

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
REVISED HEARING SCHEDULE**

ROBYN SMITH

17 December 2021

MAY IT PLEASE THE PANEL

1. This Memorandum is filed in relation to the Panel's invitation (by email dated 16 December 2021) seeking comment on the Council's request to amend the hearing schedule for the Porirua District Plan review (the PDP).
2. The memorandum from Mr Stewart McKenzie (PCC's Environment and City Planning Manager), dated 16 December 2021, provides relevant background to the request and at Paragraph 3 provides specific reasons; the primary reason being the "unavailability of experts".
3. Mr McKenzie also suggests that a change to the hearing schedule is required because: *"Officers will also require additional time to consider the implications of the Resource Management (enabling housing supply and other matters) Amendment Act with respect to their recommendations on submissions."*
4. I am concerned about the implications of this statement. On the face of it this statement suggests it's possible for the provisions of the 2021 Amendment Act to 'colour' the s.42A reports.
5. If this is indeed the case, then isn't it equally as likely that the provisions of the 2021 Amendment Act may 'colour' what submitters may have said in their submissions if given the opportunity. The amendments to the PDP procedures Mr McKenzie suggests don't provide the same opportunity for submitters as he is seeking for council officers.
6. This would appear contrary to the principles of natural justice.
7. I suggest that the implications of the Amendment Act should be approached from a more 'first principles' perspective; namely,
 - a. either, the Amendment Act has implications for Hearing Streams 5 and/or 6 in which case the relevant aspects of the PDP need to be withdrawn and considered via the variation required under the 'new Part 5 of Schedule 12' (https://www.legislation.govt.nz/bill/government/2021/0083/latest/LMS566218.html?search=ts_act%40bill%40regulation%40deemedreg_enabling+housing_resel_25_a&p=1)
 - b. or, the Amendment Act has no implications for Hearing Streams 5 and/or 6, in which case officers and submitters will be able to proceed as though there was no Amendment Act.
8. I'm uncomfortable with the concept of this important 'judgment call' (about the implications of the 2021 Amendment Act) being made by council officers.

9. I respectfully suggest that this might be one of those situations where the Panel may usefully seek the assistance of external legal counsel that is independent from legal advice being relied upon by the Council or any other party.
10. I ask the Panel to review the matters raised in this memorandum.
11. Thank you for your time and consideration.

Dated 17 November 2021.

A handwritten signature in black ink, appearing to be 'Robyn Smith', written in a cursive style.

Robyn Smith