

## RMA Form 6

## Further submission – Proposed Porirua District Plan

Clause 8 of First Schedule, Resource Management Act 1991

**To:** Porirua City Council  
**Email to:** [dpreview@porirua.govt.nz](mailto:dpreview@porirua.govt.nz)  
**Subject:** Further submission - PDP  
**Post:** Proposed District Plan, Environment and City Planning, Porirua City Council, PO Box 50-218, PORIRUA CITY  
**Delivery:** Ground Floor, Council Administration Building, Cobham Court, Porirua City, marked "Attention: Proposed District Plan, Environment and City Planning"

**Closing date for further submissions is 5pm Tuesday, 11 May 2021**

Submissions, a summary of decisions requested and submitter contact details can be viewed at:

[www.porirua.govt.nz/proposeddistrictplan](http://www.porirua.govt.nz/proposeddistrictplan)

Further Submitter Contact Details			
Full Name	Last Name		First Name
	Gillies		Malcolm
	[insert additional rows if needed]		
Or Company/Organisation Name <i>if applicable</i>	Plimmerton Developments Limited		
Contact Person <i>if different</i>	Stephanie Blick – Scope Planning Limited		
Email Address for Service	<a href="mailto:stephanie@scopeplanning.co.nz">stephanie@scopeplanning.co.nz</a>		
Address	5 Gibbons Street		
	City Upper Hutt	Postcode 5018	
Mail Address for Service <i>if different</i>	As above		
Phone	Mobile	Home	Work
	021823753		
Attendance and wish to be heard at the hearing: <i>you must fill in both rows below</i>			
<input type="checkbox"/> I do not wish <input checked="" type="checkbox"/> I wish <b>To be heard in support of my further submission</b> <i>(Please tick relevant box)</i>			
<input type="checkbox"/> I will <input checked="" type="checkbox"/> I will not <b>consider presenting a joint case with other submitters, who make a similar further submission, at a hearing.</b> <i>(Please tick relevant box)</i>			

Relevance - you must select one box that applies to you:

- I am a person representing a relevant aspect of the public interest
- I am a person who has an interest in the proposal that is greater than the interest the general public has
- I am the local authority for the relevant area

**Plimmerton Developments Limited is the landowner of a significant landholding commonly known as 'Plimmerton Farm'. This landholding is subject to a submission requesting that the rezoning be captured under the Proposed District Plan.**

**Note to person making further submission:**

A copy of your further submission must be served on the original submitter within 5 working days after it is served on the local authority.

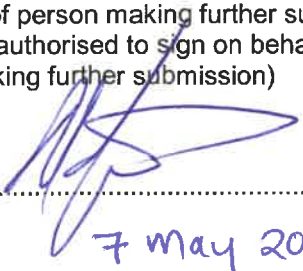
Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least 1 of the following applies to the submission (or part of the submission):

- it is frivolous or vexatious:
- it discloses no reasonable or relevant case:
- it would be an abuse of the hearing process to allow the submission (or the part) to be taken further:
- it contains offensive language:
- it is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

**Privacy note:**

When a person or group makes a submission or further submission on the Proposed District Plan this is public information. Please note that by making a submission your personal details, including your name and addresses will be made publicly available under the Resource Management Act 1991. This is because, under the Act, any further submission supporting or opposing your submission must be forwarded to you as well as to PCC. There are limited circumstances when your submission or your contact details can be kept confidential. If you consider you have reasons why your submission or your contact details should be kept confidential please contact the Environment & City Planning Team at [dpreview@porirua.govt.nz](mailto:dpreview@porirua.govt.nz).

Signature of person making further submission  
(or person authorised to sign on behalf of person making further submission)



Date

7 May 2021

(A signature is not required if you make your submission by electronic means.)

**Your further submission:**

Please complete section below and insert additional rows per submission point or submitter if required by using the enter button  
Delete examples provided and enter your own further submission points

Submitter Name/ Submission Number <i>[See submission contact list]</i>	Submitter Address/Email <i>[if provided]</i>	Support or Oppose <i>[Only choose support or oppose]</i>	The particular parts of the submission I support or oppose are: <i>[clearly indicate which parts of the original submission you support or oppose, together with any relevant provisions of the proposal]</i>	The reasons for my support or opposition are: <i>[give reasons]</i>	Allow or disallow <i>[Only choose allow or disallow]</i>	I seek that the whole or part (describe part) of the submission be allowed or disallowed: <i>[give precise details]</i>
Plimmerton Developments Limited  149.1	stephanie@scopeplanning.co.nz	Support	PDL has requested that Council rezone the site commonly known as 'Plimmerton Farm' to 'Plimmerton Farm – Special Purpose Zone' in the Proposed District Plan.	In its 'Comments of Draft Decision on Behalf of Plimmerton Developments Limited' memorandum dated 10 December 2019, PDL outlined that, after the hearing had closed, significant mapping errors were identified on the environment overlay map. For reference this is included as <b>Attachment One</b> (refer paras 61 – 75).  The Hearings Panel responded to this in the final recommendations report, stating –  "We agree with PDL that as notified the Precinct Plans and the Planning Maps for BORAs were inconsistent. We also agree that this is an issue for PDL"  And –  "...during the process there has been mention of 'folding' PC18 into the proposed district plan at the right time. It appears from what PDL said in its comments that subdivision is unlikely to start in the affected areas and there may be an opportunity to amend the Planning Maps through such a process"  The full discussion on the mapping errors in the Final Recommendations Report is included as <b>Attachment Two</b> .  In short, there are areas shown on the notified environmental overlay that were inconsistent with the Precinct Plan.  The Precinct Plan map was then updated in the s42A Report (although without any scope through any submission) to now include those areas of BORA that were on the notified district plan maps.  The critical issue is, because of the earlier updating of the relevant plans through the s42A stage, but without scope, the Panel does not therefore have jurisdiction to recommend approval of the proposed District Plan map as per the Right of Reply version – as the jurisdictional error has been carried through.  The inclusion of all areas identified on the earlier landscape assessment reports as BORA in the Section 42A report is very obviously an error but a significant one at that. This is evidenced in the fact that the movement network and Precinct C plan has continued to illustrate a road and development areas in the area above the green spine.	Allow but with amendments	PDL seeks that the Hearings Panel Final Recommendations Plimmerton Farm Zone chapter be included in the PDP as the 'Plimmerton Farm – Special Purpose Zone' but with the following corrections to the accompanying maps:  (a) the environment map needs to be updated to remove all additional BORA areas that were not included on the notified precinct plan maps; and  (b) the precinct plan maps are updated to remove all of the additional BORA areas that were added to the plans that accompanied the s42A report.  Further information is provided in the attached extract from the PDL memorandum ( <b>Attachment One</b> ) and the extract from the Hearings Panel Final Recommendations ( <b>Attachment Two</b> ).

**Your further submission:**

Please complete section below and insert additional rows per submission point or submitter if required by using the enter button  
Delete examples provided and enter your own further submission points

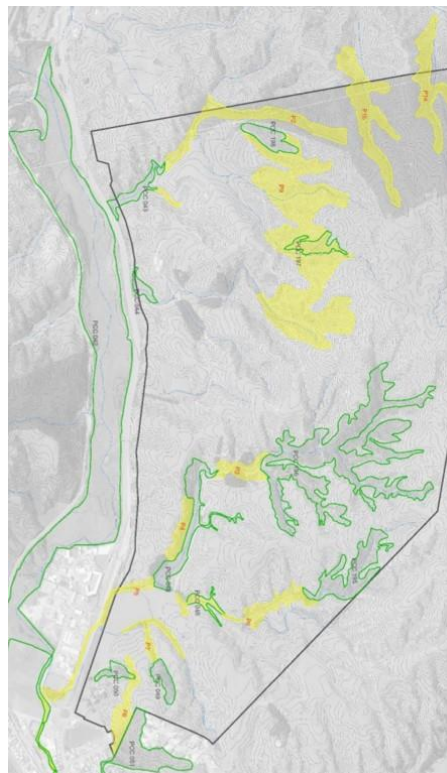
Submitter Name/ Submission Number [See submission contact list]	Submitter Address/Email [if provided]	Support or Oppose [Only choose support or oppose]	The particular parts of the submission I support or oppose are: [clearly indicate which parts of the original submission you support or oppose, together with any relevant provisions of the proposal]	The reasons for my support or opposition are: [give reasons]	Allow or disallow [Only choose allow or disallow]	I seek that the whole or part (describe part) of the submission be allowed or disallowed: [give precise details]
				The inclusion of additional BORA has become even more of an issue as the National Environmental Standard for Freshwater (that was gazetted after the notification of PC18) places greater restrictions on reclamations or works within or in the vicinity of wetlands. This has significantly reduced the area of developable land that has, in turn, significantly reduced offset mitigation requirements, which is a key function of the BORA.		

## ATTACHMENT ONE

EXTRACT FROM: COMMENTS ON DRAFT DECISION ON BEHALF OF  
PLIMMERTON DEVELOPMENTS LIMITED, DATED 10 DECEMBER 2020

## BORA MAPPING ERRORS

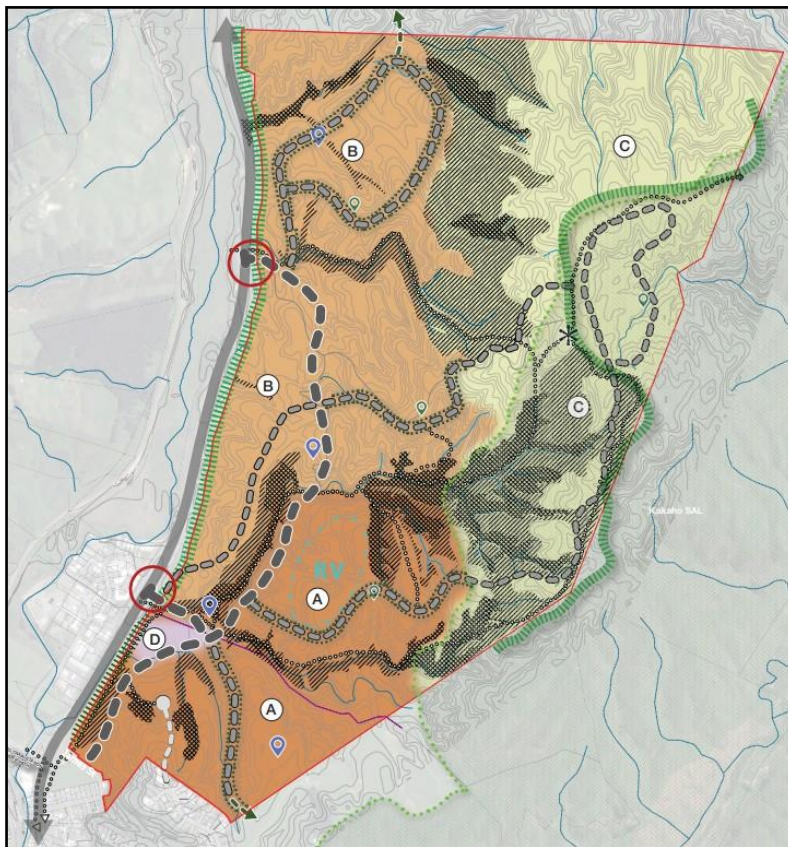
1. Since the hearing has closed, PDL has identified significant mapping errors on the proposed District Plan environment overlay map. For context, at the early stages of Plimmerton Farm, the landscape architect and ecologist jointly prepared a plan identifying SNAs (in green outline) and “other sites of ecological interest”, as follows:



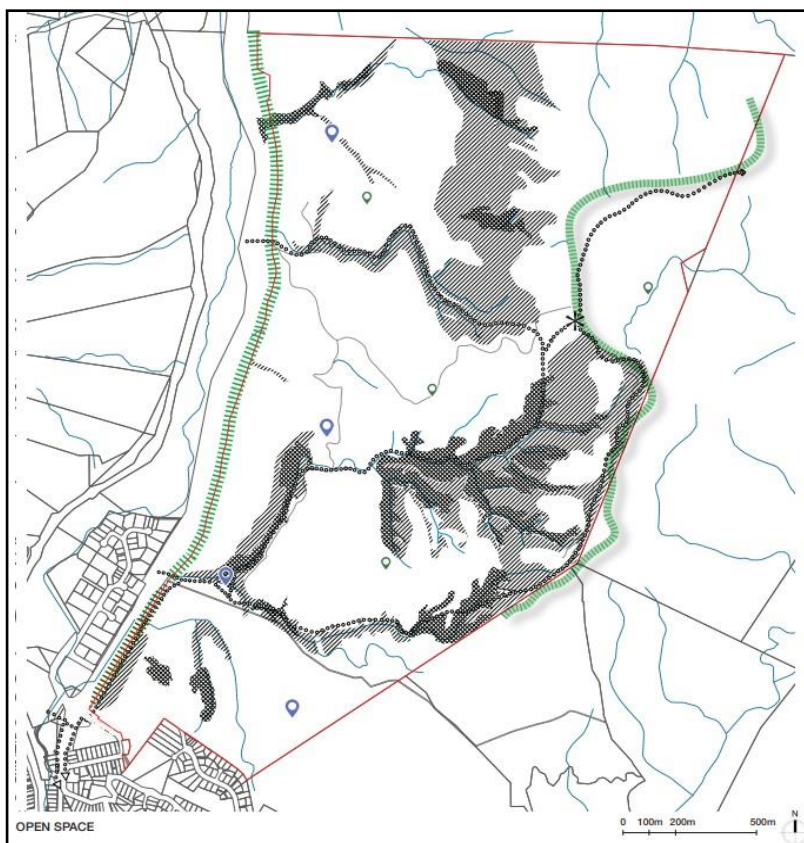
2. These areas were identified to assist in considering how, and to what extent, provision should be made to provide ecological corridors between SNAs, enhance existing SNAs, and to assist in visual integration of the development with the existing vegetation on the site. They were subject to further consideration, ground truthing, etc.
3. Some of these areas were then identified as “BORAs” – but not on the notified precinct plan or maps – on the s42A report.
4. The **notified precinct plan** provided as follows:



ATTACHMENT ONE

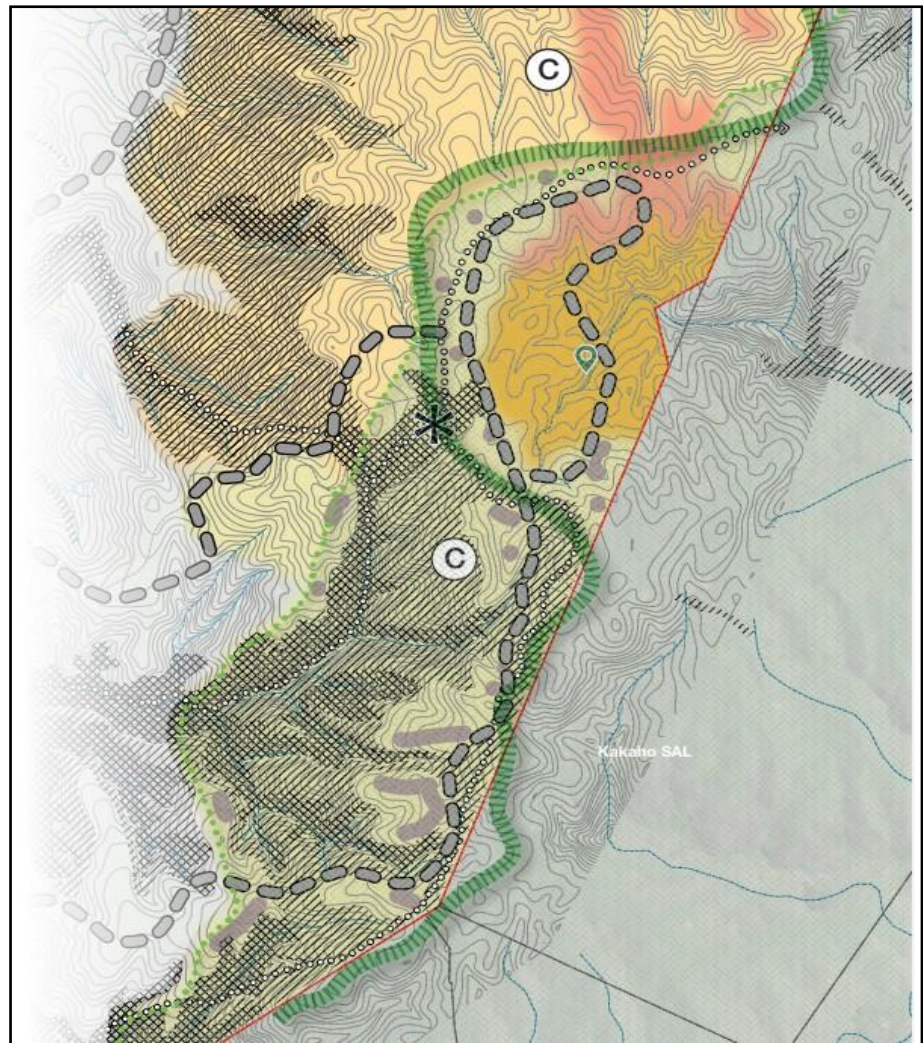


5. The notified open space plan was as follows:



ATTACHMENT ONE

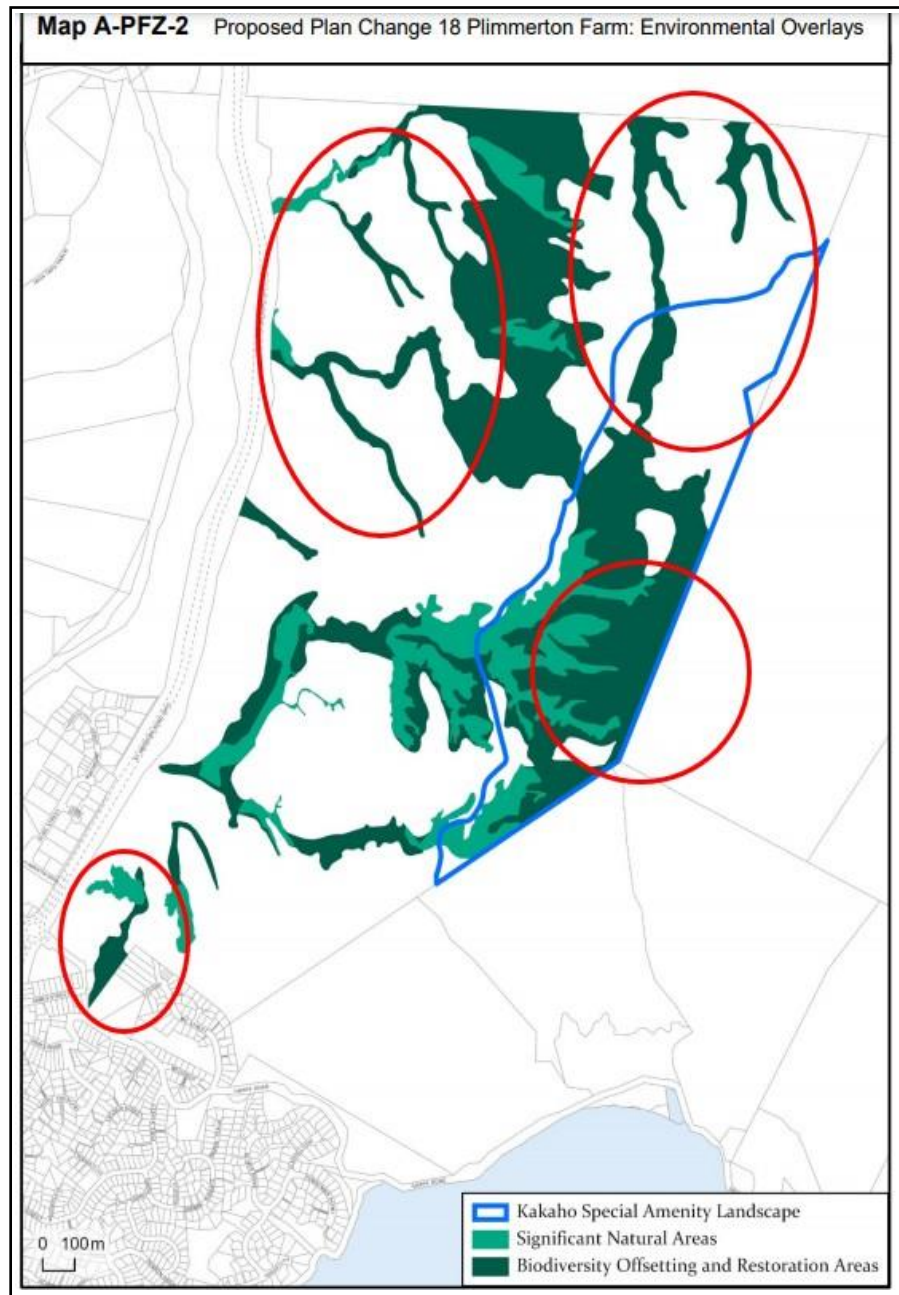
6. The notified **Precinct C plan** was also as follows:



7. Significantly, in the notified version of the applicable precinct plans (above), the top of the green spine in precinct C is shown as development area. This contrasts with the notified Environment District Plan map that includes this area as BORA as well as significant tracts of land throughout the precincts. Refer notified District Plan environment overlay map as follows:



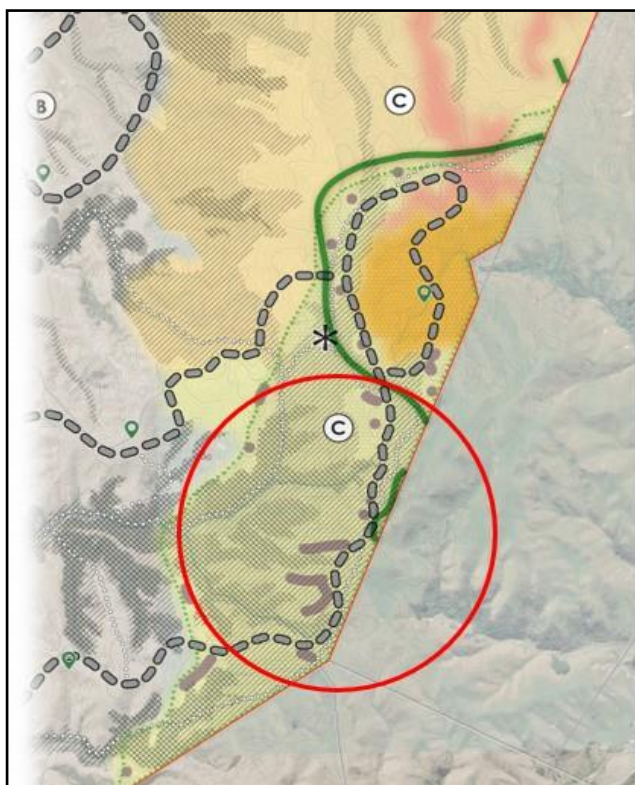
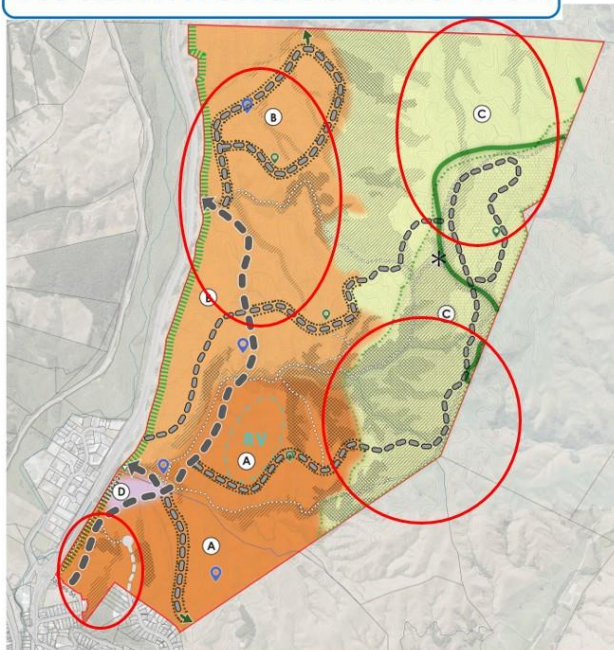
ATTACHMENT ONE



8. In short, there are areas shown on the above plan as BORAs, which are inconsistent with the Precinct Plan, as notified.
9. The Precinct Plan map was then updated in the s42A Report (although without any scope through any submission) to now include those areas of BORA that were on the notified district plan maps: refer the section 42A report precinct plan maps reproduced below.



Recommended Insertion



10. At the same time, the relevant Precinct C Plan in the Section 42A report showed the additional BORA, as follows but also illustrates the areas identified for development and referred to in the Precinct C provisions (refer purple areas):

## ATTACHMENT ONE

11. This plan persists through to the reply version of the plans, which are also updated from the s42A versions to reflect Mr Goldwater's assessment of wetlands etc.
12. The critical issue is, because of the earlier updating of the relevant plans through the s42A stage, but without scope, the Panel does not therefore have jurisdiction to recommend approval of the proposed District Plan map as per the Right of Reply version – as the jurisdictional error has been carried through.
13. The inclusion of all areas identified on the earlier landscape assessment reports as BORA in the Section 42A report is very obviously an error but a significant one at that. This is evidenced in the fact that the movement network and Precinct C plan has continued to illustrate a road and development areas in the area above the green spine.
14. Accordingly:
  - (a) the right of reply environment map needs to be updated to remove all additional BORA areas that were not included on the notified precinct plan maps; and
  - (b) the right of reply precinct plan maps need to be updated to remove all of the additional BORA areas that were added to the plans that accompanied the s42A report.
15. The jurisdictional basis for these changes are that they are “errors” arising from a lack of scope, as well as to avoid an internal conflict between the various maps. In particular, in terms of jurisdiction, in all of the precinct plan documents, the area at the top of the green spine was excluded and it is the precinct plan that is referred to extensively throughout the plan change provisions – and there were no submissions that sought to reduce or change the extent of the BORAs. If the relevant plans are not updated, this will only lead to later confusion, and potential challenges, to the application/ implementation of the Plan Change.

BEFORE AN INDEPENDENT HEARING PANEL APPOINTED BY PORIRUA CITY COUNCIL

**IN THE MATTER OF** the Resource Management Act 1991

And

**IN THE MATTER OF** a hearing by Independent Commissioners appointed by the Porirua City Council to consider and make recommendations in a report to the Minister for the Environment on submissions to Proposed Plan Change 18: Plimmerton Farm to the Porirua City District Plan

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**Final Report and Recommendations**

22 December 2020

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## Final recommendation

8.78 We consider that our recommendations will provide greater certainty about the restoration, ownership and ongoing management of the BORAs, which was a concern we heard at the hearing and which we accept. For example, the LMP was considered by many to be deficient in not requiring an obligation for the restoration of BORAs. The EIBMP proposed in the right of reply version of PC18 was an improvement on this issue and we have added to it through clear strategic policy direction.

### Mapping of BORAs

- 8.79 PDL in its comments on our draft report raised concerns over the location of the BORAs and the differences between the Precinct Plans and the Planning Maps. The notified version of PC18 defined BORAs as areas identified on the Planning Map not to the Precinct Plans. That definition has remained. Therefore, anyone looking at the location of BORAs would rely on the Planning Map as the definitive answer.
- 8.80 We agree with PDL that as notified the Precinct Plans and the Planning Maps for BORAs were inconsistent. We also agree that that this is an issue for PDL. As no one recognised this inconsistency there were no submissions and we received no evidence on it. For example, we do not know if the areas of BORA were told about (including in PCC's reply) relied on the Precinct Plan or Planning Maps areas. Our understand is, and by definition it should have been, the later.
- 8.81 It appears as PDL says that the Precinct Maps were brought in line with the Planning Maps through the s42A report. Unfortunately that change, as the error with notification, was not identified by any party. We have closed the hearing and consider that changing the Planning Map (which is the critical map for BORAs as opposed to the Precinct Plans) goes beyond what we can address at this stage. It is likely submitters (and certainly we did) referred to the Planning Map.
- 8.82 For completeness, while not raised by PDL, we considered the use of Schedule 1, clause 16 but, for the reasons above, do not consider that such a change would be a "*minor change*" as required by that provision.
- 8.83 While we have sympathy for PDL, we do not consider we can make this amendment now. There is a resource consent avenue for development within a BORA. Alternatively, during the process there has been mention of 'folding' PC18 into the proposed district plan at the right time. It appears from what PDL said in its comments that subdivision is unlikely to start in the affected areas and there may be an opportunity to amend the Planning Maps through such a process.