

IN THE MATTER OF: **THE RESOURCE MANAGEMENT ACT 1991**

AND

IN THE MATTER OF: **REVIEW OF DISTRICT PLAN FOR PORIRUA CITY**

**MEMORANDUM in RELATION
to
DISTRICT PLAN HEARINGS**

ROBYN SMITH

16 December 2021

MAY IT PLEASE THE PANEL

Overview

1. This Memorandum is filed in relation to the review of the District Plan for Porirua (the PDP), and Hearing Stream 2.
2. I am a submitter on the PDP (submitter no. 168).
3. As far as the extent of ONFL003 is concerned my submission sought this outcome.

“Amend the ONFL policy to include all of Whitireia Park, except small footprints of modified landforms in the Golf Club and RNZ mast and building area. Opposed to any amendment to the provisions of the PDP by way of submissions by others, or by council officer evidence and/or recommendations, that would result in the extent of the ONFL policy overlay as it relates to Whitireia Park being reduced.”¹

4. As the Panel will be aware about 30 other submitters sought this outcome.
5. In response to my submission point about the appropriate extent of the Outstanding Natural Features and Landscapes overlay as it applies to Whitireia Peninsular (ONFL003) the Panel has sought a further landscape assessment.²
6. The Panel’s request reads:

“Please provide a landscape assessment of the area of Radio NZ land the Whitireia Park Restoration Group and Ms Smith have sought to have added to the Whitireia Park ONFL – specifically, would that area qualify as either an SAL or ONFL in its own right?”

¹ Refer submission point 168.7

² Refer the 28th bullet point in Paragraph 7 of Minute 9 dated 9 November 2021

Scope

7. The purpose of this memorandum is to seek the Panel's leave to file further representations with respect to my submission point 168.7, and for similar leave to be granted to other submitters in respect of the same matter.

Consideration

8. The Panel has directed the Council to respond to its request for a further landscape assessment by 22 December 2021.
9. In Minute 7 the Panel has foreshadowed the usefulness of allowing subsequent representations including rebuttals. More specially, the Panel made these observations:
 - a) *"...provision of rebuttal by Council as a useful addition to the hearing procedures, because it will assist in highlighting the issues in contention."*
 - b) *"We do not consider that the merits of rebuttal evidence are limited to the Council."*
 - c) *"It is important to record that the purpose of rebuttal evidence is to respond to evidence that could not reasonably have been anticipated prior to that."*
10. I consider observation (c) above to be particularly relevant to the circumstances applying to my submission point 168.7, and to those of other submitters concerned about the same issue.
11. The assessment the Panel has asked the Council to provide will relate to matters not encompassed by Ms Armstrong's evidence in chief.
12. Without the allowance to provide rebuttal representations submitters, such as me, will be, in essence, shut out of the process.
13. My concerns about this situation as it applies to these proceedings (in general) were noted in my memorandum of 6 December 2021 in relation to

the proposed zoning on the land between Plimmerton Farm and the road formerly known as SH One.³

14. I consider that the need for a meaningful landscape assessment in response to the concerns of many submitters should have been apparent to council staff and council advisors soon after the close of submissions on 20 November 2020.
15. Accordingly, the Council has had about 12 months to respond to the points made by submitters but has elected to essentially cast those aside based on two factors:
 - a. the brief given to its landscape advisor did not encompass evaluating potential inclusion of other land;⁴ and,
 - b. Ms Armstrong mistakenly presumed that the land submitters wanted to be added to ONFL003 formed part of the Golf Course.^{5 6 7}
16. My submission, and those of 30 other submitters, have raised legitimate resource management issues. The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development is a matter of national importance.⁸
17. The council staff s.42A recommendations are to reject these submissions.
18. The council staff s.42A recommendations rely on a landscape assessment that is inadequate in the circumstances.
19. Panel has rightly asked the Council to provide an additional assessment.

³ Refer Paragraphs 11 – 21 of my memorandum dated 6 December 2021.

⁴ Refer Paragraph 37 of Ms Armstrong's evidence in chief: *"... Isthmus did not undertake a detailed evaluation of the parts of Whitireia Park outside the proposed ONFL boundary ... as this was outside our brief ... "*

⁵ Refer Paragraph 37 of Ms Armstrong's evidence in chief: *"... we considered that the golf course area generally exhibits quite different values and character to the defined ONFL."*

⁶ Refer Paragraph 37 of Ms Armstrong's evidence in chief: *"We confirmed it as appropriate that the golf course be largely excluded from the ONFL."*

⁷ Refer Paragraph 40 of Ms Armstrong's evidence in chief: *"I consider that the Whitireia ONFL boundary is appropriately defined, with the golf course land predominantly excluded."*

⁸ Section 6(b) of the RMA.

20. The Council has had a substantial time to provide meaningful analysis of the issues raised by submitters.
21. Submitters should be given an adequate opportunity to comment on the Council's response to the Panel's request, with the time for provision of submitters' comments reflecting the time previously available to council staff and advisors.
22. Considering the significance of the issues raised by submitters, which are the subject of the Panel's request, it is reasonable for the Panel to grant submitters a generous time within which they may choose to reply to, or provide further representations in respect of, the landscape assessment to be provided by the Council.

Request

23. I ask the Panel to:
 - consider the issues I have identified; and,
 - grant leave to all submitters in respect of issues relating to ONFL003⁹ to file representations (that may or may not be evidential) should they chose to do so; and,
 - direct that any such representations be filed by 29 April 2022.

Conclusion

24. Thank you for your time and consideration.

Dated 16 December 2021.



Robyn Smith

⁹ Namely, submitters: Andrew Brunton [221.4], Edmund Stephen-Smith [245.4], Fraser Ebbett [243.4], Paula Birnie [236.4], Luke Davia [226.3], Nathan Cottle [257.4], Luke Davia [226.3], Anita Hilliam [269.4], Yasemin leana Kavas [268.4], Adibah Saad [270.4], Friends of Taupo Swamp & Catchment Inc [178.4], David Nicholson [171.4] Donna Lee Ford-Tuveve [197.4], Thomas Graham [208.4], Josh Twaddle [206.4], Whitireia Park Restoration Group [150.4], Miriam Freeman-Plume (166.4), Geoff Marshall [161.5], Emma Weston [142.4], Nikita Howe [133.4], Tina Watson [132.4], Zachariah Paraone Wi-Neera [131.4], Rebecca Cray [128.4], Melissa Radford [127.4], Sharon Hilling [129.4], Robert Hughes [80.4], Lesley Wilson [3.4], Chrissie Areora, [88.5], Tatiana Areora [87.4], Gay Ojaun [105.4],

