

IN THE MATTER

of the Resource Management Act
1991

AND

IN THE MATTER

of the Proposed Natural Resources
Plan for the Wellington Region

MINUTE # 52

**PANEL REQUEST FOR LEGAL ADVICE ON ISSUE RAISED BY COUNSEL FOR MASTERTON DISTRICT
COUNCIL AND SOUTH WAIRARAPA DISTRICT COUNCIL**

Hearing Stream 4

1. The Hearing Panel, on 19 June 2018, received a memorandum from Mr Milne, counsel for Masterton District Council and South Wairarapa District Council, raising three issues. The first relating to the scope for the recommended Policy P71A. The second, relating to the process by which that recommendation was made (in particular the lack of opportunity for submitters to be involved in that process). Thirdly, Mr Milne raised the possibility of holding an “integration” hearing on this and other matters.
2. This minute relates to the first and second matters only. The Panel will deliver a direction on the third matter at a later date.
3. On the first matter, Mr Milne has queried as to whether or not there is jurisdiction to introduce new Policy P71A. He suggests that the recommendation is based on a non-reporting officer’s view, as opposed to any particular reference to a submission (Reference Mr Milne’s paragraph 12). We request legal advice as to whether any submission(s), either separately or in combination, provide(s) sufficient jurisdiction for the recommended Policy P71A.
4. On the second matter, and regardless on the finding of scope, Mr Milne states that his clients are concerned with the process leading to the final recommendations by officers in relation to Policy P71 and the proposed new Policy P71A. The particular concern is that those recommendations were not signalled to submitters in the Section 42A reports for Hearing Stream 4. Rather the recommendations were included in the Right of Reply Report for Hearing Stream 4. Mr Milne is concerned that not only does the Right of Reply Report reverse the Section 42A recommendation on Policy P71, it also did not afford any opportunity for submitter input on this revised position. Mr Milne noted that the Right of Reply Report revised position appeared to rely on oral evidence from a Resource Consent Officer from GWRC, who had not prepared any pre-circulated written evidence. As such there was in, Mr Milne’s view, no opportunity for his clients to respond to that evidence (Reference Mr Milne’s paragraphs 2 to 11).
5. Mr Milne suggests that there is a matter of fairness and natural justice arising from this process. The Panel requests, legal advice as to whether or not this is the case.

6. The Panel requests that this advice be provided by 5pm on Friday, 10 August 2018.

A handwritten signature in black ink, appearing to read 'Mark St. Clair', written in a cursive style.

Mark St. Clair

Panel Chair

Date: 24 July 2018