

**GREATER WELLINGTON REGIONAL COUNCIL**  
**Proposed Natural Resources Plan for the Wellington Region**

**HEARING PANEL MINUTE 4**

**Hearing Stream 1**

**30 May 2017**

**MINUTE/DIRECTIONS FOLLOWING FIRST WEEK OF HEARINGS**

**Introduction**

1. This Minute is the second following commencement of the hearing. The purpose of this minute is to set out matters on which the Panel seeks legal and technical advice from GWRC.

**Legal Advice**

2. We request legal (and associated technical) advice on two matters. The first being, Ms Ongley, in legal submissions on behalf of Fish and Game (s308), drew our attention to the following:

*The PNRP does contain regulatory methods for certain activities such as the discharge of fertiliser and of collected animal effluent (Rules 5.3.6). Because there is no permitted activity rule for discharge of 'uncollected' animal effluent<sup>1</sup>, Rules 92 and 93 may make discharges of all animal effluent from stock animals direct to land a discretionary activity (in circumstances where such contaminant may enter water). It has been argued in other fora that any discharges of contaminants from production land<sup>2</sup> that may contravene s15(1)(a) or (b) require a resource consent unless the discharge is expressly allowed by a rule in the regional plan.....So, if there are discharges direct from stock to land, and these are not specified as permitted activities, under s15 a resource consent is required for them<sup>3</sup>. Because I understand that the Wellington Regional Council does not accept that interpretation, the remainder of my submissions proceed on the basis that consent is not required for such discharges. However I do not concede the point.<sup>4</sup>*

3. In relation to this matter we have four (interrelated) questions.

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<sup>1</sup> I.e. Direct from stock. Rule 69 "Minor contaminants" is a permitted activity rule but provides "the contaminant shall not enter water"

<sup>2</sup> As defined in the Act and which means any land and ancillary buildings used for the production (but not processing) of primary products (including agricultural, pastoral, horticultural, and forestry products).

<sup>3</sup> See also McKnight v NZ Biogas Industries Limited (Court of Appeal) CA 526/93.

<sup>4</sup> Ms S Ongley, Legal Submissions for Wellington Fish and Game Council, Hearing Stream 1, 24 May 2017, Page 3, Para 9

- a. Is Ms Ongley correct when she states that if there are discharges that are not explicitly covered by the Rules of PNRP, and these discharges are not specified as permitted activities, then under section 15(1)(a) or (b) a resource consent is therefore required?
  - b. Ms Ongley gave the example of discharges direct from stock to land ('uncollected' animal effluent). In this situation does the answer to the question set out in (a) above change? And is it different for animals other than stock (assuming 'stock' are cows (including beef), and sheep)?
  - c. For completeness, what are the Rules in the PNRP that deal with discharges to land from stock?
  - d. What is the current practice by Wellington Regional Council in respect to discharges of 'uncollected' animal effluent? Specifically, are resource consents required for the discharge of 'uncollected' animal effluent?
4. The second matter we request legal advice on concerns the interim default framework under the National Policy Statement – Freshwater Management 2014 (NPS-FM).
  5. On this matter, we request advice as to;
    - a. Given that there does not appear to be any dispute about the legality of the Wellington Regional Council adopting progressive implementation of the NPS-FM in relation to water quality and quantity (Policy E1 of the NPS-FM), what does the NPS-FM require in respect of an interim framework? Does the NPS-FM require a framework specifying objectives, standards and limits or is it silent on that matter. If it is silent, does the need for an interim framework derive from other higher order documents such as the RPS and NZCPS and the Council functions under section 30(1)(c)(ii) of the Resource Management Act 1991.
    - b. In addition to the above, what is the current regime regarding regulation for water quality and quantity in;
      - i. The Operative Wellington Regional Council Plans, such as the Freshwater Plan and the Discharges to Land Plan, and
      - ii. The PNRP, for example to what extent does Objective 23, Objective 24 (Table 3.1, 3.2, 3.3) and Objective 25 (Table 3.4 – 3.8), along with Rules 69, 92 and 93 constitute an interim framework for, in this case, water quality.

6. We request that this advice be completed by 5pm on Thursday the 8th of June 2017 and then sent to the parties.



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Mark St.Clair  
Chair

For and on behalf of  
Proposed Natural Resources Plan Hearing Panel

30 May 2017

Note 1: The Hearings Officer is the Council's 'point of contact' for submitters and the media.  
The contact email address is: [regionalplan@gw.govt.nz](mailto:regionalplan@gw.govt.nz)

Note 2: The Councils website address is: <http://www.gw.govt.nz/proposed-natural-resources-plan/>.