

**IN THE MATTER**

of the Resource  
Management Act 1991

**AND**

**IN THE MATTER**

of Hearing of Submissions  
and Further Submissions on  
the Proposed Porirua  
District Plan

**Minute 2 – Hearing Procedures**

## Table of Contents

|   |    |
|---|----|
| Introduction .....                                      | 3  |
| Membership and Role of the Hearings Panel .....         | 3  |
| Principles of Hearing Process .....                     | 4  |
| Management of Potential Conflicts of Interest .....     | 5  |
| Council Involvement in the Hearings .....               | 6  |
| Pre-circulation of Submitter Evidence .....             | 8  |
| Format of Expert Evidence.....                          | 10 |
| Expert Conferencing .....                               | 10 |
| Submitter Representations and Non-expert Evidence ..... | 11 |
| Tabled Evidence/Representations.....                    | 12 |
| Additional Evidence .....                               | 13 |
| Hearing Schedule .....                                  | 13 |
| Format of Hearings .....                                | 19 |
| On the Day.....   | 20 |
| What Happens After Each Hearing Concludes.....          | 23 |
| Site Visits .....                                       | 23 |
| Key Contacts .....                                      | 24 |

## Introduction

1. Porirua City Council (the Council) gave public notification of its Proposed District Plan on 28 August 2020. The Porirua City Proposed District Plan will be described as the “PDP” in the balance of this Minute for convenience.
2. Over 270 submissions were filed in response to that notification.
3. A summary of those submissions was publicly notified on 13 April 2021 and some 70 further submissions were lodged in response to that notice. References to submissions should be taken to include further submissions in the rest of this Minute unless otherwise stated.
4. A further public notice advised of errors in the Summary of Submissions, providing an opportunity for additional further submissions to be lodged in the first half of June 2021. One further submission was lodged as a result.
5. The purpose of this document is to outline the procedures for the hearing of submissions on the PDP that will commence on 27 September 2021. It was circulated in draft, under cover of Minute 1 dated 13 July 2021, and has been revised in the light of feedback received from submitters at a Hearing Procedures Conference held in Te Rauparaha Arena on 2 August. The Hearing Panel would like to thank all of the submitters who attended the Hearing Procedures Conference in person, or through their representatives, and who contributed both their time and their thoughts on different aspects of the draft procedures. A marked-up copy of the draft minute showing the amendments made to it will be available on the Hearings website. Alternatively, submitters can request a copy from the Hearing Administrator.
6. This Minute includes information as to how the hearings will be divided by subject matter and specific directions as to when and how evidence and legal submissions will need to be lodged for the first two sets of hearing topics. It also seeks to provide guidance on what submitters can expect when they appear at the hearing.

## Membership and Role of the Hearings Panel

7. The Council has appointed a five person Hearings Panel of Commissioners under Section 34A(1) of the Resource Management Act 1991 (RMA) to hear and make decisions on the submissions lodged in relation to the PDP. The Commissioners appointed are:
  - Trevor Robinson (Barrister based in Wellington) as Chair.

- David McMahon (Planner based in Wellington).
  - Miria Pomare (Independent Hearings Commissioner based in Porirua).
  - Mark St Clair (Planner based in Wellington).
  - Julia Williams (Landscape Architect based in Waikanae).
8. Pursuant to pre-existing delegations, the Hearings Panel has the power to make directions on procedural matters relevant to the hearing of submissions and further submissions on the PDP. These hearing procedures are issued by the Hearings Panel pursuant to those delegations. It is likely that the Hearings Panel will issue a number of procedural minutes during the course of the hearings process.
  9. It is proposed that all Hearings Commissioners will participate in the hearing of submissions relating to the PDP as a whole, integration between different parts of the PDP and definitions that apply across multiple parts of the PDP.
  10. Between two and four Commissioners will sit as separate Hearing Panels for all other hearing topics. The Chair will sit on each Panel. The allocation of Commissioners to hearing topics is set out below in the section discussing the division of the PDP into different hearing streams.

### Principles of Hearing Process

11. The Hearings Panel seeks to ensure that to the greatest extent practicable, the most appropriate, fair, and efficient hearing process is established while complying with the requirements of the RMA.
12. To this end, the Hearings Panel will establish and conduct hearing processes that:
  - **Are appropriate and fair:** each Hearing Panel will at all times act in a fair and transparent manner.
  - **Avoid unnecessary formality:** each Hearing Panel will be inclusive and acknowledge the broad range of interests of submitters and facilitate a process that provides all parties with the opportunity to be heard, whether they are presenting oral or written submissions and/or evidence.
  - **Are efficient:** each Hearing Panel will conduct an efficient process which minimises time and costs to all parties participating in the hearings. Each Hearing Panel will provide both the Council and all submitters with an adequate opportunity to be heard, while at the same time, avoiding unnecessary repetition and presentation of irrelevant material.
  - **Recognise Tikanga Māori:** each Hearing Panel will receive written or spoken evidence in Te Reo, if and when requested to do so by a submitter who has

given at least one week's notice to enable an interpreter to be available. Other methods to recognise and provide for Tikanga Māori in the hearing process will be incorporated, as advised by Ngāti Toa Rangatira.

- **Recognise New Zealand sign language:** each Hearing Panel will receive evidence in sign language, if and when requested to do so by a submitter who has given at least one week's notice to enable an interpreter to be available.

### Management of Potential Conflicts of Interest

13. A fundamental pre-requisite to a fair and transparent hearing process is the obligation on all Commissioners to bring an independent view and open mind to the role, free of any conflicts of interest that could result in bias and/or predetermination.
14. Conflicts of interest may arise, for example, where a Commissioner:
  - Has previously advocated or given evidence in support of a particular position of relevance to the finalisation of the provisions of the PDP; or
  - Has previously appeared as a witness or an advocate for a party who holds an interest and/or lodged a submission on the PDP; or
  - Has a private interest, including but not limited to an interest in property, which may result in an actual or perceived conflict of interest and/or bias.
15. As part of the appointment process, Porirua City Council required applicants for appointment as Commissioners on the PDP to declare any conflicts of interest. The Council did not identify any declared conflict as precluding appointment of the Hearings Panel members.
16. Following appointment, the Hearings Panel has collectively agreed to disclose any potential conflicts of interest to the Chair prior to and (where they become aware of same) during the hearings.
17. The vehicle for recording such interests is a "*Register of Interests*" which records previous and current involvements and/or interests held by Hearing Panel members. The Register will be updated by the Chair throughout the hearing process when and if potential conflicts come to light.
18. The Register of Interests will be maintained for the full term of the hearing process and will be available for public inspection upon request to the Hearing Administrator.

19. Any party to the hearing process is entitled to raise potential conflicts of interest with the Chair. Desirably, this should be done before the relevant day's hearing but, at latest, at the commencement of the relevant day's hearing.
20. The Hearings Panel have agreed that the Chair should determine whether a member of the Panel should stand aside from any specific hearing sessions (and consequently from the deliberations and decision-making arising from such sessions) by reason of any conflict of interest. If any issue arises in respect of the Chair's involvement and interests, the balance of members of the Hearing Panel concerned will determine the appropriate course of action.

### **Council Involvement in the Hearings**

21. A number of Council staff will be involved in the hearing process. Specifically:
  - (a) Section 42A Report authors;
  - (b) Where required, Council Officers providing expert evidence; and
  - (c) Hearing Administrator(s).

#### *Section 42A Reports*

22. Section 42A of the RMA provides for preparation of reports summarising and evaluating submissions relevant to a hearing topic and making recommendations on potential amendments to the PDP in response to submissions. Section 42A Reports will be prepared either by Council staff or external consultants and supported, where appropriate, by expert evidence. Such expert evidence might also be prepared either by Council staff or external consultants.
23. Where a particular hearing involves submissions on multiple PDP chapters, a number of Section 42A Reports may be prepared and publicly released prior to the relevant hearing. Where there are a number of submissions and/or the topics the subject of a hearing are complex, the Section 42A Reports are likely to be substantial documents in their own right.
24. The purpose of a section 42A report is to assist both submitters and the relevant Hearing Panel prepare for the hearing to which it relates.
25. Among other things, each Section 42A report will contain a schedule of the primary submission points it addresses, the author's recommendation in relation to each submission point, and the section of the report where the substance of any submission point that is seeking amendments to the PDP is addressed (where a number of submissions raise a similar point, they will likely be addressed

collectively). Submitters wishing to check whether their submission points are going to be heard in a particular hearing should check that schedule to confirm the position.

26. Following a request made at the 2 August 2021 Procedures Hearing Conference, the Council will put an annotated version of the Summary of Submissions with an additional column indicating the Stream Hearing each submission point will be heard in, on the Hearings website, to assist submitters to plan their preparation for the hearings. It is important to record that the allocation of submission points is subject to change as the Section 42A authors finalise their respective reports. Submitters should check the final Section 42A report(s) for each stream, once released, to confirm their understanding of what aspects of their submission will be heard.
27. Section 42A Reports prepared for each hearing, together with any supporting expert evidence, constitute part of the body of evidence to be considered by the relevant Hearing Panel, alongside the evidence of submitters.
28. All material related to the hearings will be uploaded to the Council's dedicated PDP hearings website. Details of this will be made available to all submitters well in advance of hearings commencing.
29. Section 42A Reports and any supporting expert evidence will be uploaded to the website not less than 20 working days prior to the hearing to which they relate. Where hearing topics involve substantial rezoning proposals (whether upzoning or downzoning) the Hearing Panel proposes to direct that Section 42A Reports be provided earlier in the hearing process, to give more time for preparation of submitter evidence.
30. Once Section 42A Reports are available online, the Hearing Administrator will contact submitters who indicated they wished to be heard on the relevant topic, providing a link to the relevant Section 42A Report. Hard copies of the Section 42A reports will also be available for submitters to consult in each Council library and at reception on the ground floor of the Council Administration Building, Cobham Court. If submitters are having difficulty accessing other PDP materials on line, they can seek the assistance of library staff, or the reception team at the Council Administration Building, who will be able to pull up material on screen there.
31. While Section 42A Reports will evaluate all submissions on the relevant hearing topics and make recommendations to the Hearing Panel considering those topics,

those recommendations are not binding on the Hearing Panel and carry no greater weight than any other evidence provided by or on behalf of any submitter.

32. The general approach of the Hearings Panel is that it will not make provision for pre-circulated rebuttal evidence by Section 42A Report authors or other Council expert witnesses. Again, those hearing topics involving substantial rezoning requests are likely to be an exception to this general policy, in order to assist a more efficient hearing process.

*Hearings Administration Team*

33. The Hearing Administrators are the 'point of contact' for submitters and the public (including the media) regarding the hearings.
34. All communications with the Hearing Panel outside the hearings proper from submitters and their representatives, Section 42A Report writers and expert witnesses must be directed through the Hearing Administrators.
35. The Hearing Administration Team will oversee the various administrative tasks needed to ensure an efficient hearing process, including:
  - (a) Issuing schedules and hearing notifications.
  - (b) Making hearing arrangements.
  - (c) Circulating Hearing Panel Minutes and other directions.
  - (d) Circulating evidence and reports for each hearing.
  - (e) Handling submitter inquiries.
  - (f) Handling public inquiries to the Hearings Panel.
  - (g) Generally assisting the Hearings Panel with logistical matters as required.
36. The Hearings Administration Team are also responsible for managing the PDP webpage to ensure that all necessary information to support an efficient hearing process is available to all participants.
37. Maria Joslin is the primary Hearing Administrator, but she will be assisted by other Council Officers when required. Parties may contact the Hearing Administrator at [dpreview@poriruacity.govt.nz](mailto:dpreview@poriruacity.govt.nz) or phone (04) 237 3863. If Maria is not able to take your phone call, ring the Council Call Centre on (04) 237 5089.

**Pre-circulation of Submitter Expert Evidence**

38. All submitters who have given notice of their intention to be heard on a hearing topic are entitled to appear at that hearing. Submitters may appear either in person or

through their authorised representative and a submitter's case may also be assisted by their bringing expert evidence before the relevant Hearing Panel.

39. An expert is a person equipped by training and experience to provide expert opinion on issues of relevance to the determination of the final form of the PDP. While most experts will have academic qualifications, that is not a prerequisite. Kaumātua and Kuia do not need a university degree to be expert at the cultural values of their iwi or hapū. Likewise, many people have acquired significant expertise 'learning on the job'.
40. The key thing is for an expert witness to demonstrate to the Hearings Panel both that they have the expertise to advance the opinions they provide, and the ability to act independently of the submitter who calls them to give evidence. So-called experts who act as advocates or 'hired guns', or who have conflicts of interest, are of little or no use to the Hearing Panel.
41. As discussed below, experts are required to confirm they agree to comply with the Environment Court Code of Experts, which reinforces this point.
42. The extent to which a submitter's case would be assisted by expert evidence will depend on the nature of the relief a submitter seeks. However, submitters should note that if they seek substantive changes to the notified plan provisions, their presentation needs to be accompanied by material which enables the relevant Hearing Panel to undertake an evaluation of their relief under section 32AA of the RMA. If the section 42A report author does not support the requested change, the submitter will likely need to do so by way of expert evidence on the subject. If you are in any doubt as to what you need to do to satisfy the technical requirements of the RMA you should consult the Friend of the Submitter at email: [FriendofSubmittersPDP@poriruacity.govt.nz](mailto:FriendofSubmittersPDP@poriruacity.govt.nz) or phone 021 532 284 (if you do not have your own planning or legal advice already).
43. Any expert evidence a submitter proposes to call must be pre-circulated in accordance with the timetable for the relevant hearing. Generally, the deadline for pre-circulation of submitter expert evidence will be ten (10) working days after circulation of the Section 42A Report on the relevant topic. However, in some cases, further time will be provided.
44. Each expert witness can only present one brief of evidence in each hearing. Where that expert witness is giving evidence for multiple submitters at a hearing, their evidence may be subdivided into appropriate sections to enable the different submitters' cases to be presented appropriately.

## Format of Expert Evidence

45. The Hearings Panel expects that all expert evidence will be in the form of a single compiled and unsecured PDF document, with numbered paragraphs, and page numbered for ease of reference. Expert witnesses must confirm their agreement to abide by the Environment Court's 2014 Practice Note, and in particular, Part 7 that applies specifically to expert witnesses, in the same manner as they would if appearing in the Environment Court.
46. Expert briefs of evidence should contain a brief (three page or less) executive summary.
47. Expert witness briefs must be in a minimum of 11 point and 1.5 spacing.
48. Expert evidence for submitters should be directed at the relevant Section 42A Report, identifying points of agreement and disagreement with precise cross referencing to the Section 42A Report, including in the case of planning witnesses, a marked-up version of the Plan provisions showing changes recommended from the Section 42A version. The Hearing Administrator will be able to supply experts with copies of the Plan provisions recommended in the Section 42A report in MS Word, on request. If the expert considers the Section 42A Report has not addressed a particular point, that should be dealt with separately.

## Expert Conferencing

49. The Hearings Panel Chair may direct that expert conferencing should occur either prior to or during a hearing. The Chair will identify the issues on which conferencing is required and indicate the relevant Hearing Panel's view as to the experts required to attend.
50. The aim of expert conferencing is to identify areas of agreement and disagreement. The Hearings Panel expects that, consistent with the agreement of experts to comply with the Environment Court Practice Note, experts will undertake conferencing in the same manner as they would in the Environment Court, including in particular:
  - (a) An expert witness has an overriding duty to assist the Hearings Panel impartially on matters within the expert's area of expertise; and
  - (b) An expert witness is not, and must not behave as, an advocate for the party who engages the witness. Expert witnesses must declare any relationship with the parties calling them or any interest they may have in the outcome of the proceedings.

51. The Hearings Panel's current intention is to only consider the potential for expert conferencing for experts other than planners and, where necessary, to schedule same following receipt of submitters expert evidence and prior to the hearing. The Hearing Panel will consider if it would be assisted by planning witnesses conferencing at the conclusion of each Stream Hearing.
52. Notwithstanding this, the parties to the hearings including Council are encouraged to consult on and conference on any matters at any time without the need for a specific direction from the Chair where they identify this to be potentially advantageous. Parties who have assembled the material relevant to their submission need not wait until the relevant Section 42A Report(s) have been released. They can contact the Section 42A author(s) before then. The Hearing Administrator will be able to advise contact details for the relevant Section 42A author.

#### **Submitter Representations and Non-expert Evidence**

53. Submitters may choose to present their submissions themselves or through their authorised representatives (including but not limited to legal counsel). Such presentations may take the form of submissions/representations or lay evidence. The difference between the two is that submissions/representations advocate for a particular outcome. Lay evidence is an objective statement of fact or opinion on matters relevant to the determination of an outcome. A submitter's presentation may combine both elements, but it is important to be aware and be clear of the difference between the two in your own mind.
54. All legal submissions and other written presentations that are longer than three A4 pages in length should be lodged with the Hearing Administrator not less than two working days before the commencement of the relevant hearing. If legal submissions refer to caselaw, counsel should either insert an electronic link to the cases or provide electronic copies separately. Hard copies of cases will not generally be required unless otherwise advised.
55. If a submitter wishes to present their submission using a power-point presentation, they should similarly provide the power-point in an electronic format to the Hearing Administrator at least two working days prior to the commencement of the hearing. This is to ensure compatibility with the electronic system at the hearing venue. The Council's IT security rules preclude documents being supplied on a data stick so if your document is too large to email, you will need to arrange transmission via one

of the services enabling documents to be downloaded from a website (Dropbox and the like).

56. Submitters have the option of presenting written representations on the day of the hearing, and read it aloud provided (as above) it is not longer than three A4 pages in length. If submitters are going to do this, and have not sent their written representation to the Hearing Administrator electronically prior to the hearing, they need to bring ten copies of any written material to the hearing and supply an electronic copy to the Hearing Administrator within two working days of completing their presentation.
57. If a submitter plans to speak verbally to their submission, that is fine, but only if their verbal presentation is less than the equivalent of three A4 pages read aloud (about 10 minutes). Otherwise, the Hearing Panel members will be too busy taking notes to take in what the submitter is saying – which is not helpful either to the Panel or the submitter.
58. Even if your verbal presentation is short, though, it is usually best to put your thoughts in the form of a written statement, both to help you focus on the key issues, and help the Hearing Panel who otherwise have to take notes of what you say rather than being able to concentrate on listening to you. If producing a typed version of what you want to say is a problem for you, a readable handwritten statement is fine.
59. Where a number of submitters are presenting a similar position on a particular issue, the Hearings Panel would encourage at least coordination between those submitters. Ideally submitters will nominate a representative to present representations that are common to the group. We emphasise that the hearing is not a numbers game. The Hearing Panel will be much more interested in the cogency of the reasons for a particular amendment to the PDP provisions than the number of people who appear to make the same point.

### **Tabled Evidence/Representations**

60. Where a submitter or their representative is unable to attend the hearing for a particular topic, they may choose to table written material in support of their submission. Such written material must be provided to the Hearing Administrator not later than the last day of the hearing concerned. Submitters should be aware that tabled evidence may be given less weight, because the Hearing Panel has been unable to ask questions of the witness/submitter.

## Additional Evidence

61. Once a hearing is completed, the Hearing Panel will not accept additional material on the matters the subject of that hearing other than in exceptional circumstances, which will require the approval of the Chair. Parties who seek such approval will need to address potential prejudice to other participants in the hearing process (including Council staff), and any disruption receipt of the material they seek to produce may cause to the efficient completion of the hearing process.

## Hearing Schedule

62. The Hearings Panel intends to hold a number of separate hearings, with each hearing considering specific hearing topics.
63. Hearing topics have been grouped with the objective of, as far as possible, hearing closely related matters in the same hearing. While it is hoped that this will reduce the demands on hearing participants, it is acknowledged that this approach will mean that some submitters may have to attend and participate in more than one hearing – depending on the scope of their submission perhaps a number of hearings. The Hearings Panel acknowledges that this approach may be disruptive to submitters' other work and family commitments. However, the Panel considers that its approach is the best balance between an efficient and manageable hearing process.
64. The hearings will generally be held up to four days per week (Monday to Wednesday and Friday). The hearing venue will be the Council Chamber, accessed via the side access to the PCC Administration Building on Hagley Street, Porirua.
65. The hearings will generally be held from 9am to 5pm.
66. The arrangement of topics into different hearings, and the allocation of Commissioners to each hearing is as shown in the following table.

| Hearing Stream | Topics  | Panel Members   |
|----------------|---|---|
| HS 1           | Over-arching matters<br>Plan-wide structural issues<br>Definitions applying across more than one hearing stream | Robinson<br>St Clair<br>McMahon<br>Pomare<br>Williams |
| HS 2           | Strategic directions <ul style="list-style-type: none"><li>Natural Environment</li><li>Tangata Whenua</li></ul> | Robinson<br>St Clair<br>Pomare                        |

| Hearing Stream | Topics  | Panel Members  |
|----------------|---|--|
|                | <p>Natural Environment Values</p> <ul style="list-style-type: none"> <li>• Ecosystems and Indigenous Biodiversity including the extent of land the subject of overlay</li> <li>• Natural Character including the extent of land the subject of overlay</li> <li>• Natural Features and Landscapes including the extent of land the subject of overlay</li> <li>• Public Access</li> </ul> <p>Cultural Values</p> <ul style="list-style-type: none"> <li>• Tangata Whenua</li> </ul> <p>Papakāinga</p>   | Williams   |
| <b>HS 3</b>    | <p>Strategic Directions</p> <ul style="list-style-type: none"> <li>• Resilience, Efficiency and Energy</li> <li>• Historic and Cultural Heritage</li> </ul> <p>Hazards and Risks</p> <ul style="list-style-type: none"> <li>• Contaminated land including extent of land the subject of overlay</li> <li>• Hazardous substances including extent of land the subject of overlay</li> <li>• Natural Hazards including extent of land the subject of overlay</li> <li>• Coastal Environment including extent of land the subject of overlay</li> </ul> <p>Historic and Cultural Values</p> <ul style="list-style-type: none"> <li>• Historic and Cultural Heritage including extent of land the subject of overlay</li> <li>• Historic Heritage including extent of land the subject of overlay</li> <li>• Notable Trees including the extent of land the subject of overlay</li> <li>• Sites and Areas of Significance to Maori including the extent of land the subject of overlay</li> </ul> | Robinson<br>St Clair<br>Pomare<br>Williams               |
| <b>HS 4</b>    | <p>Strategic Directions</p> <ul style="list-style-type: none"> <li>• Functioning City</li> </ul> <p>Energy, Infrastructure and Transport</p> <ul style="list-style-type: none"> <li>• Infrastructure</li> <li>• Renewable Energy Generation</li> <li>• Three Waters</li> <li>• Transport</li> </ul> <p>General District-Wide Matters</p> <ul style="list-style-type: none"> <li>• Amateur Radio</li> <li>• Earthworks</li> <li>• Light</li> <li>• Noise</li> <li>• Signs</li> <li>• Temporary Activities</li> </ul>   | Robinson<br>St Clair<br>Pomare                           |
| <b>HS 5</b>    | <p>Strategic Directions</p> <ul style="list-style-type: none"> <li>• Rural Environment</li> <li>• UFD-05 (subdivision)</li> </ul> <p>Subdivision (except urban zones)</p>   | Robinson<br>St Clair<br>McMahon <sup>1</sup><br>Williams |

<sup>1</sup> Commissioner McMahon will not participate in the hearing or decision on Plan provisions relating to quarrying activities on the Willowbank Quarry site (or in the Rural Zone).

| Hearing Stream | Topics  | Panel Members                 |
|----------------|---|-------------------------------|
|                | <p>Rural Zones</p> <ul style="list-style-type: none"> <li>• General Rural Zone including rezoning of sites zoned as such</li> <li>• Rural Lifestyle Zone including rezoning of sites zoned as such</li> <li>• Settlement Zone including rezoning of sites zoned as such</li> </ul> <p>Special Purpose Zone</p> <ul style="list-style-type: none"> <li>• Future Urban Zone including rezoning of sites zoned as such</li> </ul> <p>Open Space and Recreation Zones</p> <ul style="list-style-type: none"> <li>• Open Space Zone including rezoning of sites zones as such</li> <li>• Sport and Active Recreation Zone including rezoning of sites zoned as such</li> </ul> <p>Balance of Special Purpose Zones</p> <ul style="list-style-type: none"> <li>• BRANZ</li> <li>• Hospital Zone</li> <li>• Māori Purpose Zone (Hongoeka) including rezoning of sites zoned as such</li> </ul>   |                               |
| <b>HS 6</b>    | Designations  | Robinson<br>McMahon           |
| <b>HS 7</b>    | <p>Strategic Directions</p> <ul style="list-style-type: none"> <li>• Centres, Employment and Industry</li> <li>• Eastern Porirua</li> <li>• Housing Opportunities</li> <li>• Urban Form and Development</li> </ul> <p>Subdivision (urban zones)</p> <p>Residential Zones, including submissions relating to the Plimmerton Farm land which was the subject of PC 18 to the Operative District Plan (if those submissions are found to be within the scope of the PDP)</p> <ul style="list-style-type: none"> <li>• General Residential Zone including rezoning of sites zoned as such</li> <li>• Medium Density Residential Zone including rezoning of sites zoned as such</li> </ul> <p>Commercial and Mixed-Use Zones</p> <ul style="list-style-type: none"> <li>• Neighbourhood Centre Zone including rezoning of sites zoned as such</li> <li>• Local Centre Zone including rezoning of sites zoned as such</li> <li>• Large Format Retail Zone including rezoning of sites zoned as such</li> <li>• Mixed Use Zone including rezoning of sites zoned as such</li> <li>• City Centre Zone including rezoning of sites zoned as such</li> <li>• Industrial Zone including rezoning of sites zoned as such</li> </ul> | Robinson<br>McMahon<br>Pomare |

| Hearing Stream | Topics   | Panel Members   |
|----------------|--|---|
| HS 8           | Interpretation and definitions (not already covered)<br>Any remaining matters<br>Integration matters | Robinson<br>St Clair<br>McMahan<br>Pomare<br>Williams |

68. The Hearings Panel intends to fix the timetable for the first three hearing streams only at this point. The Hearings Panel wants to get underway and see how the first three hearings progress and whether tweaks are required to the hearing procedures before making directions for the timetabling of subsequent hearing streams. A draft timeline for subsequent stages will, however, be available on the Hearings website.

69. Accordingly, **Hearing Stream 1** (considering Over-arching matters, Plan-wide structural issues and Definitions applying across more than one hearing stream) will commence on 27 September and continue on 29 September. It is anticipated that two days only will be required for this purpose, but, if necessary, 1 October will act as the reserve day. To facilitate that hearing timing, relevant pre-circulation deadlines are:

- (a) Section 42A Report(s) and any supporting expert evidence: 1pm on 27 August latest.
- (b) Submitters expert evidence – 1pm on 10 September latest.

Council reply will be due 22 October

70. The relevant dates for Streams 2 and 3 are as follows:

**Hearing Stream 2**

(Strategic directions in relation to Natural Environment and Tangata Whenua, Natural Environment Values ( Ecosystems and Indigenous Biodiversity including the extent of land the subject of overlay; Natural Character including the extent of land the subject of overlay; Natural Features and Landscapes including the extent of land the subject of overlay; Public Access), Cultural Values ( Tangata Whenua) and Papakāinga including rezoning of sites zoned as such)

- (a) Section 42A Report(s) and any supporting expert evidence: 1pm on 24 September latest.
- (b) Submitters expert evidence – 1pm on 15 October latest.

- (c) Hearing- 29 October, 1-3, 5, 8-10, 12 and 15 November.
- (d) Council reply- 29 November.

### **Hearing Stream 3**

(Strategic Directions in relation to Resilience, Efficiency and Energy, and Historic and Cultural Heritage); Hazards and Risks (Contaminated land including extent of land the subject of overlay; Hazardous substances including extent of land the subject of overlay; Natural Hazards including extent of land the subject of overlay; Coastal Environment including extent of land the subject of overlay); Historic and Cultural Values ( Historic and Cultural Heritage including extent of land the subject of overlay; Historic Heritage including extent of land the subject of overlay; Notable Trees including the extent of land the subject of overlay; Sites and Areas of Significance to Māori including the extent of land the subject of overlay):

- (a) Section 42A Report(s) and any supporting expert evidence: 1pm on 5 November latest.
- (b) Submitters expert evidence – 1pm on 20 November latest.
- (c) Hearing- 3,6-8,10 December.
- (d) Council reply- 22 December.

- 71. Note that this is not a Notice of Hearing. A formal Notice of Hearing will follow in due course.
- 72. The allocation of time for these hearings is necessarily tentative until each submitter wishing to be heard is allocated a hearing slot. If necessary, additional hearing days will be scheduled.
- 73. The Hearing Administrator will be touch by email with all submitters who have requested to be heard, seeking confirmation of their hearing time requirements. If submitters have particular preferences to the date and/or time when they are heard, the Hearing Administrator will endeavour to accommodate those preferences on a 'first come, first served' basis. The Hearing Administrator will compile and upload on the website the Hearing Schedule with indicative times for each party's appearance.
- 74. To ensure that all submitters have a fair opportunity to be heard, however, the default allocation of time will be 15 minutes per submitter. This reflects the fact that the Commissioners will have read all submissions beforehand, along with all pre-circulated written material. The purpose of a submitter appearing is, accordingly,

to highlight key points the submitter wishes to draw to the Hearing Panel's attention and to provide the Hearing Panel with an opportunity to ask the submitter, their representatives and/or witnesses questions arising from their evidence.

75. Submitters who consider that the default 15-minute period will be insufficient will need to make a request for additional time to be allocated, with reasons. Those reasons do not need to be extensive. The Chair will seek to ensure that all submitters have the time they require (within reason) to adequately present their evidence and submissions, but the hearing time available is not completely open-ended and the Hearings Panel is seeking to ensure that each hearing proceeds efficiently.
76. If the reasons why a submitter seeks more time to be allocated to them than the default of 15 minutes include the fact that that the submitter will be calling expert evidence, the number of expert witnesses, their expertise (and desirably names) will need to be advised to the Hearing Administrator. For those submitters seeking extra time on the basis that they will be represented by counsel presenting legal submissions, that too will need to be advised to the Hearing Administrator.
77. To enable preparation of a detailed hearing schedule, submitters wishing to be heard on Hearing Streams 1,2 and 3 are requested to advise the Hearing Administrator of their desire to participate, and (if applicable) their request for additional time to be allocated to them as follows:
  - (a) Stream 1 Hearing – before 3 September 2021.
  - (b) Stream 2 Hearing– before 8 October 2021.
  - (c) Stream 3 Hearing– before 12 November 2021.
78. As above, when advising how much hearing time to request, please consider whether you might be able to coordinate with other submitters presenting on similar points - either to present a joint case, or for one submitter to take the lead, and others to present a summarised position, referring back to the 'lead' submitter for the detail.
79. The Hearings Panel has the power to direct that information presented by a party before it is kept confidential in some circumstances (pursuant to section 42 of the RMA). The duration of such orders depend on the reasons for them being made. In cases to commercial sensitivity, confidentiality protections elapse at the conclusion of the hearings. The Hearings Panel has a broader jurisdiction where serious offence to tikanga Māori or the location of wāhi tapu is involved.

80. If a submitter seeks that the Hearings Panel make orders of this kind, they need to advise the Hearing Administrator of that, and the reasons for the orders sought, as promptly as possible.
81. The Hearing Panel's preference is to hear submitters and their witnesses 'in person'. However, if this is not possible, for whatever reason, the Hearing Administrator should be able to make arrangements for people to be heard virtually, by a suitable platform if there is good reason to do so and provided adequate notice is given beforehand - desirably when you advise how much hearing time you require in terms of paragraph 75 above, but at latest, two working days prior to the relevant hearing commences. Requests to participate virtually should be accompanied by reasons. The Chair will determine if the circumstances justify a departure from the norm of in person appearances.
82. Given the recent experience of Covid 19 related lockdowns, it is acknowledged that what would otherwise be the Hearings Panel's preference (to hear people in person) will necessarily have to give way to alternatives if such measures are again put in place to respond to a Covid outbreak.
83. More generally, It is understood that emergencies arise, and the Hearings Panel will do its best to accommodate submitters and/or witnesses who are unexpectedly unable to make a scheduled hearing spot. The options available will be enhanced the earlier the Hearing Administrator is advised of a problem in this regard.

### **Format of Hearings**

84. It is envisaged that each hearing will take the following form:
  - (a) The Chair will introduce the Hearing Panel, cover any preliminary issues and invite any party wishing to raise procedural issues to address the Hearing Panel. It may be that these steps will be preceded by a karakia, but we will seek feedback from Ngāti Toa Rangatira as to whether and when this is appropriate.
  - (b) The Section 42A Report authors will speak to their reports, followed by any supporting expert witnesses. As with submitters, Section 42A authors and other Council expert witnesses can provide a written summary no longer than three pages (excluding revised plan provisions). That summary should include any points addressed in the Section 42A Report which the author wishes to amend or supplement in the light of the evidence and other pre-circulated representations from submitters. The Hearing Panel will ask each Section 42A author questions before proceeding to the next author.

- (c) Submitters will then be heard in the order set out in the Hearing Schedule.
- (d) Formal adjournment of the hearing.

85. Following the adjournment of each hearing, the Section 42A Report authors will have the opportunity to submit a written reply. That will be required to be filed within ten (10) working days of the adjournment of the hearing unless the Chair directs otherwise. The Hearings Administrator will load that reply on the hearings website but, as above, the Hearing Panel will not receive any further comment from submitters on the matters the subject of the hearing without the Chair's specific approval.

### **On the Day**

86. Each submitter will be allocated a time to appear in front of the relevant Hearing Panel. It is recommended that you arrive at least 30 minutes before you are due to speak – partly to provide for the possibility that the hearing may be going quicker than scheduled, but also to enable you to observe the hearing process and get comfortable with the way it works in practice.

87. The Chair will invite you to come forward with your representatives/witnesses to the table set aside for submitters and invite you to present your case.

88. Each Hearing Panel will provide any expert witnesses you have with the opportunity to speak to a written summary of their evidence, covering the main points. That written summary should be no longer than the executive summary of their pre-circulated evidence. However, it is not expected that expert witnesses will read the executive summaries in their pre-circulated evidence. The Hearing Panel will already have read it. As with verbal representations, if expert summaries have not been provided electronically in advance of the hearing, 10 hard copies will need to be provided.

89. The Hearing Panel may ask questions of you and/or your witnesses either during or after presentation of your case. If you would prefer not to be interrupted, then tell the Chair that before you start.

90. There is no cross-examination at Council hearings. Therefore, you must not interrupt other submitters presenting their cases, or the Section 42A authors presenting their reports. If you feel that any aspect of a submitter or Section 42A author's presentation requires clarification, you should ask the Chair whether that point might be clarified. Such requests should be made following conclusion of the Hearing Panel's questions of the submitter/ Section 42A author. The Chair will

decide whether clarification should be provided, and if so, what process should then be followed.

91. Any written statement you prepare explaining your submission to the Hearing Panel, however, cannot go outside the scope of the original submission. In other words, you cannot ask for changes to the PDP that were not sought either generally or specifically in your submission (or are not somewhere between what you sought in your submission, and the PDP as notified). Similarly, if you lodged a further submission, you cannot go outside the scope of the primary submission you supported or opposed (i.e. the relief you seek must be somewhere between the relief sought by the primary submission and the PDP as notified). You can, however, come up with additional reasons why the relief you support is well founded. It is noted that these are legal requirements, confirmed by a number of Environment Court decisions. It is not a choice the Hearing Panel has made as to how to run the hearing. If submitters are unclear about whether their submission is sufficiently clear to cover their desired outcomes, they should seek legal or planning advice, alternatively contact the Friend of Submitters at [FriendofSubmittersPDP@porirua.govt.nz](mailto:FriendofSubmittersPDP@porirua.govt.nz) or phone 021 532 284.
92. More generally, your presentation will be more effective if you keep what you say to the Hearing Panel simple and focus on the key points you want to make. Tell the Hearing Panel exactly what changes you want made to the PDP, and why those changes are appropriate, or alternatively, why you support what is in the PDP, as notified.
93. Your evidence at a particular hearing must relate solely to the topic being heard at the hearing. It should not address matters to be heard at a later hearing, or repeat submissions made to an earlier hearing (unless the subject matter of the two hearings overlaps).
94. A video record will be available on the Hearings Website. The Hearings Panel understands that the video will be via a single camera, so will not show close ups of any submitter. At the Procedures Hearing Conference, some submitters expressed concern about their image being captured and put on the internet. The Hearing Panel suspects that may have been based on a misapprehension of the extent and nature of video coverage proposed. However, if any submitter does not wish to be recorded by video, please advise the Hearing Administrator of that when you confirm intention to be heard and arrange a hearing slot (refer paragraph 77 above, so that she can arrange that when you appear, only the audio will be recorded and placed on the website.

## Summary of Relevant Dates for Submitters

95. It is understood that submitters may find the different requirements applying to their participation confusing. Summarising the end result:

|    | Hearing Step  | Timing/Deadline  |
|----|---|--|
| 1. | Confirm request to be heard, advise preferred timing and where applicable, ask for more time than default 15 minutes (with reasons) | Either 5 (Streams 1 and 3) or 10 (Stream 2) working days after release of section 42A reports – exact dates in paragraph 77 above  |
| 2. | Expert Evidence   | Either 10 (Streams 1 and 3) or 15 (Stream 2) working days after release of section 42A reports – exact dates in paragraph 70 above |
| 3. | Request site visit  | Same day as expert evidence, as above  |
| 4. | Legal Submissions, written representations longer than three A4 pages, and power point presentations                                | Two working days before Stream Hearing commences   |
| 5. | Requests for submitter or specified witnesses to appear virtually (by an appropriate platform)                                      | Two working days before Stream Hearing commences, but earlier if possible  |
| 6. | Expert summaries and written representations three A4 pages or less   | When you appear (but earlier if possible)  |
| 7. | Tabled Evidence and Representations   | The last day of the relevant Stream Hearing  |

96. Where the Hearings Panel has directed a particular step be taken by a specified date that should be read as 1pm on that date (to give the Hearing Administrator time to load the material provided on the Hearings website and send it to the Hearing Panel that day). Do not stress if last minute IT glitches mean that you are a few minutes (less than 30) late. If you are later than that grace period, you will need to explain why you are late and seek the Chair's waiver of the breach of the Hearing. Such requests do not need to be made with any great formality, but the key issues the Chair will consider are the potential prejudice to other parties (including the Council) and disruption to the hearing process caused by any breach

of the hearing directions. Put simply, the later you are, the better the explanation is going to need to be.

### **What Happens After Each Hearing Concludes**

97. Following the receipt of the Section 42A author(s)' reply, each Hearing Panel will deliberate in private. The Hearing Panel will formulate its decisions on what if any amendments it believes to be appropriate on the Chapters of the PDP the subject of hearing in order to respond appropriately to submissions and further submissions.
98. The decision reports of the different Hearing Panels will be released together, as a package, with one exception.
99. The exception is the views the relevant Hearing Panel forms on submissions related to designations. As a matter of law, these take the form of recommendations to the relevant requiring authority (who makes the final decision on those submissions).
100. All submitters will be notified of the Hearing Panel decisions (and the decisions of requiring authorities in relation to designations). Those decisions are open to appeal to the Environment Court. The Council's public notification of the decisions will include details regarding the appeal process.

### **Site Visits**

101. The Hearings Panel intends to undertake site visits in order to better understand the site-specific context of the submissions that have been lodged. While the primary focus of site visits will be on locations where submitters have sought to be heard, site visits may include visits to land the subject of other submissions. In either case, where it is necessary for the Hearing Panel to access private land, a Council Officer assisting the Panel (not one of the authors of the Section 42A Report or a Council witness) will contact the relevant submitter/landowner to arrange access.
102. If any submitter believes it would assist the Hearing Panel to undertake a site visit of their property, they are invited to contact the Hearing Administrator at latest by the deadline for submitter expert evidence in relation to the relevant hearing. Such requests should be accompanied by advice as to what in particular the submitter wants the Hearing Panel to look at.
103. It is important to appreciate that the purpose of a site visit is not to gather evidence, but rather to enable the Hearing Panel to better understand the evidence they will

hear. Accordingly, site visits are not an opportunity for an informal discussion of issues on site. The Hearing Panel will not enter into discussions on site about the merits of submissions, but they may ask the submitter/landowner to point out particular features on the site that are the subject of submission.

### **Key Contacts**

104. As above, the primary point of contact for all matters relating to the hearings is Maria Joslin, who can be contacted at [dpreview@porirua.govt.nz](mailto:dpreview@porirua.govt.nz) or phone (04) 237 3863 (or if Maria is not able to take your phone call, ring the Council Call Centre on (04) 237 5089).
105. If any aspect of this Minute is unclear, email her at that address. If she cannot answer your query, she will pass it on to the Chair to address.
106. All pre-circulated evidence and submissions should also be sent in PDF (acrobat) or DOC (word) format to [dpreview@porirua.govt.nz](mailto:dpreview@porirua.govt.nz). Although Maria will be managing this email address, the other members of the Hearing Administration team will also have access to it, in case Maria is unavailable for any reason.
107. The key location for up-to-date information on the hearings is the PDP Hearings Page currently located at <https://porirua.govt.nz/your-council/city-planning-and-reporting/district-plan/proposed-district-plan/>. As noted above, the Council is in the process of setting up a dedicated web portal for hearing materials. You will be advised the address details as soon as the new portal is up and running.
108. Most importantly, if you are not sure that you have to do and when, email or talk to the Hearing Administrator.

**Dated 17 August 2021**



**Trevor Robinson  
Chair  
For the Proposed Porirua District Plan Hearings Panel**