

**BEFORE THE INDEPENDENT HEARINGS PANEL**

**UNDER** the Resource Management Act 1991 (RMA)

**IN THE MATTER OF** A submission by the Ministry of Education on  
Proposed Porirua City District Plan and Variation 1 to  
the Proposed Porirua District Plan

**BY** **THE MINISTRY OF EDUCATION**

Submitter

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**STATEMENT OF PRIMARY EVIDENCE OF SIAN STIRLING ON BEHALF OF  
MINISTRY OF EDUCATION (THE MINISTRY)**

**Planning**

**27 February 2023**

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## 1. INTRODUCTION

1.1 My name is Sian Stirling. I am a planner in the firm of Beca Limited (**Beca**).

1.2 I have the following qualifications:

- (a) Master of Planning from the University of Otago; and
- (b) Bachelor of Arts (Geography and Environmental Management) from the University of Otago

1.3 In my role at Beca I currently manage the RMA National Monitoring contract on behalf of the Ministry of Education (**the Ministry**). My role includes having oversight of district and regional plan changes across New Zealand as they may influence the roles and responsibilities of the Ministry in planning for educational facilities in communities. I have three years' experience as a Planner. I am familiar with the Ministry's submission on the Proposed Porirua City District Plan (**PPDP**) and Variation 1.

1.4 My statement sets out planning evidence on behalf of the Ministry in relation to their submission on the Proposed Porirua District Plan and Variation 1 to the Proposed Porirua District Plan.

1.5 In preparing this evidence I have reviewed the following:

- (a) The Proposed Porirua District Plan
- (b) Variation 1 and the S32 report
- (c) The s42A report on the 'residential zones and general topics' prepared by Michael Rachlin
- (d) The s42A report on the 'Commercial and Mixed Use Zones and General Industrial Zone' prepared by Michael Rachlin
- (e) The s42A report on the 'Northern Growth Development Area' prepared by Rory Smeaton

## 2. CODE OF CONDUCT

2.1 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the 'Environment Court Practice Note' and that I agree to comply with it. I confirm that I have considered all material facts that I am aware of that might alter or detract from

the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

### **3. SCOPE OF EVIDENCE**

3.1 My evidence will cover the following topics to assist the Hearings Panel in deliberations:

- (a) A summary of the Ministry's interest and submission; and
- (b) A planning assessment of the provisions sought by the Ministry and my response to the recommendations in the section 42A report.

### **4. SUMMARY OF THE MINISTRY'S INTEREST AND SUBMISSION**

4.1 The Ministry is the Government's lead advisor on the New Zealand education system, shaping the direction for education agencies and providers and contributing to the Government's goals for education. The Ministry assesses population changes, school roll fluctuations and other trends and challenges impacting on education provision at all levels of the education network to identify changing needs within the network so the Ministry can respond effectively.

4.2 The Minister of Education is a Requiring Authority under section 166 of the Resource Management Act 1991 (RMA) and the Ministry is their agent. The Ministry typically uses the designation process to lawfully establish and enable educational facilities under the RMA. Within Porirua, there are 28 sites designated for Education Purposes by the Minister of Education, with a further five sites that were provided Notice of Requirements for during the designation confirmation in 2019. These five sites have been recently designated within PPDP.

4.3 The District Plan is the key planning document under the RMA that supports the Ministry's processes to establish and enable educational facilities for land use planning. The Ministry has submitted on provisions where they are considered to impact on the delivery of educational facilities.

4.4 The Ministry submitted on the PPDP in 2020. The Ministry's submission (submitter number 134) on the PPDP can be summarised as follows:

- (a) Supported enabling provisions for educational facilities in the Residential, Commercial and Mixed-Use Zones. The Ministry requested the retention of the supported provisions of GRZ-O1, GRZ-P9, GRZ-R9, MRZ-O1, MRZ-P11,

MRZ-R10, NCZ- R7, LFRZ-R16, MUZ- R10, LCZ- R8 and CCZ-R11. No changes were requested to any provisions within these zones.

4.5 The Ministry submitted on Variation 1 in 2022. The Ministry's submission (submitter number 92) can be summarised as follows:

- (a) Porirua City Council has a requirement under the National Policy Statement on Urban Development 2020 (NPS-UD) to engage with infrastructure providers (including education providers) to achieve integrated land use and infrastructure planning (Policy 10) and ensure that additional infrastructure<sup>1</sup> to service development capacity is likely to be available (Implementation 3.5).
- (b) The increased residential densities enabled by Variation 1 would put additional pressure on the school network and require the expansion of existing schools and trigger the need for new schools in some places to support the anticipated residential growth. The Ministry sought enabling provisions for educational facilities to better allow them to respond to the intensification over time.
- (c) To enable the Ministry to efficiently and effectively respond to the residential growth from Variation 1, the Ministry requests that enabling provisions for educational facilities are included within the objectives and policies of the residential zones, including MRZ-O1 and RESZ- P11.
- (d) Variation 1 also proposed to rezone a significant amount of land near Pukerua Bay from Future Urban Zone and Rural Zoned land to residential, mostly Medium Density Residential Zone. This is called the Northern Growth Development Area (NGDA). This change in zoning would put pressure on the school network in Pukerua. The Ministry requested enabling provisions for educational facilities in DEV-NG-O2, DEV-NG-P2, DEV-NG-P3 and DEV-NG-P4 to clearly enable the Ministry to establish new schools in the NGDA to support the future growth.

## **5. EDUCATIONAL FACILITIES IN THE COMMERCIAL AND MIXED-USE ZONES**

5.1 The Ministry submitted in support of rules enabling education facilities.

5.2 I have reviewed Council's Section 42A reports on these matters and confirm my agreement to the changes proposed by Council in the Section 42A report or as

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<sup>1</sup> Additional infrastructure is defined in section 1.4 of the NPS-UD and includes social infrastructure such as schools.

amended by Variation 1, in so far as they relate to educational facilities, for the following:

- (a) Rule NCZ-R7 Educational facility (Sub134.27)
- (b) Rule LFRZ-R16 (now LFRZ-R20) Educational facility (Sub 134.28)
- (c) Rule MUZ-R10 Educational facility (Sub 134.29)
- (d) Rule LCZ-R8 Educational Facility (Sub 134.38)

5.3 Council has recommended rejecting Sub 134.31 which sought the addition of educational facilities as a discretionary activity in the General Industrial Zone (GIZ). This was rejected. I support this as, the Ministry's position for requesting educational facilities in the industrial zone was to provide for training facilities ancillary to industrial activities. Rule GIZ-R9 enables tertiary education services which allows for training and education that is appropriate in an industrial area.

## **6. EDUCATIONAL FACILITIES WITHIN RESIDENTIAL ZONES**

6.1 The Ministry submitted that educational facilities should be recognised and provided for within the objectives and policy framework of the residential zones and the NGDA. Residential zones are important to the Ministry as schools need to be located close to residential catchments in order to support the students in those catchments.

6.2 Under section 171(1)(iv) of the RMA, when a territorial authority makes a recommendation on a Notice of Requirement (**NoR**), they are required to consider the effects on the environment having particular regard to 'a *plan or proposed plan*'. Therefore, when preparing an NoR application, the Ministry does have particular regard to the objectives and policies of underlying zone. It is important that objectives and policies are clear about where educational facilities should best be enabled and provided for – both for the Ministry and the territorial authority when they are required to make considerations on an NOR application for a school.

6.3 My opinion is that the current policies of the PPDP for the residential zones, specifically RESZ-P11, are not clear and should be made clearer.

6.4 Although the designation process is the primary planning tool used by the Ministry to lawfully establish and enable new schools, not all schools across New Zealand are designated, and the Ministry may also use the resource consent process. The consideration of objectives and policies as they relate to educational facilities is an

important requirement under the resource consent process. Similarly, the rule framework for zones is important.

- 6.5 In the PPDP there were two main policies that enabled educational facilities. These were GRZ-P3 and GRZ-P9 in the General Residential Zone and MRZ-P3 and MRZ-P11 in the Medium Density Residential Zone.
- 6.6 Educational facilities are permitted under both zones provided they meet the listed standards. One of those standards is the facility must have less than four students. Therefore, all schools operated by the Ministry would infringe this standard and would need a resource consent as a restricted discretionary activity. The matters of discretion are the aforementioned policies for each zone.
- 6.7 Proposed RESZ-P11 (set out below) in Variation 1 is similar to GPZ-P3 and MRZ-P3 under the PPDP and it replaced both policies from the PPDP. This is set out below:

*RESZ-P11 - Non-residential activities*

*Provide for non-residential activities that contribute to the health and wellbeing of people and communities where:*

- 1. These are compatible with the planned urban built environment and amenity of the area;*
- 2. Any adverse effects on the amenity values of adjoining sites can be adequately mitigated, including from the location and scale of utility and external storage areas;*
- 3. These do not result in adverse effects on the amenity values of adjoining sites from the movement of people and vehicles associated with the activity which cannot be mitigated;*
- 4. The hours of operation are compatible with residential amenity values;  
and*
- 5. For Emergency Service Facilities, the activity has an operational need or functional need to locate in the zone.*

- 6.8 I acknowledge that the purpose of RESZ-P11 is to protect the amenity and character of a residential zone from any inappropriate non-residential activities. The Ministry's submission originally supported its equivalent policy in the PPDP, because it was supported with the below policy which was also a matter of discretion for educational facilities (as underlined):

*MRZ-P11 and GRZ-P9 - Functional and operational requirements*

Recognise the functional and operational requirements of retirement villages and non-residential activities that support the health and wellbeing of people and communities.

- 6.9 The functional and operational requirements of educational facilities (as non-residential activities) to establish in residential zones is clearly provided for in this wording.
- 6.10 Under the PPDP, 'operational need' is defined as 'the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints'. The purpose of schools is to support the surrounding residential catchments and provide education. Therefore, schools are typically located in residential zones for logistical and technical reasons. Locating them away from residential catchments can cause unnecessary traffic effects on the wider road network as people have to travel further to get to school. Therefore, the Ministry has an operational need to locate schools in residential areas to service those catchments.
- 6.11 The S42A reporting officer, Michael Rachlin, has proposed to remove MRZ-P11 and GRZ-P9 from the PPDP. Therefore, when Porirua City Council is processing the NoR for a new school, in my opinion, they will only assess the school specifically against RESZ-P11 (matter of discretion) and more general policies.
- 6.12 The Ministry's submission on Variation 1 requests enabling provisions for educational facilities to RESZ which is a chapter which combines all objectives and policies for the residential zones. The Ministry requested relief is in red underline.

*RESZ-P11- Non-Residential activities [submission point OS92.6]*

*Provide for non-residential activities that contribute to the health and wellbeing of people and communities where:*

- 1. These are compatible with the planned urban built environment and amenity of the area;*
- 2. Any adverse effects on the amenity values of adjoining sites can be adequately mitigated, including from the location and scale of utility and external storage areas;*
- 3. These do not result in adverse effects on the amenity values of adjoining sites from the movement of people and vehicles associated with the activity which cannot be mitigated;*

4. *The hours of operation are compatible with residential amenity values;  
and*
5. *For Emergency Service Facilities, the activity has an operational need or functional need to locate in the zone.*
6. *They can ensure that the needs of the community can be met by supporting the development capacity of educational facilities.*

*MRZ-O1 – Planned urban environment of the Medium Density Residential Zone*  
[submission point OS92.5]

*The planned urban built environment in the Medium Density Residential Zone is characterised by:*

1. *A planned built form of predominantly three-storey buildings, which is integrated into public and private open space;*
2. *Good quality on-site and off-site residential amenity that provides for the health and well-being of people residing in the Medium Density Residential Zone; and*
3. *An urban environment that is visually attractive, safe, easy to navigate, and convenient to access, including existing and planned educational facilities.*

6.13 The Ministry has sought provisions that facilitate development of essential social infrastructure alongside residential activities, such as educational facilities, which contribute to peoples social and economic wellbeing in accordance with Part 2, Section 5 of the RMA.

6.14 In my opinion, I support the inclusion of enabling provisions for educational facilities as it provides clarity to plan users, the Ministry and any territorial authority making a recommendation on a NoR for a new school, that schools are anticipated within the residential zone.

6.15 Additionally, I consider these requested provisions would allow the plan to be consistent with the NPS-UD to achieve integrated land use and infrastructure planning (Policy 10) and ensure that additional infrastructure (which includes schools) to service development capacity is likely to be available (Implementation 3.5). Having these provisions clearly demonstrates that schools are anticipated in residential zones and therefore better enables the Ministry to establish schools as vital social infrastructure within the communities of Porirua.

- 6.16 I note a similar level of clarity in the objectives and policies of RESZ has been specifically provided for emergency services (RESZ-P11(5) and retirement villages (RESZ-P13).
- 6.17 In my opinion, the Ministry's request for a same level of clarity for educational facilities is good planning practice, making it clear that educational facilities are vital social infrastructure required to support well-functioning Porirua communities.
- 6.18 Mr Rachlin has rejected the Ministry's request for clarity in the provisions of the RESZ chapter as he considers they "*are already appropriately covered by the policy since they contribute to people's wellbeing. This is implemented in the MRZ and HRZ*". I believe Mr Rachlin is referring to RESZ-P11 (set out in section 6.7 of my evidence).
- 6.19 Although the intent of RESZ-P11 is to enable non-residential activities that contribute to the health and wellbeing of people and communities (which schools clearly do) they must meet all the criteria within RESZ-P11. The full criteria within RESZ-P11 is set out in section 6.7 of my evidence. The criteria I wish to point out for discussion are set out below. RESZ-P11 enables non-residential activities as long as they are:
1. *Compatible with the planned urban built environment and amenity of the area;*
  3. *These do not result in adverse effects on the amenity values of adjoining sites from the movement of people and vehicles associated with the activity which cannot be mitigated;*
- 6.20 These provisions are open to interpretation and are subjective, and it could be argued that schools are not compatible with the amenity of the residential area. Schools can have large buildings and due to their scale they can be out of sequence with the surrounding residential built form as they are required to accommodate sometimes hundreds of children each day.
- 6.21 Therefore, the establishment of a new school could find it difficult to be consistent with RESZ-P11 (1).
- 6.22 Furthermore, RESZ-P11 (3) also seeks to assess the effects of transport and human movements on the amenity of the zone. However, with the combination of RESZ-P11 (1) and (3), without any other enabling provision for schools (for example providing a consideration of functional and operational need) it is overall unclear and provides a level of uncertainty if schools can be enabled. It does not provide the same level of clarity as provided for emergency services facilities and retirement villages within the policies of the PPDP.

- 6.23 The Ministry supports RESZ-P11, as it protects the character and amenity of the residential zone. However, to provide clarity, the Ministry seeks amendments to RESZ-P11 to recognise that educational facilities are needed within the residential zones to support and respond to residential growth.
- 6.24 In my opinion, specifically recognising the need for educational facilities will achieve best planning practices and the same level of clarity as provided for emergency service facilities and retirement villages.
- 6.25 I have considered the position of Mr Rachlin, and in my opinion, rather than a straight rejection of the request of the Ministry, a better solution is to provide clarity for educational facilities, similar to the clarity that was provided under the PPDP through MRZ-P11 and GRZ-P9 (operational requirement – a matter of discretion for educational facilities).
- 6.26 As stated in section 6.8 - 6.11 of my evidence, this provision has been recommended to be removed. Its equivalent provision has been provided under RESZ-P11(5) to allow for non-residential activities like emergency service facilities, provided they have an operational or functional need to locate in the zone. The Ministry has an operational need to locate in the residential zone to service the demands of those residential catchments. To provide better clarity in RESZ-P11 and resolve the Ministry's submission point (OS92.6), I suggest the below alternative wording:

*RESZ-P11 - Non-residential activities*

*Provide for non-residential activities that contribute to the health and wellbeing of people and communities where:*

- 1. These are compatible with the planned urban built environment and amenity of the area;*
- 2. Any adverse effects on the amenity values of adjoining sites can be adequately mitigated, including from the location and scale of utility and external storage areas;*
- 3. These do not result in adverse effects on the amenity values of adjoining sites from the movement of people and vehicles associated with the activity which cannot be mitigated;*
- 4. The hours of operation are compatible with residential amenity values; and*
- 5. For Emergency Service Facilities and educational facilities, the activity has an operational need or functional need to locate in the zone.*

6.27 I recommend that the operational need test for educational facilities is incorporated back into the PPDP in RESZ-P11(5). This would resolve the Ministry's concerns, as it would provide for the consideration of operational need alongside the other matters of discretion listed in RESZ-P11.

## **7. EDUCATIONAL FACILITIES IN THE NORTHERN GROWTH DEVELOPMENT AREA (NGDA).**

7.1 The Ministry also submitted on the objectives and policies in the NGDA requesting enabling provisions for educational facilities.

- DEV-NG-O2- Planned urban built environment of the Northern Growth Development Area [OS92.1]
- DEV-NG-P2- Subdivision [OS92.2] to provide a transport network that provides pedestrian and open space connectivity to existing and planned educational facilities.
- DEV-NG-P3- Potentially appropriate development [OS92.3] enable educational facilities and encourage transport connections to educational facilities.

7.2 The S42A reporting officer for the NGDA is Rory Smeaton. In paragraph 135-136 of Mr Smeaton's report, he notes that educational facilities are provided through objective DEV-NG-O2-1:

*Subdivision, use and development in the Medium Density Residential Zone and Neighbourhood Centre Zone of the Northern Growth Development Area achieves:*

- 1. A well-functioning urban environment consistent with the Northern Growth Development Area Structure Plan;**
2. *A built urban form that responds to the natural landform;*
3. *A quality living environment that is connected, accessible and safe;*
4. *A high quality public open space and recreation network that is easy to access and meets the needs of the local community;*
5. *Medium density housing with a variety of housing types, sizes and tenures;*
6. *A neighbourhood centre that serves the needs of the local community;*
7. *An urban form that is integrated with the transport network and encourages active transport modes; and*

8. *Development that maintains and protects and, where possible, enhances ecological values and the health and wellbeing of receiving waterbodies including Te Awarua-O-Porirua Harbour and other downstream catchments.*

7.3 Mr Smeaton states that the definition of a 'well-functioning urban environment' under the NPS-UD, and which is proposed to be included in the PPDP through Variation 1, includes good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport. Community services are defined in the NPS-UD as including educational facilities. I agree with Mr Smeaton and support DEV-NG-O2-1 enabling educational facilities, and the inclusion of the definition in the PPDP.

7.4 I also agree that educational facilities can be enabled through the following policy:

*DEV-NG-P3- Potentially appropriate development*

*The purpose and effects of the subdivision, use or development are likely to constrain, limit or compromise the intended development and use of the Development Area as set out in the Structure Plan, including consideration of:*

*[...]*

*4. It would provide for or support the future needs of the Development Area;*

7.5 DEV-NG-O2-1 and DEV-NG-P3(4) enables educational facilities at a high level. However, this should be clearly enabled in the underlying zone provisions, as requested in Section 6 of my evidence. In my opinion, specific zone provisions, and importantly in the residential zone, should be as clear as practicable for educational facilities.

7.6 The Ministry also requested changes to DEV-NG-P2(4.c) and DEV-NG-P3(1.f) in the NGDA to encourage transportation connections to be linked to existing and planned educational facilities. This would encourage more students to bus, walk and cycle to school and achieve better urban outcomes. The amendments requested by the Ministry are outlined below in red.

*DEV-NG-O2- Planned urban built environment of the Northern Growth Development Area Subdivision, use and development in the Medium Density Residential Zone and Neighbourhood Centre Zone of the Northern Growth Development Area achieves:*

3. A quality living environment that is connected, accessible, safe, reliable and is connected to educational facilities.

9. An urban environment which is supported by educational facilities to meet the needs of the local community.

DEV-NG-P2- Subdivision

4. Provides a transport network layout and design that:

c. Provides for pedestrian and open space connectivity, including by incorporating legal public access along indicative track routes identified on the Structure Plan, including to existing or planned educational facilities and providing for opportunities to create recreational and open space linkages;

DEV-NG-P3- Potentially appropriate development

Only allow subdivision, use and development that is potentially not in accordance with the Northern Growth Development Area Structure Plan where it is demonstrated that it is appropriate for such subdivision, use or development to occur within the Development Area, having regard to whether:

1. The purpose and effects of the subdivision, use or development are likely to constrain, limit or compromise the intended development and use of the Development Area as set out in the Structure Plan, including consideration of:

f. Connected transport networks that allow ease of movement to, from and within the Development Area, including to existing and planned educational facilities.

h. There is a need to provide educational facilities which support the local community.

7.7 In paragraph 140 of Mr Smeaton's report, he notes that the requested changes by the Ministry would cause problems for developers not knowing where the planned schools will be and he has rejected the Ministry's requested amendments. He states:

*"Examples of the latter situation where the amendment would create issues until such time that the MoE decided on the location and timing for establishment of education facilities, include the changes requested to DEV-NG-P3-1 and the new clause requested for DEV-NG-O2. Until the potential need for and subsequent identification of new educational facilities within the NGDA by the MoE occurs,*

*applicants for subdivision consent would not be able to demonstrate whether education facilities were appropriately provided for or not. This would therefore place an unacceptable cost on those applicants”*

- 7.8 I support the rejection of the Ministry’s additional provision in *DEV-NG-P3-(1.h)* above being “*There is a need to provide educational facilities which support the local community [S92.3].*” I agree that this would result in applicant’s needing to consider if educational facilities need to be provided, which is the requirement of the Ministry.
- 7.9 The reasoning for Mr Smeaton rejecting the remaining submission point is perhaps caused by the wording as proposed. When the Ministry refers to future planned schools, it is referring to land that has a designation over it but no school has been established yet. Therefore, no cost would be imposed on any applicant as the designation will appear in the district plan maps when the applicant is doing their due diligence.
- 7.10 For clarity, I propose the below revised wording that will achieve the same outcomes of encouraging transport connections to schools without imposing any confusion or additional cost on an applicant:

*DEV-NG-P3- Potentially appropriate development*

*Only allow subdivision, use and development that is potentially not in accordance with the Northern Growth Development Area Structure Plan where it is demonstrated that it is appropriate for such subdivision, use or development to occur within the Development Area, having regard to whether:*

1. *The purpose and effects of the subdivision, use or development are likely to constrain, limit or compromise the intended development and use of the Development Area as set out in the Structure Plan, including consideration of:*

*f. Connected transport networks that allow ease of movement to, from and within the Development Area, including to existing and designated educational facilities.*

- 7.11 Overall, I support the inclusion of clearer provisions for educational facilities within the PPDP as proposed by the Ministry. On considering the opinions of the Reporting Officers, I have either agreed with their positions or where I am not in full agreement, I have proposed improvements to the wording of relevant policies to provide clarity for how educational facilities will be provided for in the PPDP.

7.12 Clearer and enabling provisions for educational facilities in the policy framework as I have proposed, will improve the Ministry's, and Council's, ability to respond to growth and provide schools to meet the educational needs and future demand in Porirua.

**Sian Stirling**

**27 February 2021**