

RMA FORM 5



## Submission on publicly notified Proposed Porirua District Plan

Clause 6 of the First Schedule, Resource Management Act 1991

To: Porirua City Council

1. Submitter details:

Full Name	<i>Last</i> McNamara	<i>First</i> Frances
Company/Organisation <i>if applicable</i>		
Contact Person <i>if different</i>		
Email Address for Service	fands@xtra.co.nz	
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	<i>Work</i>	

2. This is a **submission** on the **Proposed District Plan** for Porirua.

3. I could  I could not   
gain an advantage in trade competition through this submission.  
(Please tick relevant box)

If **you could** gain an advantage in trade competition through this submission please complete point four below:

4. I am  I am not   
directly affected by an effect of the subject matter of the submission that:  
(a) adversely affects the environment; and  
(b) does not relate to trade competition or the effects of trade competition.  
(Please tick relevant box if applicable)

Note:

*If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.*

5. I wish  I do not wish   
 To be heard in support of my submission  
*(Please tick relevant box)*

6. I will  I will not   
 Consider presenting a joint case with other submitters, who make a similar submission, at a hearing.  
*(Please tick relevant box)*

Please complete section below (insert additional boxes per provision you are submitting on):

<b>The specific provision of the proposal that my submission relates to:</b>
We wish to make a submission to the Proposed District Plan regarding the extent of and rules pertaining to Significant Natural Areas, SNAs.
<b>Do you: Support? Oppose? Amend?</b>
Amend
<b>What decision are you seeking from Council? What action would you like: Retain? Amend? Add? Delete?</b>
Amend – we have outlined our concerns in the attached PDF, and included a proposal that would resolve those concerns for Council consideration.

<b>Reasons:</b>
<p>These are provided in the attached nine-page PDF (<b>submission-McNamara.pdf</b>).</p> <p>This document includes an Appendix of 3 maps that illustrate the points raised.</p>

Please return this form no later than **5pm on Friday 20 November 2020** to:

- Proposed District Plan, Environment and City Planning, Porirua City Council, PO Box 50-218, PORIRUA CITY or
- email [dpreview@pcc.govt.nz](mailto:dpreview@pcc.govt.nz)

Signature of submitter  
(or person authorised  
to sign

on behalf of submitter):

\_\_\_\_\_ Date: \_\_\_\_\_

*A signature is not required if you make  
your submission by electronic means*

We wish to make a submission to the Proposed District Plan regarding the extent of and rules pertaining to Significant Natural Areas, SNAs.

Our address is 6 Lodestar Lane, Whitby; and the SNA that impacts us is SNA076.

### Background

1. The legal introduction of the SNA in the Proposed District Plan at the end of August 2020 was unexpected.
2. The letter we received in June 2018 outlined several opportunities for further feedback before the plan was to be Operative. It also reassured owners that they “will **not** need to get a resource consent every time you want to trim trees, remove pest species, or undertake routine maintenance around your house”. The letter went on to say that the Council wished to “create policies in the District Plan that allow you to undertake reasonable maintenance and improvement on your property, whilst preserving landscapes and biodiversity for the district as a whole”.
3. There was no indication that the implementation of the SNA’s was about to have legal effect<sup>1</sup>.
4. Given the reassurances in the June 2018 letter, we were relaxed about the way the SNA policy was developing: we were pleased that the Council had taken on the feedback from owners about the potential cost impact of a resource consent requirement, and, provided we were able to undertake reasonable maintenance and improvement, we were pleased to be participating in the preservation of the vegetation.
5. It was with some dismay that we read Part 2: *District-Wide Matters, Natural Environment Values, ECO - Ecosystems and Indigenous Biodiversity*, in the Proposed District Plan. Replacing the need for a resource consent is the standard stating that<sup>2</sup> “trimming, pruning or removal” is only permitted “where there is imminent threat to the safety of people or property”; and that “any removal is undertaken or supervised by a suitably qualified arboricultural expert”.
6. We are no longer relaxed about the implementation of SNA’s and wish to make the following submission.

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<sup>1</sup> In an email to [dppreview@porirua.govt.nz](mailto:dppreview@porirua.govt.nz) we asked if the imminent legal status was notified, and were told (25/9/2020) that it was: in the FAQ section on the PCC website, the link to which was provided in the letter. Given we had no further questions about the process, we didn’t look at the FAQ page. And if we had, I doubt that we would’ve concluded that having “legal effect from public notification of the District Plan” meant when the **Proposed** District Plan was released; our assumption would be that means from when it replaces the current Plan

<sup>2</sup> for ANY work other than that within 3m of the home

Our concerns

1. Our concerns with the SNA as it impacts us are:
  - a. given the dimensions of our property and the extent of the SNA the Council has identified, the SNA provisions are vastly more restrictive than the general residential zoning. Even if we were to seek and gain a consent (at significant cost), there is no question that the SNA provisions prevent us from doing what we would otherwise be allowed to do as of right with our property.
 

Specific examples include:

    - i. the severely restrictive ability for any routine maintenance or improvement, and the cost of that
    - ii. the fire risk of a large area of increasingly tall, highly flammable vegetation close to the house
    - iii. the impact of the increasingly high vegetation will have on the sun and views from our home, and on our garden
  - b. the method used to map the SNAs

A: The percentage of the property in SNA

1. We bought this property for the potential the large area offered, because we wanted a large property to develop, and for the extensive sun and views the house site offered.
2. The area of SNA vegetation on our property is approximately 1850 square metres. The area of SNA is located along predominately the west boundary, and some along the north boundary. The house is in the south east corner, at the highest point, and the land falls to the west, north and east from the house.
3. The land area is 4327m<sup>2</sup>, however not all of this is usable. It encompasses part of Lodestar Lane (it is a private road); and there is an existing covenant on our title for a large Totara Tree.
4. The areas are (approximately<sup>3</sup>):
  - SNA: 1850m<sup>2</sup>,
  - private road: 680m<sup>2</sup>
  - totara covenant: 230m<sup>2</sup>
  - total property 4327m<sup>2</sup><sup>4</sup>
5. This means that 2760m<sup>2</sup>, or 64% of our property, is taken by SNA, totara covenant, and road.
6. Even leaving the road area out of the equation, the area taken by SNA and the covenant is 2080m<sup>2</sup>, or 48% of the entire property.

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<sup>3</sup> SNA, road and totara covenant were measured using the area tool on the Proposed District Plan maps website

<sup>4</sup> area from the property title

7. Having around half, or more, of our property subject to restriction is excessive, and will incur significant costs

It is all take and no give: there are no incentives offered, nothing offered in exchange, no rates relief proposed.

#### B: Routine maintenance, and it's cost

##### **ECO-S1 3.** *'Any removal is undertaken or supervised by a suitably qualified arboricultural expert'*

1. It is good that the council has removed the need for resource consent for routine maintenance (as was proposed earlier); however swapping that for the need for property owners to employ an arborist, even in a supervisory manner, is simply changing one cost for another. So, our feedback from an earlier request from Council for input remains, that this feels unreasonable.
2. The cost of employing an arborist to do even the most minor work is, in our case, going to be a considerable sum, given the area of SNA 076 affected by our property is around 1800 square meters.
3. Michael Gorrie, arborist from Leaves and Trees Ltd, visited our property 14<sup>th</sup> October. He estimated his team would need three days to do basic maintenance: remove fine, dry, or dead material within the tree, such as twigs, needles and leaves (these items all present a fire risk, see next section), and checking for and removing any dead trees. The latter is also required as there are dead trees in both our and our neighbours block that are rotten, however still standing. Possibly these are manuka, which have been outgrown by the kānuka, and therefore died. Both of us have put our hands out while moving down the blocks only to have the trunks snap causing a fall.

Michaels' estimate is \$5,000 + GST per year– this is almost the cost of our yearly rates bill.

4. Note that this is not the cost to work through the entire area covered by the SNA – that would be closer to \$20,000 (15 days work at \$1,300 + GST for the team per day). This would remove all deadwood and dead trees, however Michael felt it would be better achieved doing the most pressing areas each year. This had been our approach also, prior to 28 August.

#### C: The fire risk

##### **ECO-R1 1, a, iii** limits the removal of vegetation to *'within 3m from the external wall or roof of a building.'*

1. We submit that this is too restrictive and should be able to be extended to 10m (and further in certain circumstances), based on fire safety.

2. Given the proximity and size of SNA076, we sought advice from Fire and Emergency NZ. They directed us to their website: “Protect your home from outdoor fires<sup>5</sup>”, and “Landscaping for fire safety<sup>6</sup>”. We were hoping to get an assessment of the fire risk to our home, and our neighbours at 8 Lodestar Lane, but to date have not been able to secure someone in the available time. We would like the opportunity to tender a report later if we are able to get one.
3. We believe the information from the Fire and Emergency NZ website to be relevant to 6 and 8 Lodestar Lane:
  - a. “ground fires will burn faster upslope or downwind”
    - i. Both our homes are situated upslope of the vegetation area, and in the path of the prevailing north-west winds
  - b. “if it’s attached to the house, it’s part of the house”
    - i. The measurement of 3m from the external wall or roof of the building does not appear to consider fire risk; we suggest the measurement should be from any deck, pergola etc attached to the house.
  - c. “make sure there are no large heat sources near your house, such as....large trees”
  - d. “remove all trees.....within 10m of your house as they are fuel for fire”
  - e. “thin trees (with 3-6meters between crowns) for at least 30m from <the> house, this reduces how far and fast a fire can spread”
4. And from Landscaping for Fire Safety:
  - a. “Highly flammable plants can have the following characteristics: contain fine, dry, or dead material within the plant, such as twigs, needles and leaves”
    - i. The areas of manuka/kānuka on our property contain large amounts of fine, dry and dead material.
  - b. “Avoid planting highly flammable plants such as manuka, kānuka and eucalyptus around your home”
  - c. “Highly flammability species burn readily at low to moderate fire danger conditions”
5. We appreciate there can be a tension between the desire to retain native vegetation and fire safety. In Australia and North America, the number and ferocity of forest fires appears to be increasing. And of course, there is the most recent example in New Zealand at Lake Ohau. Scientists are telling us that the risk of vegetation fire is going to increase.
6. It feels irresponsible of the Council to prevent homeowners the option of removing or trimming highly flammable vegetation on their property: rule **ECO-R1 1, a, iii** is completely in contradiction to advice from Fire and Emergency NZ.

D: Impact of the increasingly high and spreading vegetation also has on the sun and views from our home and on our garden

1. We have always appreciated that our property has existing native vegetation, especially that in the south west corner where silver ferns grow, and native clematis has made its way to the top of the manuka/kānuka canopy.

<sup>5</sup> <https://fireandemergency.nz/at-home/protect-your-home-from-outdoor-fires/>

<sup>6</sup> <https://fireandemergency.nz/farms-rural-properties-and-rural-businesses/landscaping-fire-safety/>

2. In over 20 years, we have barely touched the area of the native vegetation. We removed that necessary to build the house, and a few trees over time as their height increased or their canopy spread. This was to preserve the sun and views; to alleviate the concern of their proximity in case of fire; and to keep them from stunting growth in the garden and orchard. In our view this was reasonable maintenance; and had the added advantage of promoting the growth of self-sown natives.
3. We understand that kānuka has the potential of reaching 15 - 20m<sup>7</sup>. We estimate the current height to be 8m, so, if untouched, we will lose our sun and views to the north and west over time. This seems counter intuitive when councils are actively encouraging homes to be built to maximise the warmth from the sun.
4. The spread of the canopy on the edge of the SNA will, again if left untouched, provide too much shade for the orchard and for other parts of the garden. The garden contains trees and shrubs planted in memory of family members; to lose these due to the increasing canopy cover of the manuka/ kānuka would be heart-breaking.

E: The method for mapping the SNA is problematic

1. Has the council considered the consequences of the line that defines the edge of the SNA? The line in question aims to represent the canopy edge of the protected vegetation as at the release of the Proposed District Plan, 28 August 2020. However, the aerial imagery used for the purpose was flown February 2020
2. We see a couple of issues:
  - a. there could be changes between February and August, and where there are, it is difficult to provide an accurate updated line. In our case the boundary is incorrect and we have attempted to provide an updated line, (yellow line on Map 1 in the Appendix) but it is almost impossible to ascertain if it is accurate.
  - b. the canopy of the vegetation is going to continue to increase, particularly in the direction away from the SNA and into the “non-SNA” areas of owners’ property. So, what happens to overhanging branches in non-SNA areas? Given they are not within an SNA, we assume owners can remove overhanging branches at will.

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<sup>7</sup> <https://www.gw.govt.nz/assets/Manuka-plantation-guide-landcare-April2017.pdf> “Fully mature kānuka commonly grows to 15m tall and sometimes as tall as 20m”

## PROPOSAL

We propose an alternative boundary for SNA076 on our property.

1. There is an old farm track that runs almost parallel to the council's SNA boundary. It is visible on LIDAR imagery<sup>8</sup> and has been scaled from this image and added to Map 1 in the Appendix (blue line)

Since owning the property, we have cultivated and planted under the existing vegetation in the area from the farm track towards the house, predominantly natives, but some not.

However, the area below the track, towards the west, is pretty much untouched with many natives self-sowing as the trees let in more light.

We have attempted to obtain an expert report on the suitability of this proposal but have not been able to find an ecologist willing and available in the timeframe. We would like the opportunity to tender a report later if we are able to get one.

2. We propose the area from the west boundary to the farm track becomes the area of SNA. We believe this solution to be advantageous on many levels:
  - a. the track is a fixed, visible boundary, and can be easily surveyed if required. Future owners of the property will always know exactly where the area of SNA begins.
  - b. the SNA would then be far enough from the house to pose a substantially lower fire risk
  - c. it does not impact any of the existing garden planting
  - d. the need for an arborist would be far less, possibly nil, given the reduced size and distance from the house
  - e. as the area is considerably downhill from the current SNA edge, it would not impact sun and views, even when the trees are fully grown
  - f. there appears to be a precedent for setting the SNA boundary further than 3m from the house nearby, for example 45 – 55 Navigation Drive, Whitby; see Appendix, Map 3, showing two of these properties, where the SNA appears to start at the property boundary rather than 3m from the homes.

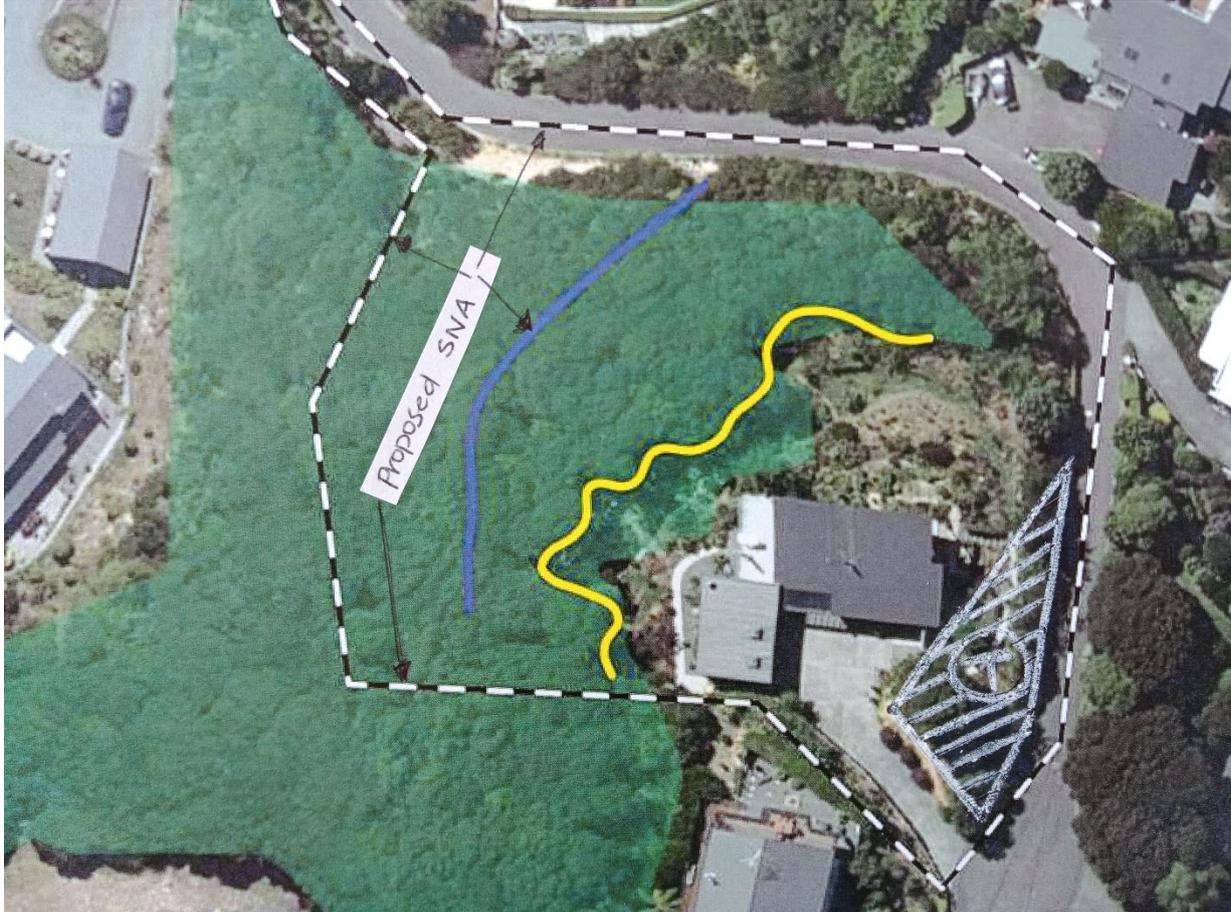
In conclusion, we appreciate that much of this submission relates specifically to our property, and to some extent, that of our neighbours at 8 Lodestar Lane, and may not pertain to properties with a smaller area of SNA. Also, that there may be other solutions. We would welcome a separate discussion with council if that would be helpful.

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<sup>8</sup> see Appendix, Map 2

APPENDIX of photos and maps

Map 1: Proposed extent of the SNA



**Key:**

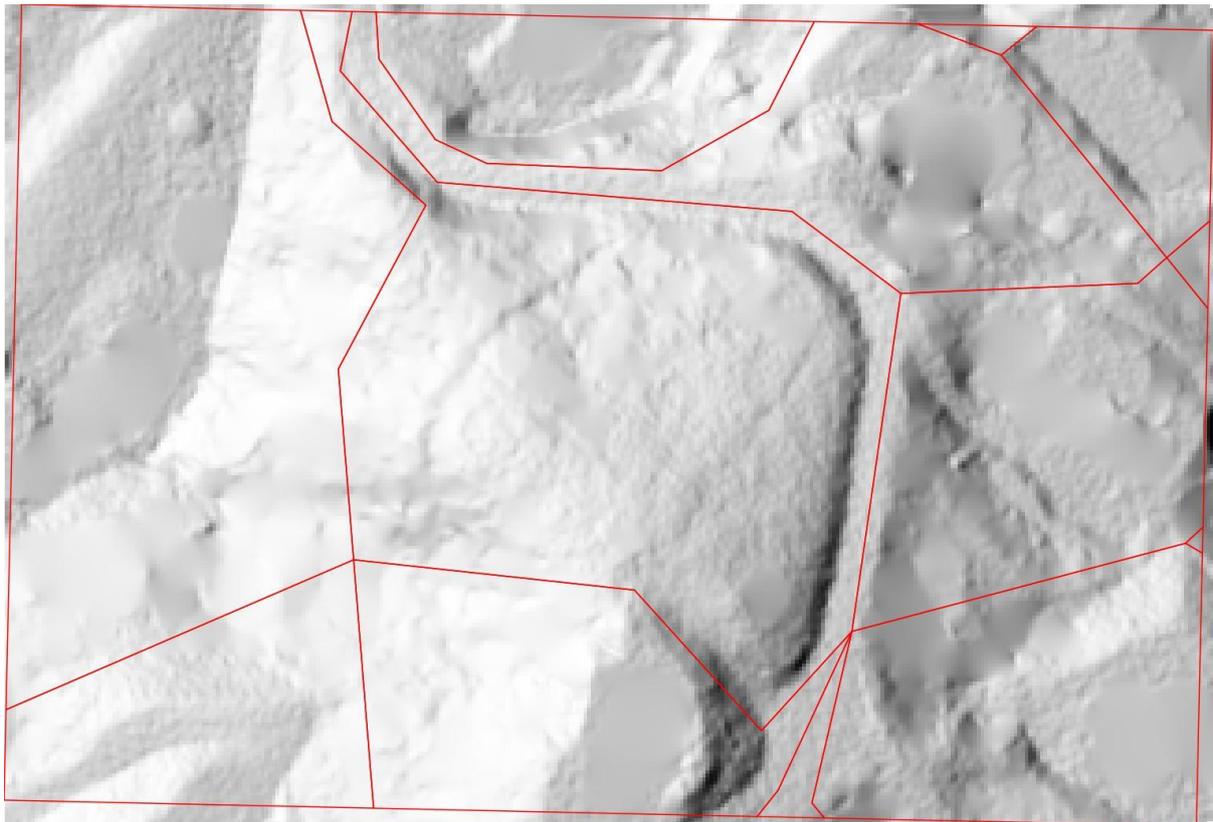
Blue line = location of old farm track

Yellow line = estimated line of vegetation canopy as at 28 August 2020

White hatched area = Totara covenant scaled from property title

Green shaded area = SNA extent from maps in Proposed District Plan

Map 2: LIDAR image<sup>9</sup> with old farm track clearly visible



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<sup>9</sup> From Land Information New Zealand's LINZ Data Service

Map 3: Possible examples of where the SNA starts at the property boundary, rather than 3m from the homes

