

IN THE MATTER

of the Resource
Management Act 1991

AND

IN THE MATTER

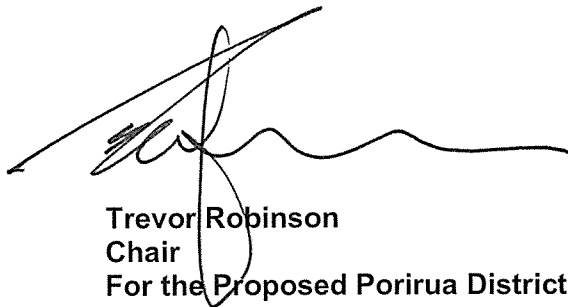
of Hearing of Submissions
and Further Submissions
on the Proposed Porirua
District Plan

Minute 6 – Further Hearing Procedure Issues

1. We have now received Council's Reply on Hearing Stream 1, expert evidence, and some lay evidence, on Hearing Stream 2, and feedback from some parties on potential amendments to the Hearing Procedures. Thank you to all parties who have contributed to the latter.
2. Firstly addressing Hearing Stream 2, on the basis of the expert evidence that has been filed, we do not intend to direct expert conferencing to occur prior to the hearing.
3. Secondly, the Council has sought provision for rebuttal evidence in this and subsequent hearing streams. We will consider that issue when the Hearing Panel meets to deliberate on Hearing Stream 1 this coming Friday (22 October). However, given the timescales, any direction in relation to Hearing Stream 2 cannot wait that long. In our view, it would be more efficient if the Council filed rebuttal on the expert evidence received (in particular). Among other things, it will save us occupying valuable hearing time discussing points that may be agreed.
4. Accordingly, we direct that the Council has leave to file rebuttal evidence on evidence pre-circulated in Hearing Stream 2, such rebuttal evidence to be in the Hearing Administrator's hands by 1pm on 22 October.
5. Lastly, we have received a request from Kāinga Ora in relation to Hearing Stream 4, seeking deferral of submissions and further submissions addressing the effects of noise and vibration from the State Highway and Rail corridors to a later hearing stream, for the reasons set out in the attached Memorandum.

6. This request has obvious implications for Waka Kotahi, Kiwi Rail and for the Council, as the most directly affected parties, but we can envisage that a number of other submitters may have a view on Kāinga Ora's request.
7. Can any party (including Council) who wishes to provide comment on Kāinga Ora's request please lodge same with the Hearing Administrator by 1pm on this coming Thursday (21 October), in order that the Hearing Panel might be able to discuss the issue with the benefit of feedback from all interested parties when it meets the following day.
8. One of the things the Hearing Panel will be considering when it meets this Friday is whether it would be assisted by taking up Kāinga Ora's suggestion of convening a procedural conference of interested parties with the Hearing Panel. Feedback is welcome on that question also.
9. Further, to assist the Hearing Panel's consideration of its request, Kāinga Ora is directed to file a further Memorandum identifying which submission points it is seeking be deferred (i.e. itemise the submission points affected by its request) and the Hearing Stream in which it is proposed that those submission points would ultimately be heard. The timescale for that Memorandum is the same as above: 1pm on 21 October.

Dated 18 October 2021



Trevor Robinson
Chair
For the Proposed Porirua District Plan Hearings Panel

Under the Resource Management Act 1991

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

Memorandum on behalf of Kāinga Ora – Homes and Communities – Hearing Stream 4

15 October 2021

**MEREDITH
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Memorandum on behalf of Kāinga Ora – Homes and Communities – Hearing Stream 4

- 1 In Minute 5, the Panel invited parties to comment on the proposed timetable for Hearing Stream 4.
- 2 Kāinga Ora is comfortable with the timetable sketched out in para 7 of Minute 5.
- 3 However, Hearing Stream 4 addresses various topics within the areas of Strategic Directions, Energy, Infrastructure and Transport and General District-Wide Matters, including noise. Counsel anticipates that this will include hearing all submissions and further submissions on the PDP provisions addressing the effects of noise and vibration from the State Highway and rail corridors and, in particular, whether and to what extent land uses adjacent to such transport corridors should be subject to constraints and/or be required to obtain resource consent (**Provisions**).
- 4 Kāinga Ora seeks deferral of hearing of all submissions and further submissions on the Provisions from Hearing Stream 4 to a later Hearing Stream.

Deferral of considering the Provisions

- 5 The Provisions broadly raise for consideration the appropriate balance to be struck between locating urban development near mass rapid transport (and otherwise the desirability of locating close to transport routes), and maximising that development, with management of reverse sensitivity effects on transport corridors. While the NPS-UD directive has made resolving these issues particularly important, the issue is not a new one, or particular to Porirua. There has been ongoing discussion between Waka Kotahi, Kiwi Rail and Kāinga Ora as to the need for and appropriate content of such provisions in district planning documents and plan reviews throughout New Zealand.
- 6 Kāinga Ora has instructed separate counsel – Douglas Allan at Ellis Gould – to represent it in relation to these issues given his involvement on these matters in other plan reviews around the country.
- 7 Waka Kotahi, KiwiRail and Kāinga Ora are currently involved in the following proceedings regarding similar provisions:

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- (a) Environment Court appeals by Waka Kotahi and KiwiRail on Whangarei City Council's Urban and Services Plan Changes (currently subject to mediation with a proposed timetable for additional work to be undertaken over the rest of 2021).
 - (b) First instance hearings before commissioners on the Proposed Waikato District Plan (on which decisions are, counsel understands, due for release later in 2021).
 - (c) First instance hearings on Christchurch Plan Change 5 (in respect of which the hearing on this topic has been adjourned to enable discussions to occur).
 - (d) Submissions on the Selwyn Proposed District Plan.
 - (e) First instance hearings on the New Plymouth Proposed District Plan (in respect of which the hearing on this topic has been delayed to enable discussions to occur).
- 8 Kāinga Ora considers it preferable for government entities to present a consistent and agreed position to councils, hearing panels and courts on policy matters such as this. It has therefore been endeavouring through discussion and correspondence over many months to reach agreement regarding these issues with Waka Kotahi and KiwiRail, with the aim that the parties promote a consistent approach around the country. Kāinga Ora considers that such an agreement would usefully reduce debate regarding the Provisions.
- 9 Kāinga Ora considers that a deferral is the most appropriate course of action and makes this request on the following grounds:
- (a) The Provisions address issues that are already the subject of other proceedings and hearing processes elsewhere in New Zealand.
 - (b) There is no basis for concluding that:
 - (i) Circumstances in Porirua are unique with respect to these issues; or
 - (ii) The outcome of the other, procedurally more advanced, proceedings in respect of similar provisions and issues elsewhere

in the country cannot usefully inform consideration of the issues in respect of Porirua.

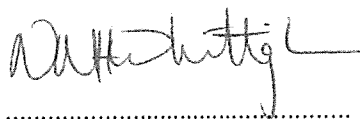
(c) The hearing on the Provisions will require the preparation of evidence and legal submissions on behalf of submitters, hearing time before the Panel, and deliberation time for the Panel. Kāinga Ora considers that those costs can be reduced significantly if not eliminated if the hearing of the Provisions is deferred:

- (i) To enable Waka Kotahi, KiwiRail and Kāinga Ora to continue seeking an agreed outcome; and
- (ii) To enable the parties to take advantage of any agreement reached in other proceedings or any decision issued by the Environment Court on the Whangarei appeals. Kāinga Ora considers that the outcome of the Whangarei process could inform the panel's consideration of this issue in Porirua. It considers there would be benefit in deferring the hearing on the Provisions to allow the Whangarei process to be completed.

10 Accordingly, Kāinga Ora respectfully requests that the submission points relating to the Provisions be allocated to a later Hearing Stream. Kāinga Ora considers that the Provisions and submissions are sufficiently discrete to enable such an approach to be taken.

11 Kāinga Ora does not know whether Waka Kotahi and KiwiRail consider that a deferral is appropriate. Counsel (either Mr Allan or myself) would be available on short notice to attend a telephone or video conference with the Panel, Council officers, Waka Kotahi, Kiwi Rail and other affected submitters (if any), if that would assist the Panel in determining the request.

Date: 15 October 2021



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Nick Whittington
Counsel for Kāinga Ora – Homes and Communities