hazard – Future Inundation (with 1m SLR) Tsunami Hazard - 1:1000yr Inundation Extent | No. SNA located within riparian area on slightly steeper slope of stream banks. Less likely to be developed in the future. Flood, coastal and tsunami hazards can be appropriately addressed through outline plan process. |
| MEDU-08 Porirua School | | GRZ | No | Flood Hazard - Overland Flow, Ponding | No. Flood, coastal and seismic hazard can be appropriately |

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|---|---------|------|---------|--|---|
| | | | | Coastal Hazard – Future Inundation (with 1m SLR) Ohariu Fault Rupture Zone | addressed through outline plan process. |
| MEDU-09 Paremata School | | GRZ | No | Noise Corridor – State Highway, Railway Corridor Coastal Hazard – Current Inundation, Future Inundation (with 1m SLR) Tsunami Hazard - 1:100yr Inundation Extent | No. Coastal and tsunami hazards, and noise from existing infrastructure, can be appropriately addressed through outline plan process. |
| MEDU-10 Papakowhai School and Papakowhai Kindergarten | | GRZ | No | SNA103 Papakōwhai Bush | No. Areas of SNA in north and south of the site. These areas are relatively steep slopes surrounding man school facilities. |
| MEDU-11 Rangikura School | | GRZ | No | - | No. |
| MEDU-12 Te Kura Māori o Porirua and Tairangi School | | GRZ | No | Flood Hazard – Stream Corridor, Overland Flow, Ponding | No. Flood hazard can be appropriately addressed through outline plan process. |
| MEDU-13 Postgate School | | GRZ | No | SNA099 Postgate School bush | No. Area of SNA on the western edge of the site on relatively steep slope. |
| MEDU-14 Discovery School and Discovery Kindergarten | | GRZ | No | - | No. |
| MEDU-15 Adventure School and | | GRZ | No | SNA086 Upper (south) Whitby Lake | No. Relatively small area of SNA at the edge of the site on hill slope. Low risk of effects from |

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|--|---------|------|---------|--|--|
| Adventure Kindergarten | | | | | development enabled by the designation. |
| MEDU-16 Pāuatahanui School | | SETZ | No | SAL001 Pāuatahanui Flood Hazard - Ponding | No. The site is developed and forms part of the existing landscape. Flood hazard can be appropriately addressed through outline plan process. |
| MEDU-17 Aotea College | | GRZ | No | - | No. |
| MEDU-18 Porirua East School and Awatea Kindergarten | | MRZ | No | Flood Hazard - Overland Flow, Ponding | No. Flood hazard can be appropriately addressed through outline plan process. |
| MEDU-19 Windley School | | MRZ | No | Flood Hazard - Overland Flow, Ponding | No. Flood hazard can be appropriately addressed through outline plan process. |
| MEDU-20 Cannons Creek School and Nuanua Kindergarten | | MRZ | No | - | No |
| MEDU-21 Glenview School | | MRZ | No | SNA124 Cannons Creek Bush SAL004 Cannons Creek Ridge Flood Hazard - Stream Corridor | No. Area of SNA and SAL located on the eastern side of the site on relatively steep slope adjacent to sports field. |
| MEDU-22 Porirua College and Brandon Intermediate | | MRZ | No | Precinct - Eastern Porirua Residential Intensification Precinct SNA124 Cannons Creek Bush SAL004 Cannons Creek Ridge | No. Marginal overlap of SNA. SAL overlaps by approximately 3.2ha. Permitted activity standards allow for 350m ² of earthworks, and 100m ² of indigenous vegetation |

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|---|---------|------|---------|---|---|
| | | | | Flood Hazard - Stream Corridor, Overland Flow, Ponding | removal within any five year continuous period per site, while buildings are permitted if they are one storey and no more than 5m in height. Effects on SAL can be managed through outline plan processes. Flood hazard can be appropriately addressed through outline plan process. |
| MEDU-23 Maraeroa School and Maraeroa Kindergarten | | MRZ | No | Flood Hazard - Overland Flow, Ponding | No. Flood hazard can be appropriately addressed through outline plan process. |
| MEDU-24 Russell School | | MRZ | No | - | No |
| MEDU-25 Corinna School and Waitangirua Kindergarten | | MRZ | No | Flood Hazard - Overland Flow, Ponding | No. Flood hazard can be appropriately addressed through outline plan process. |
| MEDU-26 Porirua Activity Centre | | MRZ | No | Noise Corridor - Railway Corridor Flood Hazard - Ponding | No. Reverse sensitivity and flood hazard can be appropriately addressed through outline plan process. |
| MEDU-27 Natone Park School | | MRZ | No | - | No |
| MEDU-28 Samwell Drive | | GRZ | No | SNA080 Endeavour Park Bush Remnant | No. Area of sports fields. Approximately 550m ² of SNA in north of the site. The area is |

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|-------------|---------|------|---------|----------|---|
| | | | | | located on a slope less likely to be required for educational facilities. |

MPOL - Minister of Police

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|--|-------------------------|------|---------|---|---|
| MPOL-01 Royal New Zealand Police College | Police Training College | GRZ | No | Noise Corridor – State Highway SNA107 Police College Kānuka Forest Coastal Hazard – Future Inundation (with 1m SLR) Coastal Environment Inland Extent | No. The Noise Corridor – State Highway can be addressed through an outline plan, noting that I recommended that within residential zones new residential units be a controlled activity where standards for noise mitigation are met. The area affected by coastal hazard is negligible. The area of the SNA is relatively steep based on contours. The extent of vegetation on the site has been increasing since 1942 when it was largely cleared other than relatively small patches. |
| MPOL-02 Waitangirua Police Station | Police Community Base | LCZ | No | Active Street Frontage Flood Hazard - Ponding | No. Relatively small area affected by ponding. |

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|--|----------------|------|---------|--|--|
| MPOL-03 Porirua Central Police Station | Police Station | CCZ | No | Active Street Frontage Flood Hazard - Ponding | No. Negligible area of site affected by ponding. |

NZTA - New Zealand Transport Agency

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|-------------------------|--|-------|---------|--|---|
| NZTA-01 State Highway 1 | To undertake construction, maintenance, operation, use and improvement of the state highway network and associated infrastructure. | Multi | Yes | Active Street Frontage Noise Corridor – State Highway, Rail SASM016 Te Ana-o-Hau SNA002 Pukerua Bay - Paekākāriki Coastal Scarp, SNA017 Northern entrance Pukerua Bay SH1, SNA016 Pah Road Gully, SNA015 Haunui Bush, SNA014 Pukerua Bay Main Trunk Line Margin, SNA018 Pukerua Bay - Wairaka Coastal Fringe, SNA027 Whenua Tapu Highway Forest, SNA028 Taumata Rd SH1 Fringe, SNA029 Pukerua Bay South Bush, SNA042 Taupō Swamp, SNA043 Taupō Swamp East (North), SNA044 Taupō Swamp East (South), SNA053 Goat Point Escarpment, SNA095 Ivey Bay Bush, SNA104 Papakōwhai Lagoons and Lower Papakōwhai Bush, SNA112 | No. There are existing conditions on the designation. Large areas of SNA, ONFL and SASM within the designation boundary. The current SH59 road corridor is a result of upgrade works undertaken prior to Transmission Gully opening. Works are quite likely to occur in the future, however such works are unlikely to extend the road widths given the drop in traffic volumes following the opening of Transmission Gully. Hazard overlays can be managed through outline plan processes. |

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|--------------------------|---------|-------|---------|--|--|
| | | | | <p>Okowai Lagoon, SNA117 Bothamley Park</p> <p>ONFL002 Taupo Swamp, ONFL004 Paekakariki Escarpment</p> <p>Coastal Environment Inland Extent</p> <p>Flood Hazard - Stream Corridor, Overland Flow, Ponding</p> <p>Coastal Hazard - Current Inundation, Future Inundation (with 1m SLR), Current Erosion, Future Erosion (with 1m SLR)</p> <p>Tsunami Hazard - 1:100yr Inundation Extent, 1:500yr Inundation Extent, 1:1000yr Inundation Extent</p> <p>Pukerua Fault Rupture Zone, Ohariu Fault Rupture Zone</p> | |
| NZTA-02 State Highway 58 | | Multi | Yes | <p>Noise Corridor – State Highway</p> <p>HHB001 Bromley Homestead, HHB005 Riverdale</p> <p>SNA095 Ivey Bay Bush, SNA094 Browns Bay Escarpment Bush, SNA093 Browns Bay Park Escarpment, SNA091 Bradeys Bay and Brandon Reserve, SNA090 Duck Creek Bush, SNA083 Duck Creek &</p> | <p>No.</p> <p>First stage of safety upgrades, from the SH2 interchange to Mount Cecil Road were completed late 2021 in accordance with designation K0410 and K0407 and outline plan processes.</p> |

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|-------------|---------|------|---------|--|--|
| | | | | <p>Saltmarsh, SNA075 Lanyon Reserve escarpment, SNA164 Judgeford Gorge Bush, SNA170 Judgeford East Bush, SNA155 Judgeford South Scrub, SNA153 Western Harris Road Bush, SNA171 Haywards Hill Gully</p> <p>CHNC007 Pāuatahanui Inlet Saltmarsh</p> <p>SAL001 Pāuatahanui</p> <p>Flood Hazard - Stream Corridor, Overland Flow, Ponding</p> <p>Coastal Hazard - Current Inundation , Future Inundation (with 1m SLR), Current Erosion, Future Erosion (with 1m SLR)</p> <p>Tsunami Hazard - 1:100yr Inundation Extent, 1:500yr Inundation Extent, 1:1000yr Inundation Extent</p> <p>Ohariu Fault Rupture Zone, Moonshine Fault Rupture Zone</p> <p>Gas Transmission Pipeline Corridor</p> <p>National Grid Corridor</p> <p>Coastal Environment Inland Extent</p> | <p>Outside of this area, the SNA CHNC, and SAL intersections with the designation are relatively marginal.</p> <p>Hazard overlays can be managed through outline plan processes.</p> |

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|-------------------------------|---------|-------|---------|---|---|
| NZTA-03 Transmission Gully | | Multi | Yes | SASM003 Battle Hill Farm Forest Park SNA076 Eastern Whitby Kānuka Forest, SNA123 Porirua Park Bush, SNA124 Cannons Creek Bush Flood Hazard - Stream Corridor, Overland Flow, Ponding Fault Rupture Zone Gas Transmission Pipeline Corridor | No. Comprehensive set of conditions included in APP14 - Designation Conditions for NZTA-03 and NZTA-04. |
| NZTA-04 Kenepuru Link Road | | Multi | Yes | Active Street Frontage Noise Corridor – State Highway SNA115 Porirua South Riparian Margins Flood Hazard - Stream Corridor, Overland Flow, Ponding | No. Comprehensive set of conditions included in APP14 - Designation Conditions for NZTA-03 and NZTA-04. |

PCC - Porirua City Council

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|-----------------------|--|------|---------|--|---|
| PCC-01 Whenua Tapu | To develop and operate facilities and services relating to cemeteries and crematoriums | OSZ | No | SNA033 Whenua Tapu Cemetery Bush, SNA027 Whenua Tapu Highway Forest | No. The SNA covers the southern part of the site. PCC is a territorial |

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|----------------------|---|------|---------|---|---|
| | | | | Flood Hazard - Stream Corridor, Ponding | <p>authority, with functions under s31 of the RMA including control of any actual or potential effects of the use, development, or protection of land, including for the purpose of the maintenance of indigenous biological diversity. Additionally, the purpose of local government under the LGA2002 include “to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future”. Effects of development enabled by the designation would be subject to consideration of these statutory obligations. Specifically in relation to the construction of tracks through SNA on public land, the INF-Infrastructure chapter enables this as a permitted activity where conditions are met. As such, no additional conditions to protect the SNAs are considered necessary.</p> <p>Flood hazard can be addressed through outline plan processes.</p> |
| PCC-02 Karehana Park | To provide and maintain parks amenities and infrastructure for public recreation purposes | OSZ | No | <p>Noise Corridor - Railway Corridor</p> <p>Flood Hazard - Overland Flow, Ponding</p> | <p>No.</p> <p>The designation activities are not noise sensitive. Flood, coastal and tsunami hazards can be</p> |

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|------------------------------|--|--------------------|---------|---|---|
| | | | | Coastal Hazard – Current Inundation, Future Inundation (with 1m SLR) Tsunami Hazard - 1:500yr Inundation Extent, 1:1000yr Inundation Extent | appropriately addressed through outline plan process. |
| PCC-03 Conclusion Walkway | To undertake or maintain parks amenities, parks infrastructure and conservation activities for recreation and ecological purposes. | OSZ | No | SNA102 Upper Papakōwhai Escarpment Flood Hazard – Overland, Ponding | No. Given the purpose of the designation relates to parks and conservation activities, effects on the SNA are not anticipated. Flood hazard can be appropriately addressed through outline plan process if required. |
| PCC-04 Plimmerton Domain | To undertake or maintain parks amenities, parks infrastructure and conservation activities | OSZ SARZ MUZ | Yes | Noise Corridor - Railway Corridor SNA042 Taupō Swamp Flood Hazard – Stream Corridor, Overland Flow, Ponding Coastal Hazard – Current Inundation, Future Inundation (with 1m SLR) | No. The designation activities are not noise sensitive. Given the purpose of the designation relates to parks and conservation activities, effects on the SNA are not anticipated. Flood hazard can be appropriately addressed through outline plan process if required. |
| PCC-05 Stuart Park Extension | To undertake or maintain parks amenities, parks infrastructure and conservation activities | GRUZ | No | SNA144 Titahi Bay South Coastal Scarp, SNA142 Stuart Park Restoration Area SAL003 Rukutane/Titahi Bay SASM009 Te Korohiwa CHNC014 Rukutane Escarpment | No. Given the purpose of the designation relates to parks and conservation activities, effects on the SNA are not anticipated. Flood hazard can be appropriately addressed through outline plan process if required. |

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|-----------------------------------|--|------|---------|--|--|
| | | | | Flood Hazard - Stream Corridor, Overland Flow, Ponding Coastal Inland Extent | |
| PCC-06 Pukerua Bay Reservoir | Drainage and water supply, ancillary buildings, structures, infrastructure and access. | GRUZ | No | SAL007 Hongoeka/ Wairaka Pukerua Fault Rupture Zone | No. The infrastructure is part of the existing environment of the SAL. Seismic hazard can be appropriately addressed through outline plan process if required. |
| PCC-07 Plimmerton Reservoir | | OSZ | No | - | No. |
| PCC-08 Tremaine Place Reservoir | | GRZ | No | - | No. |
| PCC-09 Kahu Road Reservoir | | GRZ | No | SNA097 Paremata Kānuka Bush | No. See discussion under PCC-01 in relation to SNAs. |
| PCC-10 Kahu Road East Reservoir | | GRZ | No | SNA098 Ascot Park Bush, Staithes Drive | No. See discussion under PCC-01 in relation to SNAs. |
| PCC-11 Ascot Park Reservoir | | OSZ | No | - | No. |
| PCC-12 Stemhead Lane Reservoir | | GRZ | Yes | SNA088 Whitby West Bush, SNA101 Tairangi Scrub | No. See discussion under PCC-01 in relation to SNAs. |
| PCC-13 Navigation Drive Reservoir | | GRZ | No | National Grid Corridor | No. Any potential effects on the National Grid can be addressed through the outline plan process. |

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|--------------------------------------|---------|--------------------|---------|---|--|
| PCC-14 Mercury Way Reservoir | | OSZ | No | SNA092 Spinnaker Reserve Bush | No. See discussion under PCC-01 in relation to SNAs. |
| PCC-15 Aotea Block Reservoir | | GRZ | No | - | No. |
| PCC-16 Broken Hill Reservoir | | GRUZ | Yes | - | No. |
| PCC-17 Gloaming Hill Reservoir | | GRZ | No | - | No. |
| PCC-18 Tuna Terrace Reservoir | | GRZ | No | SNA141 Stuart Park Forest | No. See discussion under PCC-01 in relation to SNAs. |
| PCC-19 Pikarere Street Reservoir | | GRUZ | No | - | No. |
| PCC-20 Drainage Reserve | | GRZ | No | Flood Hazard - Stream Corridor Coastal Hazard – Inundation Hazard, Future Inundation (with 1m SLR) Tsunami Hazard - 1:1000yr Inundation Extent Coastal Environment Inland Extent | No. Given the purpose of the designation, no overlays are considered to be relevant. |
| PCC-21 Taupō Stream Drainage Reserve | | MUZ OSZ SARZ | Yes | Noise Corridor – Railway Corridor SNA042 Taupō Swamp Taupo Swamp ONFL002 | No. The drainage reserve would assist in mitigation of the hazard risks associated with the Flood Hazard and Coastal Hazard overlays. |

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|------------------------------------|--|-------------|---------|--|---|
| | | | | Flood Hazard - Stream Corridor, Overland Flow, Ponding Coastal Hazard – Inundation Hazard, Future Inundation (with 1m SLR) | The drainage reserve was in place prior to identification of the ONFL, and is unlikely to result in any modifications that would affect this overlay. The designation is relatively narrow (approx.. 3.5m), and any removal of vegetation would likely only be undertaken to ensure continuation of the drainage purposes of the infrastructure. |
| PCC-22 Waste Water Treatment Plant | | GRUZ | No | SNA145 Tirau Bay Bush, SNA144 Titahi Bay South Coastal Scarp SAL003 Rukutane/Titahi Bay Flood Hazard - Stream Corridor | No. Areas of SNA relatively small given the size of the site and generally located on steeper slopes. SAL located on eastern side, up steep slope from main facility. Flood hazard can be appropriately addressed through outline plan process. |
| PCC-23 Spicer Landfill | Refuse Disposal Landfill including landfill, recycling, refuse transfer station and resource recovery activities with ancillary structures, buildings, | GRUZ OSZ | Yes | SNA129 Colonial Knob Scenic Reserve Bush SAL002 Rangituhi/ Takapūwāhia Flood Hazard - Stream Corridor, Ponding | No. Marginal overlap with SNA. Area of SAL includes existing stormwater drain, and this is not a s6 matter. |

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|---|---|--------------------|---------|---|---|
| | infrastructure, access and car parking | | | Ohariu Fault Rupture Zone | Flood and seismic hazard can be appropriately addressed through outline plan process. |
| PCC-24 Pataka museum and library | Facilities for community, cultural and sport and recreation activities and events with ancillary buildings, offices, cafe and other ancillary activities, structures, access and parking. | CCZ | No | Active Street Frontage Flood Hazard - Ponding | No. Flood hazard can be appropriately addressed through outline plan process. |
| PCC-25 Te Rauparaha arena, gymnasium and aquatic centre | Facilities for community, cultural and sport and recreation activities and events with ancillary buildings, offices, conference rooms, cafe and other ancillary activities, structures, access and parking. | SARZ | No | Active Street Frontage Flood Hazard - Ponding Ohariu Fault Rupture Zone | No. Flood and seismic hazard can be appropriately addressed through outline plan process. |
| PCC-26 Whitby Link Road and Waitangirua Link Road | Roading operations and maintenance | GRZ GRUZ MUZ | Yes | SAL004 Cannons Creek Ridge Active Street Frontage Noise Corridor – State Highway SNA088 Whitby West Bush Flood Hazard - Stream Corridor, Overland Flow, Ponding | No. Works constructed as part of Transmission Gully Motorway, subject to package of conditions. Road alignment formed part of existing environment in SAL. Marginal overlap with SNA088. |

| Designation | Purpose | Zone | Overlap | Overlays | Additional conditions required? |
|------------------------------------|------------------------------------|------|---------|--|--|
| | | | | Gas Transmission Pipeline Corridor National Grid Corridor | Flood hazard and overlap with other significant infrastructure can be appropriately addressed through outline plan process. |
| PCC-27 Mana Esplanade Service Lane | Roading operations and maintenance | LCZ | Yes | Noise Corridor - Railway Corridor Tsunami Hazard - 1:1000yr Inundation Extent | No. Roothing is not a noise-sensitive activity. Tsunami hazard can be appropriately addressed through outline plan process. |

RNZ - Radio New Zealand Limited and NZME Radio Limited

| Designation | Purpose | Zone | Overlaps | Overlays | Additional conditions required? |
|---------------------------------------|---|------------|----------|--|---|
| RNZ-01 Radio Communication Facilities | Radio-communication, telecommunication and ancillary purposes and land uses | OSZ GRZ | No | HHB019 Radio NZ Transmission Station SASM021 Whitireia Park SNA138 Whitireia Spring Wetland, SNA136 Whitireia Bush, SNA223 Transmitter Street Wetland CHNC010 Whitireia Bush ONFL003 Whitireia Peninsula Flood Hazard - Stream Corridor, Overland Flow, Ponding | No. Two radio masts removed in 2015 and 2016. Low likelihood of new infrastructure development. New masts in ONFL may affect landscape; however, long historical use of this site for that activity. Large area of land within designation not covered by overlays. SNA in middle of site associated with wetland so also protected by NES-F. |

| | | | | | |
|--|--|--|--|--|---|
| | | | | | Flood hazard can be mitigated through outline plan process. |
|--|--|--|--|--|---|

TPR – Transpower New Zealand Limited

| Designation | Purpose | Zone | Overlaps | Overlays | Additional conditions required? |
|----------------------|------------|------|----------|---|--|
| TPR-01 Substation | Substation | RLZ | No | Noise Corridor – State Highway Flood Hazard - Stream Corridor, Ponding Coastal Hazard – Future Inundation (with 1m SLR) | No. The facility is not sensitive to road noise, or a ‘hazard-sensitive’ or ‘potentially-hazard-sensitive’ activity as defined in the PDP. |

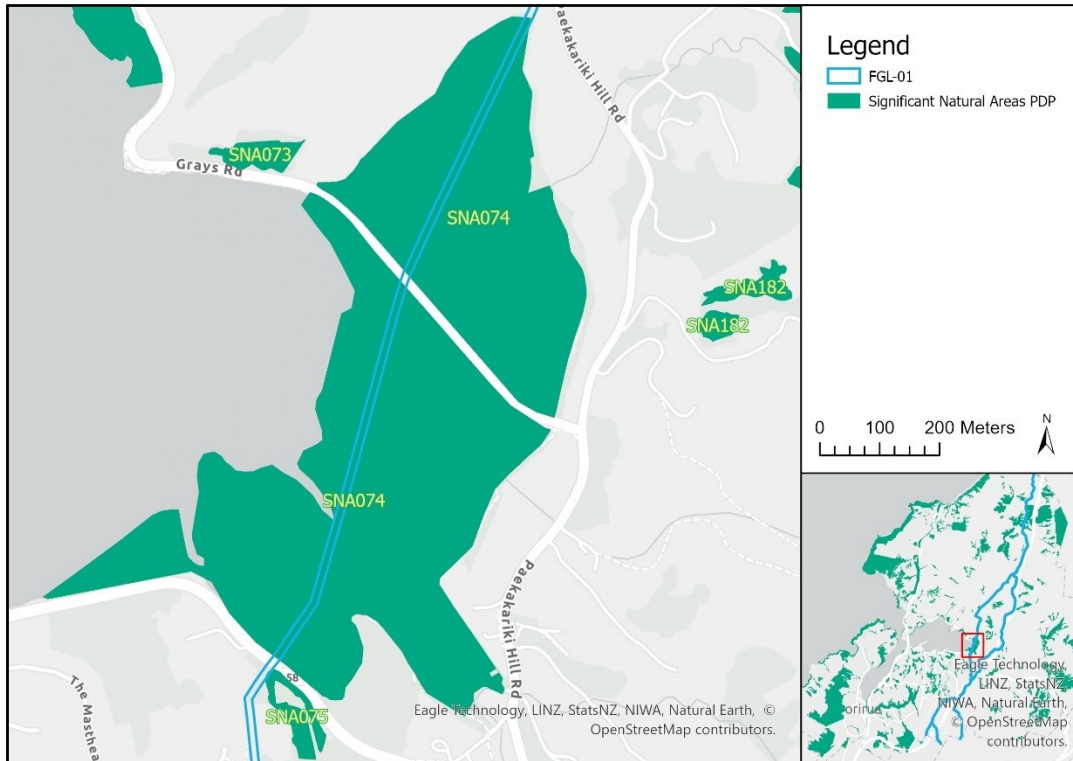
New Designations

| Designation | Purpose | Zone | Overlaps | Overlays |
|------------------------------|--|------|----------|--|
| CNZ-02 Pukerura Bay Exchange | Telecommunication and radio communication and ancillary purposes | GRZ | No | Noise Corridor – State Highway, Rail Corridor |
| CNZ-03 Titahi Bay Exchange | Telecommunication and radio communication and ancillary purposes | MRZ | No | Notable Tree – TREE006 |
| CNZ-04 Waitangirua Exchange | Telecommunication and radio communication and ancillary purposes | LCZ | No | Active Street Frontage |
| CNZ-05 Whitby Exchange | Telecommunication and radio communication and ancillary purposes | GRZ | No | - |

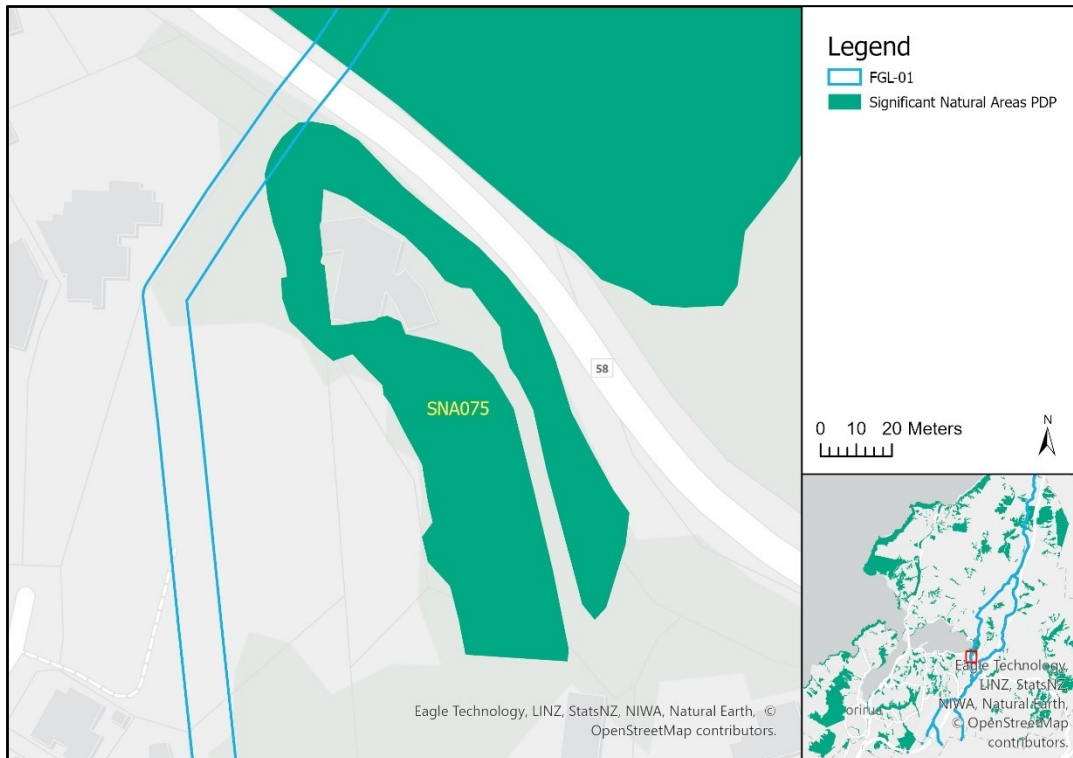
| Designation | Purpose | Zone | Overlaps | Overlays |
|--|--|-------------|-----------------|---|
| FGL-01 Gas Transmission Network | Ongoing operation and maintenance of the Gas Transmission Network within the Porirua District, inclusive of above-ground incidental equipment. | Multi | Yes | Multi – See section 42A report |
| MEDU-29 Bishop Viard College | Education Purposes | MRZ | No | Flood Hazard - Ponding |
| MEDU-30 Holy Family School (Porirua) | Education Purposes | MRZ | No | Flood Hazard –Ponding |
| MEDU-31 St Pius X School (Titahi Bay) | Education Purposes | MRZ | No | Flood Hazard –Ponding |
| MEDU-32 St Theresa’s School (Plimmerton) | Education Purposes | MRZ | No | Noise Corridor – State Highway Flood Hazard – Stream Corridor, Ponding Coastal Hazard – Future Inundation (with 1m SLR) |
| MEDU-33 Wellington S D A School | Education Purposes | GRZ | No | - |
| SPK-01 Spark Exchange | Telecommunication and Radio communication and Ancillary Purposes | LCZ | No | Active Street Frontage Flood Hazard - Overland Flow, Ponding |

Appendix D. FGL-01 overlap with SNAs

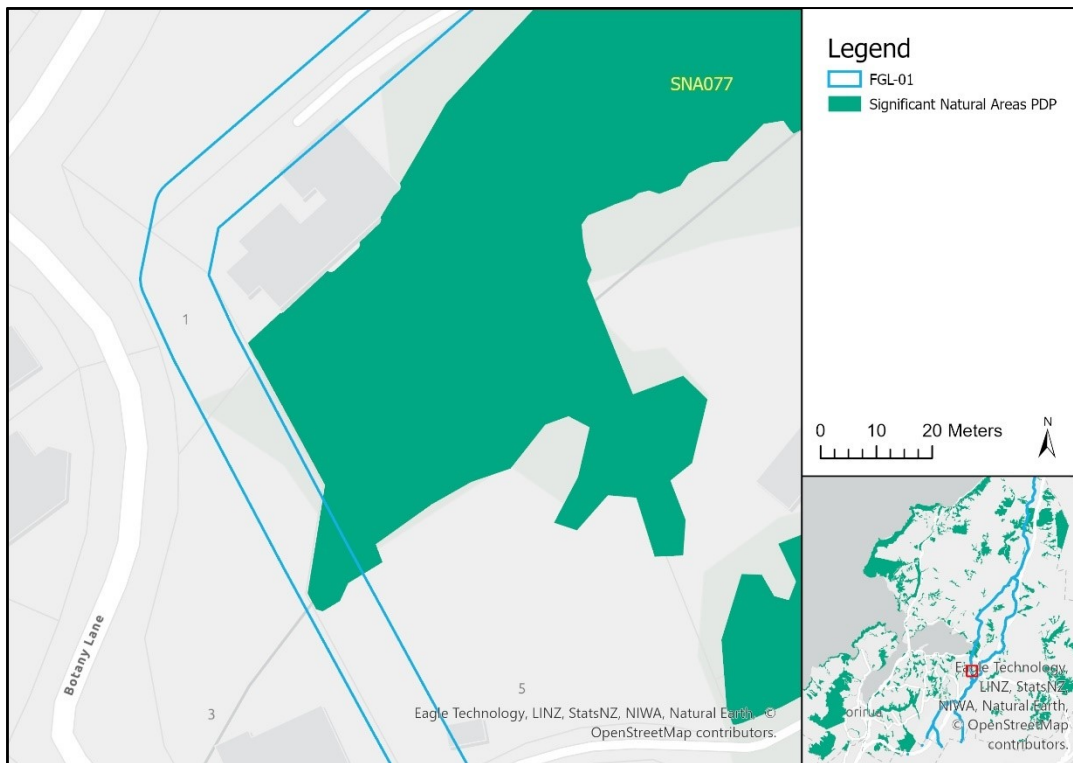
SNA074 Pāuatahanui Inlet Saltmarsh



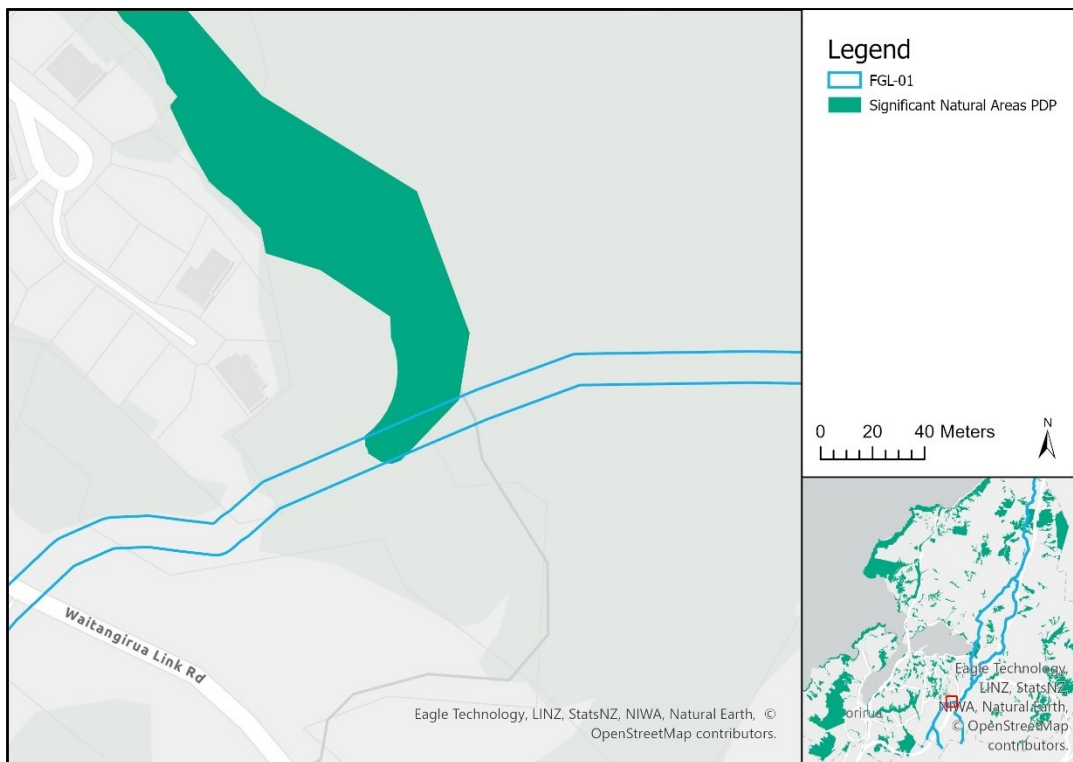
SNA075 Lanyon Reserve escarpment



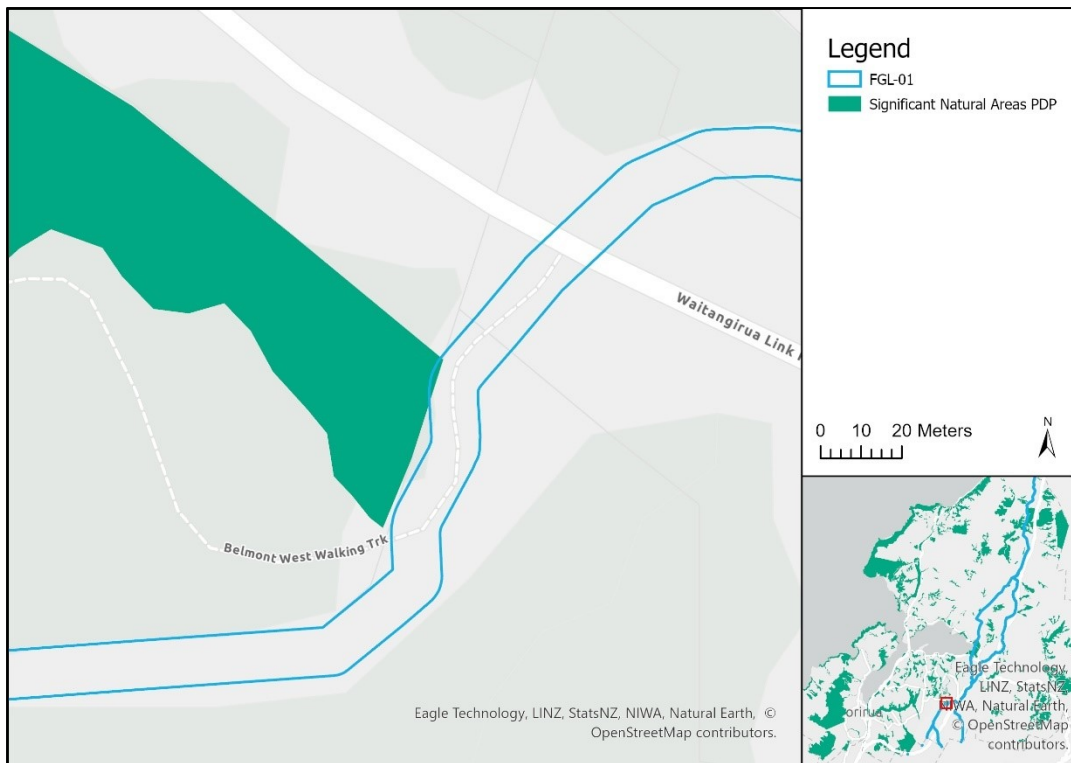
SNA077 Scoresby Grove Remnant Forest



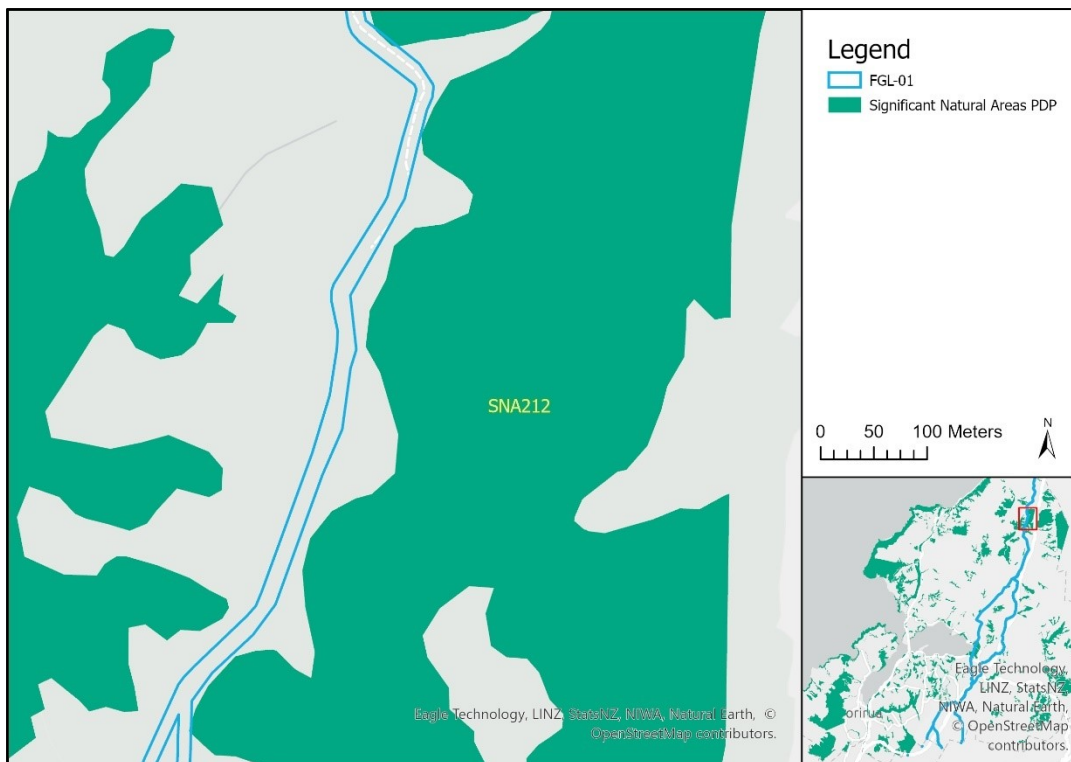
SNA083 Duck Creek & Saltmarsh



SNA084 Exploration Drive Kānuka Forest



SNA212 Upper Western Horokiri Face and Tributary



Appendix E. Memo confirming PCC agreement to change of requiring authority

| | |
|-------------------------------|------------------------------|
| In reply please quote: | MJUS-01 |
| For enquiries please contact: | Rory Smeaton |
| Email: | rory.smeaton@porirua.govt.nz |

15 July 2022

TO: Stewart McKenzie, Manager Environment & City Planning
FROM: Rory Smeaton, Senior Policy Planner
SUBJECT: Change of requiring authority for PDP designation MJUS-01

-
- 1 The Proposed District Plan (PDP) was notified on 28 August 2020. The PDP included a number of designations rolled over from the Operative District Plan (ODP).
 - 2 The Ministry of Justice requested a rollover of designation K1101 from the ODP, with an amendment to change the name of the requiring authority from the 'Minister for Courts' to the 'Minister of Justice'. This was included as MJUS-01 in the notified PDP.
 - 3 On Wednesday, 1 June 2022 the Council received a revised Form 18 from the Ministry of Justice, requiring that the name of the requiring authority for MJUS-01 be amended to 'Minister for Courts'. The amended form is attached at Appendix B.
 - 4 Clause 181(3) of the RMA states:

(3) A territorial authority may at any time alter a designation in its district plan or a requirement in its proposed district plan if—

(a) the alteration—

(i) involves no more than a minor change to the effects on the environment associated with the use or proposed use of land or any water concerned; or

(ii) involves only minor changes or adjustments to the boundaries of the designation or requirement; and

(b) written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and

(c) both the territorial authority and the requiring authority agree with the alteration— and sections 168 to 179 and 198AA to 198AD shall not apply to any such alteration.

5 As there will be no change in the effects on the environment and the land is owned by the Courts, I consider that the amendment should be made under s181(3) of the RMA, and that the designation in the PDP should be amended as Shown in Appendix A.

Recommendation:

1. Agree that the requiring authority for MJUS-01 can be made under s181(3) of the RMA.

Author:

A handwritten signature in blue ink that reads "R Smeaton". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Rory Smeaton

Senior Policy Planner

Approved by:

A handwritten signature in blue ink that reads "S McKenzie". The signature is cursive and somewhat stylized, with the first letter 'S' being particularly large and prominent.

Stewart McKenzie

Manager Environment & City Planning

Appendix A: Amendment to MJUS - Minister of Justice

MJUSCOU - Minister of Justice for Courts

| | |
|---|---|
| MJUS-01 | Porirua Courthouse |
| Designation unique identifier | MJUSCOU-01 |
| Designation purpose | Judicial, court, tribunal and related purposes including the collection of fines and reparation, administration, support, custodial services, and ancillary works. Works include development and operation of land and buildings for aforementioned purposes. |
| Site identifier | Lot 2 DP 26027, CT43B/201 City of Porirua |
| Lapse date | Given effect to (i.e no lapse date) |
| Designation hierarchy under section 177 of the Resource Management Act | Primary |
| Conditions | No |
| Additional information | Formerly K1101 Rollover designation (updated to be in accordance with the National Planning Standards). Updated to designation purpose and Requiring Authority name. |

Appendix B: Revised Form 18 from the Ministry of Justice

Form 18
Roll Over Notice of a Designation by The Minister of Courts

Clause 4 of First Schedule of Resource Management Act 1991

To: Porirua City Council

1. The Minister for Courts, the Hon. Andrew Little, gives notice of a rollover of a requirement for a designation for a public work, being the District Court at Porirua. The designation detailed within this notice is to be included *with modification* into the Porirua District Plan via the plan review.

The sites to which the requirement applies

2. The sites to which the requirement applies are detailed in Table 1 below.

Table 1. Designation in the Porirua District Plan

| Map Ref | Requiring Authority | Designated Purpose | Location | Legal Description |
|---------|---------------------|--------------------|--------------------------|---|
| K1101 | Minister for Courts | Porirua Courthouse | 4 Hagley Street, Porirua | Lot 2 DP 26027, CT43B/201 City of Porirua |

The nature of the public work

3. The public work is the continued operation and management of the Porirua Courthouse in Porirua City. As part of the rollover process, the Minister requires that the designated purpose of the site identified in this notice be amended to:

“Judicial, court, tribunal and related purposes including collection of fines and reparation, administration, support, custodial services, and ancillary activities. Works include development and operation of land and buildings for aforementioned purposes.”

The nature of the Modification

4. As identified in Paragraph 3 and Appendix 1, the Minister is amending the description of the purpose of the Porirua Courthouse within the Porirua District Plan.
5. This new description provides a national standardised and refined purpose and replaces the existing description (“Courthouse”) in the Porirua District Plan. This amended purpose will provide greater certainty to an ordinary member of the public as to what activity can occur on the site and will provide a planning framework for assessing activities and development at the Courthouse.
6. This description is being adopted by the Minister for other sites across New Zealand as part of the District Plan review processes being undertaken progressively by other territorial authorities.
7. For administrative purpose the Requiring Authority is the Minister for Courts as shown in Appendix 1

The nature of the proposed restrictions that would apply

8. There are no existing conditions that apply to the existing designation and the Minister does not seek to include any new conditions.

The effects that the public work (or project or work) will have on the environment, and the ways in which any adverse effects will be mitigated.

9. The Porirua Courthouse identified within this notice is an existing facility which has been lawfully established.
10. The area to be rolled over encompasses the existing designated area only and, the activities on the site have not altered. As such, the effects of the maintenance and operation of the Porirua Courthouse remain unchanged.

Alternative sites, routes, and methods

11. No alternative sites, routes, and methods have been considered. As such, the designation and associated activities are already well established on the site and consideration of alternative sites and methods is not deemed necessary.

The public work and designation are reasonably necessary for achieving the objectives of the requiring authority

12. This “roll over” corresponds to the Courts designation in Porirua City which has not lapsed.
13. The public work and designation are reasonably necessary for achieving the Minister’s objectives because they authorise the ongoing operation and management of the existing Courthouse, protect the site for this purpose and identify it as a public work.
14. The Minister for Courts is a requiring authority under section 166 of the Resource Management Act 1991. The Minister has the responsibility for providing administrative and other services necessary to:
 - Operate the New Zealand Court System;
 - Support independent judicial decision making;
 - Oversee the collection of fines and reparations;
 - Serve court documents; and
 - Enforce civil justice orders.

This designation is considered necessary to ensure an effective court service can be continued to be delivered in Porirua City and to continue operate the Porirua court system in an efficient and effective manner.

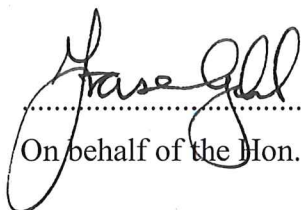
Consultation

15. No consultation has been undertaken as part of the designation rollover process. The designations apply to the existing designated site and will not authorise any activities that are not already allowed as part of the existing designation. The proposed modifications have been limited to the refinement of the designated purpose for the Courthouse and administrative changes to update the property details of the designation. There are no existing conditions and the Minister is not proposing any new conditions. Finally, it is not considered these modifications will give rise to any effects above that which currently exist.

Attachments

The Minister attaches the following information required to be included in this notice by the district plan, regional plan, or any regulations made under the Resource Management Act 1991.

Appendix 1 – Schedule of Courts Designation to be rolled over with Modifications



On behalf of the Hon. Aupito William Sio

Fraser Gibbs
General Manager, Commercial and Property
Ministry of Justice
(Acting under delegated authority from the Minister for Courts)

1/6/2022

Date

Appendix 1: Schedule of Court Designation to be rolled over with Modifications

Minister for Courts – Designation in the Porirua District Plan

| Table (Code) | Planning Map No | Requiring Authority | Designated Purpose | Legal Description |
|--------------|-----------------|---|--|--|
| | K1101 | Department Minister of Justice for Courts | Court House <u>Judicial, court,</u> <u>tribunal and</u> <u>related</u> <u>purposes</u> <u>including</u> <u>collection of</u> <u>finances and</u> <u>reparation,</u> <u>administration,</u> <u>support,</u> <u>custodial</u> <u>services, and</u> <u>ancillary</u> <u>activities.</u> <u>Works include</u> <u>development</u> <u>and operation</u> <u>of land and</u> <u>buildings for</u> <u>aforementioned</u> <u>purposes.</u> | <u>Lot 2 DP 26027, CT43B/201 City of Porirua</u> |

Note: ~~Strike through~~ indicates deletions. Underline indicates additions.

Appendix F. Legal Advice Memoranda

To Rory Smeaton, Porirua District Council **18 July 2022**
From Mike Wakefield (Partner), Kat Viskovic (Senior Associate)
and Libby Neilson (Solicitor)
Subject Hearing Stream 6 (Designations) – scope of matters the Panel may consider in its
recommendation, and interpretation of section 43D of the RMA

Background

1. Hearing Stream 6 on Designations for the Proposed Porirua District plan was held on 27 June. Subsequently, the Hearing Panel issued Minute 41 which sets out a number of questions for the Council to address in its right of reply.
2. You have asked us to consider two questions in relation to this right of reply, namely:
 - (a) Are there any constraints on the recommendations able to be made by the Panel on the designations? In particular, are they constrained by the substance of submissions?
 - (b) What does the phrase ‘when a designation is made’ in section 43D of the RMA mean in relation to rolled-over designations?
3. We set out our responses to each of these questions below.

Question one: Are there any constraints on the recommendations able to be made by the Panel on the designations?

Answer: Generally we do not consider that the Panel will be limited by the scope of submissions when making a recommendation on a designation for a requiring authority other than Porirua City Council. The application of section 171 of the Resource Management Act 1991 (**RMA**) through clause 9(1) of schedule 1 means that the Panel is not limited by the substance of submissions, but rather, the matters set out in that provision when making its recommendation.

Where the Panel is making a decision on the rollover of a Porirua City Council designation, again it will not be limited by submissions, but can consider the designation in its entirety in accordance with section 168A(3) (clause 9(2), schedule 1).

Where an existing designation is rolled over with no modifications (under Schedule 1 clause 4), **and** no submissions are received on that designation, then the Panel cannot make a recommendation on that designation (clause 9(3)). However, we understand that this situation does not apply as Kainga Ora has made a submission on all of the designations proposed to be rolled over.

Analysis

The approach to consideration of designations differs from consideration of substantive proposed plan provisions

4. As a starting point, the RMA draws a distinction between the process requirements for designations/notice of requirements (**NORs**) included in a proposed plan through a plan review process, and consideration of the rest of the provisions of a proposed plan. These distinct process steps inform the scope of matters that the Panel may consider when making its decision/recommendation.

5. Designations are governed by Part 8 of the RMA, which generally acts as a code for designations/NORs. The language used in Schedule 1 reflects this, as it distinguishes between the treatment of designations/NORs from the provisions of a proposed plan or variation. In particular, clauses 4, 5(1B), 9, 13, and 14(3) of Schedule 1 are drafted to specifically address designations/NORs as distinct from the provisions of a proposed plan or variation. This is further demonstrated by the fact that section 32 does not apply to designations/NORs, again because Part 8 (section 171 in particular) provides a specific framework for evaluating NORs.
6. Therefore, consideration of designations in a plan review will not necessarily be treated in the same way as the consideration of the balance of the plan provisions, including the way submissions are to be considered. The indication from the process requirements in Part 8 and Schedule 1 is that the Panel are not limited to the substance of submissions as it would be when considering proposed plan provisions. We discuss this further below.

Clause 9 of Schedule 1 of the RMA governs the recommendations and decisions on designations and notice of requirements

7. As you have identified, clause 9 of Schedule 1 governs the recommendations and decisions on designations and notice of requirements during a District Plan review, and states:

9 Recommendations and decisions on requirements

- (1) The territorial authority shall make and notify its recommendation in respect of any provision included in the proposed district plan under clause 4(5) to the appropriate authority in accordance with section 171 or section 191.
- (2) The territorial authority shall make its decision on provisions included in the proposed district plan under clause 4(6) in accordance with section 168A(3) or section 189A(3), as the case may be.
- (3) Nothing in this clause shall allow the territorial authority to make a recommendation or decision in respect of any existing designations or heritage orders that are included without modification and on which no submissions are received.

8. As specified in clause 9, clause 4 of Schedule 1 is also relevant as it sets out the process for inclusion of existing designations and new notice of requirements in a proposed district plan prior to its notification.
9. At the outset, we record our understanding that clause 9(3) will not apply in the context of hearing stream 6, as Kainga Ora has made a submission (in support) on the entire designation chapter. However, if there were an existing designation that was rolled over with no modifications (under Schedule 1 clause 4), **and** no submissions had been received on that designation, then the Panel cannot make a recommendation (or decision) on that designation.

The recommendation power where the requiring authority is not PCC

10. Where the Council has included provision for a designation in the PDP after receiving a notice of requirement for a new designation, or a notice seeking to roll over an existing

designation (with or without modification) from another requiring authority clause 9(1) will apply (as this is the scenario in clause 4(5)).

11. In this situation, the Panel's recommendation on the provisions to be included in a proposed plan must be made in accordance with section 171 (clause 9(1)). Section 171 sets out the matters which must be considered by, in this case, the Panel when "*considering a requirement and any submissions received*". This does not limit the Panel to only considering submissions, it also enables the Panel to consider the "requirement".
12. For rollover designations there is technically no "requirement". However, we consider that the notice seeking the rollover can be treated as a requirement to enable section 171 to be applied. That notice, and therefore the rollover of the existing designation should be considered as well as any submission(s) received.
13. Clause 9 does not limit the consideration of submissions to only those in opposition. Therefore even where the only submission may be the submission in support from Kainga Ora, we consider that this will enable the Hearing Panel to consider the designation proposed to be rolled over in its entirety in accordance with section 171. This was the approach taken by the Independent Hearings Panel considering the Christchurch District Plan.¹
14. The application of section 171 through clause 9(1) means that the Panel is not limited by the substance of submissions, but rather, the matters set out in that provision when making its recommendation.

The decision-making power where the requiring authority is PCC

15. We consider that the same logic as that set out immediately above applies where PCC is the requiring authority. We assume that the Panel will have been delegated decision making powers in respect of PCC's designations that have been rolled over as part of the plan review, although we note that paragraph [100] of Minute 2 may say something slightly different.
16. In accordance with clause 9(2), the only difference in relation to the analysis above is that the Panel's decision must be made in accordance with section 168A(3) in respect of an existing PCC designation. Again, there is no indication that the Panel's decision should be constrained by the substance of submissions – but rather, section 168A sets the scope of matters that the Panel may consider.

¹ Refer to the draft decision of the Independent Hearing Panel on the Christchurch Replacement District Plan on Chapter 10: Designations and Heritage Orders Excluding Christchurch International Airport, dated 9 and 10 February 2015 at paragraph [26]).

Question Two: What does the phrase ‘when a designation is made’ in s43D mean in relation to rolled-over designations?

Answer: A rolled-over designation will continue to prevail over a National Environmental Standard (**NES**) that was made after the designation was originally inserted into the Plan.

Where a designation is modified through the district plan review process, we consider that the modified part of the designation is “made” at the time it is confirmed, and included in the newly operative district plan. A NES made after the designation was originally made, but before it was modified, will prevail over the modified aspects of the rolled-over designation but will not prevail over the parts of the designation that were not altered through the plan review process.

Analysis

Section 43D of the RMA

17. Section 43D of the RMA sets out the relationship between designations and NES. It specifies the circumstances when a NES will prevail over a designation and vice versa. Importantly this depends on the respective timing of when the relevant NES and designation are made.

18. Section 43D states (our emphasis):

43D Relationship between national environmental standards and designations

- (1) A designation that exists when a national environmental standard is made prevails over the standard until the earlier of the following:
 - (a) the designation lapses;
 - (b) the designation is altered under section 181 by the alteration of conditions in it to which the standard is relevant.
- (2) If the conditions of a designation are altered as described in subsection (1)(b), the standard—
 - (a) applies to the altered conditions; and
 - (b) does not apply to the unaltered conditions.
- (3) A national environmental standard prevails over a designation that requires an outline plan if, when the standard is made,—
 - (a) the designation exists; and
 - (b) no outline plan for the designation has completed the process described in section 176A.
- (4) A national environmental standard that exists when a designation is made prevails over the designation.
- (5) A use is not required to comply with a national environmental standard if—
 - (a) the use was lawfully established by way of a designation that has lapsed; and
 - (b) the effects of the use, in character, intensity, and scale, are the same as or similar to those that existed before the designation lapsed; and
 - (c) the standard is made—
 - (i) after the designation was made; and
 - (ii) before or after it lapses.
- (6) Work under a designation is not required to comply with a national environmental standard if the work has come under the designation through the following sequence of events:
 - (a) the work is made; and
 - (b) the standard is made; and
 - (c) the designation is applied to the work.
- (7) In this section, conditions includes a condition about the physical boundaries of a designation.

19. While section 43D contemplates, and directly addresses, designations altered under section 181 of the RMA, it does not specifically address the relationship between an NES made after a designation was originally confirmed, but prior to when a designation is rolled

over (with or without modification) as part of a district plan review process (in accordance with clause 4, Schedule 1 of the RMA).

When a designation is made

20. Notices of requirement only “become” designations once they have been confirmed and included in the District Plan and any proposed District Plan (see sections 166 and 175). “Designation” is defined under section 166 as:

a provision made in a district plan to give effect to a requirement made by a requiring authority under section 168 [or section 168A] or clause 4 of Schedule 1.

21. Therefore in terms of section 43D(4), we interpret the words “*when a designation is made*” to mean when a designation is inserted into the District Plan (and any proposed District Plan), because it is at that point that the designation “comes into being”. Any earlier in the process would necessitate a reference to a “notice of requirement” rather than a “designation”.
22. In terms of designations rolled over into District Plans, given the section 166 definition, we consider that the date at which the designations were “made” would be the date at which the designation was first included in the District Plan. This interpretation is consistent with the use of the term “existing designation” in clause 4 of Schedule 1 – that provision distinguishes between “existing designations” and “requirements for designations” (which we take to mean notice of requirements for proposed designations), and we interpret “existing” to indicate that the designation has already been “made” at some earlier date.
23. For completeness, we note that we have considered whether rolled over designations are only “made” once the district plan review process is complete and the designation confirmed. We do not consider that such an interpretation is consistent with either the definition in section 166 or the process set out in section 175, because those sections indicate that a designation can only be inserted into a district plan and “made” once. Any modifications following on from that, such as by way of rolling over the designation, or amending its conditions using section 181, are contemplated as being modifications to the designation, rather than making a new one.
24. Therefore a designation that was included in a district plan, then rolled over in accordance with clause 4, is still considered to have been “made” at the time it was originally included in the Plan. A designation was originally included within a district plan prior to a NES coming into force, would continue to prevail over that NES after it is rolled over as part of a district plan review (in accordance with clause 4).

How should modifications to designations made through a district plan review process be treated?

25. As discussed above, while section 43D(1)-(2) addresses what happens where a requiring authority alters a designation using section 181 of the RMA, it does not expressly contemplate a designation being modified as part of a district plan review under clause 4(3) of Schedule 1. The legislation is therefore unclear how modifications to designations are to be treated.

26. One interpretation is that the designation (regardless of any modification made through the district plan review process) should continue to be treated as though it was made at the time it was originally included within the district plan. This interpretation relies on the language in clause 4(3) which states that a requiring authority is to state in its "*written notice the nature of the modifications, and the reasons for the modifications*". This is different from a requiring authority giving a "notice of requirement" for a designation (noting that the definition of designation which is "a provision made in a district plan to give effect to a requirement made by a requiring authority"). This interpretation relies on a plain reading of section 43D.
27. However, we prefer a purposive interpretation of section 43D. This interpretation is that the part of the designation that was modified through the district plan review process should be treated as being akin to an alteration to a designation under section 181. Essentially the "written notice" referred to in clause 4(3) is read as being a "notice of requirement". On this interpretation the modified part of the designation would be treated as being a designation that was made (under clause 4) when the designation is confirmed in the newly operative District Plan.
28. In these circumstances we consider that essentially section 43D(2) should apply, i.e. a NES (that was made after the original designation was confirmed, but prior to it being modified through the plan review process) will prevail over the part of the designation that was modified but will not prevail over that part of the designation that remained unaltered.

To Rory Smeaton, Porirua City Council **18 July 2022**
From Mike Wakefield (Partner), Kat Viskovic (Senior Associate)
and Libby Neilson (Solicitor)
Subject Hearing Stream 6 – interpretation of “*an interest in the land sufficient for undertaking the work*” in section 171 of the RMA

Background

1. The Panel, in its Minute 41, has asked the Council to consider whether the Minister of Education (**Minister**) has a sufficient interest in the land that is the subject of several proposed new designations, to remove the need for a consideration of alternatives.
2. To assist with your reply for the Council, you have asked us to consider whether an “integration agreement” (or the primary legislation) provides the Minister with ‘an interest in the land sufficient for undertaking the work’ in terms of section 171(1)(b)(i) of the RMA, the effect of which means that no assessment of alternatives is required, assuming 171(1)(b)(ii) is also met.

Question: Does the Minister of Education has a sufficient interest in the land the subject of the proposed new designations to remove the need for consideration of alternatives?

Answer: Based on the information provided in support of the five new notices of requirement (**NOR**) for the integrated schools, it is unclear whether the Minister of Education has an interest in the land sufficient for undertaking the work, such that an alternatives assessment under section 171(1)(b) is not required. In our view, whether the integration agreements give the Minister a sufficient interest in the land in terms of section 171(1)(b) will depend on the terms of those agreements.

Despite the above, we acknowledge that a limited alternatives analysis has been undertaken in considering whether the schools could be provided for through the inclusion of specific provisions within the District Plan (including zoning). Given the schools already exist, it is unclear whether a more robust alternatives analysis would materially assist the Panel in terms of making a recommendation on the requested NORs.

Analysis

Trigger for alternatives analysis

3. When making its recommendation on a NOR, section 171(1)(b) of the Resource Management Act 1991 (**RMA**) requires the Panel to consider:

“whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if—

- (i) the requiring authority does not have an interest in the land sufficient for undertaking the work; or*
- (ii) it is likely that the work will have a significant adverse effect on the environment;”*

4. The two limbs of section 171(1)(b) that trigger the need for an alternatives analysis to be completed are essentially whether:

- (a) the requiring authority has an interest in the land that would enable work authorised by the designation to be undertaken (assuming it is confirmed); or
 - (b) whether the work would result in significant adverse effects on the environment.
5. We consider both limbs below.

Interest in the land

6. Section 171(1)(b)(i) requires that an alternatives analysis is required **if** a requiring authority does not have a sufficient interest in land to undertake the work. We note that the wording used anticipates that the “work” proposed by the NOR has not been undertaken, as opposed to a situation where the NOR is being sought post the works being completed.
7. In this case the relevant schools already exist, which means that this is effectively a paper exercise to acknowledge their existence and provide for them by way of designations. On the one hand, this could mean that an alternatives assessment is not required. On the other, the NORs seek to “*enable the ongoing operation, maintenance and development of public education on the site*”, which can be interpreted as capturing work not yet undertaken. Because the NORs are not limited to capturing only the status quo, it appears to us to be relevant to consider whether the Ministry has a sufficient interest in the land (and therefore, to consider whether section 171(1)(b)(i) is triggered).
8. We have not identified any case law that considers what the requirement to “*have an interest in the land sufficient for undertaking the work*” means in relation to section 171, but we do not consider that this obligation equates to the need for a requiring authority to hold a freehold interest in the land to which the NOR relates. The interest that the requiring authority must have will need to be a sufficient legal interest to enable it to undertake the designated works, including to meet the requirements of the conditions proposed as part of the NOR (we understand that none are proposed in this case, including in relation to the potential future development of the sites).
9. We have reviewed the letter provided by the Ministry of Education dated 15 July 2022. The letter indicates that the Minister of Education has a sufficient interest in the land to remove the need for consideration of alternatives for the following reasons:
- (a) State-integrated schools are responsible for capital works in accordance with Clause 39 of the Education and Training Act 2020. To assist state-integrated schools with providing healthy and safe learning environments, the Ministry can provide additional funding for capital maintenance (for example, urgent health and safety work), modernisation, and for new school buildings. Proposals for capital investment from the Ministry must meet the Policy One and Two funding criteria.
 - (b) The delivery of education is a listed public work under the Public Works Act 1981 and the Ministry of Education has financial responsibility for this delivery. We note that financial responsibility for a public work is a requirement for a Notice of Requirement under section 168(1) of the Resource Management Act 1991 which is met for state-integrated schools.

10. With respect, we do not consider that this provides a sufficient explanation as to how the section 171(b) assessment has been satisfied to justify not needing an assessment of alternatives. The letter highlights some of the responsibilities of state-integrated schools, however it does not provide or explain the legal mechanism that the Minister is relying on as a basis for its assertion that it has a sufficient interest in the land, or describes in any detail the nature of the agreements in place.
11. We therefore consider it reasonable for the Council (and Panel) to consider that further details ought to be provided by the Minister as to the nature of the interest in land created by each of the integration agreements, or any other legal mechanism, that is sufficient to warrant no alternatives assessment for these NORs.

Significant adverse effects

12. If we were to assume the Minister does have an interest in the land, whether an alternatives analysis is required will therefore depend on whether the adverse effects on the environment of the proposed designation would be “significant”. While the NORs relate to existing schools, no conditions are proposed which would limit any potential future development (or which retain the status quo). If the designations are confirmed as per the NORs, development will be enabled so long as it satisfies the purpose of the designation (i.e. for the “*ongoing operation, maintenance and development of public education on the site*”).
13. Given the broad way these NORs are expressed, and the fact that no conditions are proposed, it is somewhat difficult for a meaningful effects assessment to be undertaken. Increases in school rolls, development of the sites and/or other public education services being provided from the site could all result in additional effects over and above the status quo. As there is no certainty as to the potential scope of any changes that may occur on the sites, it is again difficult for the Council to comment on the likely extent of any potential environmental effects.
14. You may wish to seek comment from the Minister on this issue as the scope of future development could be limited by the integration agreements for the relevant schools (for example if the agreements limit the size of a school roll). We note that this issue does not appear to have been addressed in the Minister’s letter dated 15 July 2022. We also acknowledge that future effects could be managed, to a degree, through the outline plan of works process.
15. If the Minister’s intention was to simply allow the continuation of the operation of the schools at their current size, which does appear to be the case when reviewing the NORs, this could be managed by imposing conditions (e.g. related to maintaining existing built form, hours of operation etc.).

Alternatives analysis

16. Based on the analysis above, it is unclear whether the Minister should have provided an alternatives analysis in relation to these NORs in accordance with section 171. Given that lack of clarity, it would have seemed prudent for the Minister to have done so in a clearer way than expressed in the NORs.

17. There is substantial case law that has considered the requirement to consider alternatives, however at a high level the following principles have been established:¹
- (a) The focus is on the process, not the outcome: whether the requiring authority has made sufficient investigation of alternatives to satisfy itself of the alternative proposed, rather than acting arbitrarily, or giving only cursory consideration to alternatives. Adequate consideration does not mean “meticulous” or “exhaustive” consideration.
 - (b) The question is not whether the best route, site or method has been chosen, nor whether there are more appropriate routes, sites or methods.
 - (c) That there may be routes, sites or methods which may be considered by some (including submitters) to be more suitable is irrelevant.
 - (d) The RMA does not entrust to the decision-maker the policy function of deciding the most suitable site; the executive responsibility for selecting the site remains with the requiring authority.
 - (e) The RMA does not require every alternative, however speculative, to have been fully considered; the requiring authority is not required to eliminate speculative alternatives or suppositious options.
18. These principles will have largely been determined with reference to designations proposed to enable new work. As the schools are already established on the sites, and all relevant works (that are known to date) have been undertaken, this is perhaps not a case where any alternatives assessment will be of any material utility. Instead, the question that the Panel will need to ask is whether confirming the designations themselves are appropriate or not.
19. We would not anticipate that an extensive alternatives assessment would assist the Panel in making its recommendations here, as any alternatives would realistically involve establishing a new school on a different site, in addition to retaining the existing schools. We highly doubt that relocating any of the schools would be a realistic approach for the Minister.
20. This leaves the requirement to consider alternative methods (routes being irrelevant). As acknowledged at paragraphs [192] – [193] of the section 42A officer report for Hearing Stream 6, a brief alternatives analysis was carried out in respect of the NORs – that analysis focused on whether a designation was required or whether a rule could be provided in the District Plan “*which classifies the school and other related activities as “permitted activities” within the given area*”. This alternative, applying a Special Purpose Education Zone (although noting that the Planning Standards do not expressly contemplate such a zone) or an Education Precinct to these sites, would seem to be the most realistic alternatives. While more detailed analysis could be provided of these alternatives, we agree with the statements in the NORs that this approach would leave less certainty for the Minister.

¹ Ministry for the Environment, *Board of Inquiry Final Report and Decision of the Board of Inquiry into the Upper North Island Grid Upgrade Project* (2009) at [177] and [186]. See also *Queenstown Airport Corp Ltd v Queenstown Lakes District Council* [2013] NZHC 2347

Appendix G. Response from the Ministry of Education



Porirua City Council
16 Cobham Court, Porirua City Centre,
Porirua 5022

15 July 2022

Attention: Hearing Commissioners for Proposed Porirua District Plan

Dear Commissioners,

Ministry of Education – Response to Minute 41 of Hearing Stream 6

We are pleased to assist Porirua City Council's reporting officer Mr Smeaton in responding to the Hearing Panel's Minute 41 following Hearing Stream 6 – Designations. The Ministry of Education is seeking to roll over designations, and has issued new Notices of Requirement (NoRs) for the following existing state-integrated schools within Porirua:

- MEDU-29 Bishop Viard College
- MEDU-30 Holy Family School (Porirua)
- MEDU-31 St Pius X School (Titahi Bay)
- MEDU-32 St Theresa's School (Plimmerton)
- MEDU-33 Wellington S D A School

The Hearing Panel has requested a response to the following question which relates to the new NoRs:

(e) Considering whether the Minister of Education has a sufficient interest in the land the subject of the proposed new designations to remove the need for consideration of alternatives;

Mr Smeaton advised that the question was raised referencing paragraph 193 of the officer's section 42A report which states:

193. I note that while the underlying land is owned by third parties, the Minister of Education and the proprietor of each school have entered into an Integration Agreement which records the integration terms and conditions including the property to be integrated and is governed by Schedule 6 of the Education and Training Act 2020.

The Ministry concurs with this statement. Section 417 of the Education Act 1989 notes that state-integrated schools, upon integration, becomes part of the State system of education in New Zealand. This means state-integrated schools are required to teach the New Zealand Curriculum, the same as schools owned by the Crown.

State-integrated schools are responsible for capital works in accordance with Clause 39 of the Education and Training Act 2020. To assist state-integrated schools with providing healthy and safe learning environments, the Ministry can provide additional funding for capital maintenance (for example, urgent health and safety work), modernisation, and for new school buildings. Proposals for capital investment from

the Ministry must meet the Policy One and Policy Two funding criteria. This is publicly available [on the Ministry of Education website](#).

The delivery of education is a listed public work under the Public Works Act 1981 and the Ministry of Education has financial responsibility for this delivery. We note that financial responsibility for a public work is a requirement for a Notice of Requirement under section 168(1) of the Resource Management Act 1991 which is met for state-integrated schools.

For these reasons it is considered the Minister of Education has a sufficient interest in the land to remove the need for consideration of alternatives.

Please contact the undersigned on behalf of the Ministry if you have any questions or require further clarification.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Baylee O'Sullivan', with a long horizontal flourish extending to the right.

Baylee O'Sullivan

Senior Planner

Beca

on behalf of the Ministry of Education Te Tāhuhu o Te Mātauranga

Appendix H. Relationship between national environmental standards and designations

43D Relationship between national environmental standards and designations

(1) A designation that exists when a national environmental standard is made prevails over the standard until the earlier of the following:

(a) the designation lapses;

(b) the designation is altered under section 181 by the alteration of conditions in it to which the standard is relevant.

(2) If the conditions of a designation are altered as described in subsection (1)(b), the standard—

(a) applies to the altered conditions; and

(b) does not apply to the unaltered conditions.

(3) A national environmental standard prevails over a designation that requires an outline plan if, when the standard is made,—

(a) the designation exists; and

(b) no outline plan for the designation has completed the process described in section 176A.

(4) A national environmental standard that exists when a designation is made prevails over the designation.

(5) A use is not required to comply with a national environmental standard if—

(a) the use was lawfully established by way of a designation that has lapsed; and

(b) the effects of the use, in character, intensity, and scale, are the same as or similar to those that existed before the designation lapsed; and

(c) the standard is made—

(i) after the designation was made; and

(ii) before or after it lapses.

(6) Work under a designation is not required to comply with a national environmental standard if the work has come under the designation through the following sequence of events:

(a) the work is made; and

(b) the standard is made; and

(c) the designation is applied to the work.

(7) In this section, conditions includes a condition about the physical boundaries of a designation.