

**GREATER WELLINGTON REGIONAL COUNCIL  
PROPOSED NATURAL RESOURCES PLAN FOR THE WELLINGTON  
REGION**

**HEARING PANEL MINUTE 7**

**Hearing Stream 1**

**15 June 2017**

**MINUTE/DIRECTIONS FOLLOWING PARTIES RESPONSES TO MINUTE 5**

**Introduction**

1. Minute 5 sought responses from various Infrastructure Provider submitters to the Proposed Natural Resources Plan (PNRP) as to the appetite for conferencing in relation to the definition of *Regionally Significant Infrastructure* (RSI) and Policy 4 regarding *minimising adverse effects*.
2. The Panel has now received responses to Minute 5 from various parties and the purpose of this Minute is to:
  - (a) Document those responses so that all parties are aware of the position of all respondents on this matter;
  - (b) Outline the manner in which the Panel requests that this conferencing be undertaken; and
  - (c) Provide timeframes for the delivery of conferencing outcomes and for the Section 42A Officers' reply in relation to the two matters which are to be the subject of future conferencing.

**Responses Received**

3. The Hearings Officer has passed on to the Panel the responses from all parties that wish to participate in conferencing on the above-mentioned matters. A total of 27 responses were received by the due deadline; being 5pm 13 June 2017.<sup>1</sup> The Panel hereby records that there is universal support from all respondents to the suggested conferencing.

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<sup>1</sup> An extension to 5pm 14 June was granted to NZTA on the basis that they had volunteered to coordinate responses to Minute 5 from all submitters in the Infrastructure Provider category.

4. However, we note the altered or qualified response of the New Zealand Transport Agency (NZTA) who to date have taken on the role of co-ordinating and facilitating responses to Minute 5 on behalf of several submitters with infrastructure interests. We received two memoranda from NZTA as follows:
  - (a) The first - dated 13 June – confirmed that the Agency supported the proposed conferencing and was willing to take on the role of coordinating and facilitating the process on behalf of those submitters with infrastructure interests. The Agency confirmed that, at that point in time, eight parties (the “Infrastructure Providers Group” or “IPG”), had confirmed to them a willingness to participate in conferencing. The Agency indicated it was in the process of contacting various other infrastructure providers, to confirm whether they also wish to be involved in the conferencing.
  - (b) The second response – dated 14 June – updated the number of parties on the IPG list to 21 providers in total (inclusive of the Agency). It noted a “further direction”<sup>2</sup> from this Panel indicating that a number of parties additional to the IPG had expressed an interest in being involved in the conferencing. The Agency advised that, in its view, involving broader interest groups would change the nature of the conferencing to a “mediation” and advised that it is only willing to facilitate conferencing provided it is limited to the IPG. The memorandum continued by saying that if additional parties are involved, the infrastructure providers may no longer wish to commit to conferencing. The memorandum concluded by advising that the Agency has engaged a third party, to act as an independent facilitator for the Infrastructure Group conferencing should the conferencing proceed as per their preference.
5. While the Panel was pleased to receive the initial offer of the Agency to coordinate responses to Minute 5 and acknowledges and appreciates the efficiency involved in such endeavours, it is disappointed with the content of the second NZTA memorandum. That content ‘cuts across’ the Panel’s expectations regarding the conferencing process. Prior to receiving the second memorandum, and on the strength of the content of the first NZTA memorandum, along with the 19 individual responses received by the GWRC Hearing Officer by 5pm on 13 June (12 of whom are also on the NZTA IPG list), the Panel had already drafted the majority of this current Minute and were merely waiting for the Agency to respond by their requested extended timeframe with an updated IPG list.
6. The Panel has carefully considered the content of the second NZTA memorandum and advises that with the exception of two matters discussed further below (one relating to the sequencing of conferencing and the other as to eligibility of conference attendance)

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<sup>2</sup> An email from the GWRC Hearings Officer on behalf of the Panel addressed to NZTA on the morning of 14 June

its initial views on conferencing are unchanged. Specifically, it is clear to the Panel that the two provisions in the PNRP which are to be the subject of conferencing are not solely limited to the interests of infrastructure providers but instead have a wider application to all submitters to those provisions. To exclude wider involvement would not only result in an uneven and unfair process but would also be contrary to the principles of good decision-making processes. In addition, it is the Panel's expectation that the relevant section 42A authors will participate in the conferencing.

7. For the above reasons, the Panel will continue to extend the invitation for involvement in conferencing beyond the Infrastructure Group.

### **Conferencing Process**

8. Having considered all the responses from the parties, the Panel hereby records the manner in which conferencing is to be undertaken.
9. Firstly, it is apparent to the Panel that the definition of *Regionally Significant Infrastructure* (RSI), and Policy P4 of the PNRP regarding *minimising adverse effects* are two separate topics and that separate conferencing on these two topics should be conducted accordingly. Although there will be an element of commonality in interests between the two provisions, it is clear that not all participants on Policy P4 will have an interest in the definition of RSI and the same could apply in reverse. Accordingly, the Panel anticipates separate conferencing sessions.
10. Secondly, the conferencing participants will be limited to expert planning witnesses only and only those submitters who have tabled or presented expert planning evidence in Hearing Stream 1 in relation to those two matters shall attend.
11. Thirdly, notwithstanding the offer of NZTA to facilitate this exercise, the Panel is of the view that the conferencing would greatly benefit from the assistance of an independent facilitator. To be clear, it is the Panel's expectation that the conferencing will be conducted as per the Environment Court's Practice Note 2014 and that this exercise will not be a mediation session.

### **Conferencing Guidance**

12. In relation to the two matters of the definition of RSI and Policy P4 the Panel sets out below the matters that they consider should be addressed as part of the conferencing sessions. It may be that there are other (wider) matters/issues that are related to the conferencing topics that may also be relevant and these should be set out in the resulting conferencing statements.

13. In relation to the **definition of RSI** the key issues from the Panel's perspective are:
- (a) Whether it is necessary to either add new items of infrastructure not already included in the definition or to modify or clarify other items already present in the definition;
  - (b) Whether there are any consequential changes required to objectives, (notably O12 and O13) and/or policies (notably P12, P13 and P14), or whether any new objectives and/or policies are necessary; and
  - (c) whether (and the extent to which) any proposed alterations will give effect to the RPS and/or any other relevant higher order documents.
14. In relation to **Policy P4** the key issues from the Panel's perspective are:
- (a) What objectives and policies within Hearing Stream 1 are related to Policy P4? The Panel acknowledges that there are likely to be other objectives and policies throughout the Plan which, although potentially relevant to Policy P4, are not covered by Hearing Stream 1. However, the Panel does not expect that this conferencing to address those provisions; rather it is the Panel's expectation that those provisions will be addressed as part of either future prehearing meetings and/or the Section 42A Reports and evidence to be received for subsequent hearing streams;
  - (b) If Policy P4 was deleted in its entirety what would be the consequences for the objectives and policies that it pertains to; and
  - (c) If the Policy was reworded, what form should it take and what would be the consequences for the objectives and policies that it pertains to.
15. For each conferencing topic, the Hearing Panel requests that a conferencing report be prepared by the experts in attendance (not the Facilitator) which records areas of agreement and disagreement. Where there are areas of disagreement between the experts the reasons for the disagreement should also be recorded. In addition, any agreed alterations to the subject provisions (including any consequential additions and amendments) are to be accompanied by a robust section 32AA evaluation in a form which is the same as or similar to that included in the Section 42A reports for Hearing Stream 1.
16. In respect to the conferencing report for each of the two conferencing streams, the Panel records that it will not be helpful for them to be told of the position of the institution or organisation that the planner is representing. Rather, the Panel wants to know the opinions of the expert planners representing those institutions and organisations on the most appropriate method(s) to:

- (a) address how Regional Significant Infrastructure is defined and incorporated into policies and objectives of the Plan; and
- (b) deal with how objectives and policies embodying the concept of the effects of minimisation are to be worded and considered in relation to proposed Policy P4.

**Next Steps/Timeframes**

- 17. The Panel requests that conferencing statements from the two conferencing topics be sent to the Hearings Officer no latter then 5pm on Friday 7 July 2017.
- 18. As a consequence of this Minute, the Panel defer the requirement for the s42A Officers' Right of Reply on these matters until 21 July 2017, being 10 days after the receipt of the conferencing statements.
- 19. The Hearings Officer in conjunction with the appointed independent facilitator/s will arrange the time, date and venue for the two conferencing sessions.
- 20. If any of the parties are unclear as to the intention of this minute this needs to be communicated to the Hearings Officer no later than midday Tuesday 20 June 2017.



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Mark St.Clair

Chair

For and on behalf of

Proposed Natural Resources Plan Hearing Panel

15 June 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/>.