

IN THE MATTER OF: the Resource Management Act 1991

AND IN THE MATTER OF: Plan Change 49 - Open Spaces
(PC49) and Variation 1 to the
Operative Upper Hutt District Plan

MINUTE (3) OF THE INDEPENDENT HEARING PANEL APPOINTED BY UPPER HUTT CITY COUNCIL

Re: Email from Ms Tancock for GTC regarding perceived disadvantage by late provision of legal submissions from Royal Forest and Bird Protection Society of New Zealand Inc. (Forest and Bird)

Introduction

1. You have received this Minute because you have either made a submission, have been involved in the preparation of, or are an expert witness in the matter of Plan Change 49 and Variation 1 to the Operative Upper Hutt District Plan (PC49 and Variation 1).
2. The panel received an email from Ms Tancock on behalf of the Guildford Timber Company (GTC) at 3.19pm on Monday November 27th, day One of the Hearing.
3. The email stated,

"I note that the direction of the Panel was that legal submissions were to be filed at the same time as evidence on the 17th November. (10 working days before the hearing).

Minute 1 says.

We that any (sic):

*(a) Legal submissions be provided no later than **4pm 17 November 2023.***

*(b) Procedural issues or matters relating to conflicts of interest be raised, through the Hearing Administrator, no later than **4pm 17 November 2023.***

The directions were very clear that:

28. All expert evidence, including the section 42A report must be received within the timeframes set out above. Where a party seeks to deviate from the timeframes above, they are to seek leave from the Panel in advance, setting out the reasons for the request to deviate, how this may impact on hearing timeframes, and setting out any remedies for any impact. Expert evidence that is received outside of the set timeframes may not be accepted by the Panel, unless leave is granted.

GTC filed its evidence and legal submissions in accordance with the Directions, and is disadvantaged by counsel for Forrest and Bird failing to do so. As far as I am aware no leave has been sought.

Please could you bring this to the urgent attention of the Chair, for a ruling.”

4. The Panel reviewed the email, and its Minute 1.
5. The Panel confirms that while Ms Tancock is correct that at paragraph 28 of Minute 1 it **directed** expert evidence to be received by 4pm on November 17 2023, at paragraph 34 of Minute 1 the Panel **requested** that legal submissions were to be received by that date.
6. With regard to disadvantage, the Panel notes that while GTC's legal submissions have been filed, there is nothing precluding GTC providing an updated legal submission prior to being heard.

A handwritten signature in black ink, appearing to read 'Sue Wells', with a stylized, cursive script.

Sue Wells
Chairperson, on behalf of the Hearings Panel
27/11/2023