

IN THE MATTER of the Resource
Management Act 1991

AND

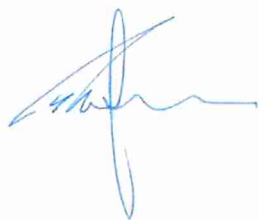
IN THE MATTER of Hearing of Submissions
and Further Submissions
on the Proposed Porirua
District Plan

Minute 34 – Identification of Mean High Water Springs(2)

1. In Minute 33, we discussed an Application we had received from Ms Robyn Smith seeking leave for submitters with status on issues related to GIS mapping in the location of mean high water springs (**MHWS**) and the Coastal Marine Area (**CMA**) boundary to file further representations/evidence in light of an application made by Greater Wellington Regional Council (**GWRC**) to the Environment Court in the context of that Council's Proposed Natural Resources Plan (**PNRP**), and the Environment Court's interim decision on that matter. As noted in paragraph 33, the Environment Court has subsequently issued a final decision on GWRC's Application.
2. We outlined the nature of the proceedings GWRC had commenced in Minute 33, and we do not repeat that here. We also identified that aspects of GWRC's Application required clarification in the light of the evidence GWRC had provided to us in Stream 1. We therefore determined that it was premature to make a decision on Ms Smith's Application until we had that clarification from GWRC. We have now received a Memorandum from GWRC, as attached, confirming that our understanding of the proceedings was correct, and providing additional clarification.
3. In Minute 33, we noted also that we could not readily identify the relevance of GWRC's application, and the Environment Court's rulings on it, to Ms Smith's submission. GWRC's response does not assist us in understanding what if any difference the Environment Court's ruling makes to the issues that Mr Warburton addressed us on (for Ms Smith) in Hearing Stream 1.

4. Nevertheless, Ms Smith is correct. This is clearly new information, and we consider that Ms Smith, and any other submitters who have made submissions seeking mapping either of MHWS or of the boundary of the CMA (in the locations where they are different) ought to have the opportunity to explain to us how and why GWRC's Application, and the Environment Court's rulings on it, are relevant to those submissions.
5. We emphasise that this is an opportunity to explain to us why this new information supports the relief sought in those submissions or is otherwise relevant to it, not to repeat the submissions that we have already heard.
6. Ms Smith sought that leave be provided for representations and/or evidence to be filed by 27 May. Conveniently, that is the final scheduled day for the Stream 5 hearing, and most of the Hearing Panel will be occupied until then on Stream 5 issues.
7. Accordingly, we direct that any submitter who has made a submission in Hearing Streams 1-3 in relation to mapping of MHWS and/or the CMA boundary may file representations/evidence on GWRC's application and the Environment Court's Decisions as reported at [2022] NZEnvC 1 and [2022] NZEnvC 39, identifying how those matters alter the position as presented to us previously. Such representations/evidence need be in the hands of the Hearing Administrator not later than 1pm on 27 May 2022.
8. If the material we receive raises further issues in our minds, we will address the process thereafter at that point.
9. Following preparation of this minute, we received a further response from Mr Warburton on behalf of Ms Smith. Because we have decided to grant the relief Ms Smith seeks, we do not need to comment on the further reasons Mr Warburton provides. Silence, however, should not be construed as acceptance of his contention that the Environment Court's declaration is 'defective' or possibly 'unsafe'.

Dated 30 April 2022

A handwritten signature in blue ink, consisting of a large, stylized 'T' followed by a horizontal line and a small flourish.

**Trevor Robinson
Chair
For the Proposed Porirua District Plan Hearings Panel**

**BEFORE THE HEARING PANEL APPOINTED TO HEAR AND MAKE DECISIONS ON SUBMISSIONS
AND FURTHER SUBMISSIONS ON THE PROPOSED PORIRUA DISTRICT PLAN AT WELLINGTON**

IN THE MATTER of the Resource Management Act 1991 (the
Act)

AND

IN THE MATTER of Hearing of Submissions and Further
Submissions on the Proposed Porirua
District Plan under Schedule 1 of the Act

**MEMORANDUM ON BEHALF OF GREATER WELLINGTON
REGIONAL COUNCIL IN RELATION TO THE IDENTIFICATION OF
MEAN HIGH WATER SPRINGS**

29 April 2022

MEMORANDUM ON BEHALF OF GREATER WELLINGTON REGIONAL COUNCIL IN RELATION TO THE IDENTIFICATION OF MEAN HIGH WATER SPRINGS

1. In Minute 33, the Hearing Panel requested that Greater Wellington Regional Council (Greater Wellington) file a Memorandum clarifying whether the Hearing Panel's understanding of the position of mean high water springs is correct, and if not, to explain in what respects its understanding is in error.
2. In particular, the Panel stated in paragraph 9:

"...it appears to us that the effect of the direction made by the Court (once it takes effect) is to remove the possibility that the mouth of an unmapped stream might be located somewhere other than at MHWS, but except in those locations where MHWS has been mapped, it does not remove the need to undertake a site specific survey of MHWS when relevant, because the application of the deeming provision requires the line of MHWS either side of the an unmapped stream mouth to be located, in order in turn that the CMA boundary upstream can be established."

Greater Wellington response

3. Greater Wellington can confirm that the Panel has interpreted the ruling correctly. Setting the river mouth at the MHWS of a river or stream enables Greater Wellington to apply the formula specified in the RMA to calculate the boundary of the coastal marine area, ie; whatever is the lesser of 5 times the width of the mouth of the stream or 1 km upstream from the mouth. This reduces the burden to undertake expert surveys every time an activity is proposed in the mouth of a river or stream.
4. With respect to identifying the coastal marine boundary from the river mouth, in most instances this can be determined with a sufficiently accurate level of detail without requiring a more expensive survey. In some instances, a very accurate survey may be required for legal or jurisdictional purposes. Both approaches have been applied successfully by Greater Wellington for a number of years to manage activities in estuarine river mouth and coastal marine environments. It allows for an approach that is both pragmatic and commensurate with the scale or sensitivity of the activity.