

Proposed Marlborough Environment Plan

Minute of the Hearing Panel

Minute 52

To: Liz White, Section 42A Report Writer – Topic 22 Forestry;

1. The Hearing Panel has some issues upon which it seeks further responses from you arising from its initial consideration of the Forestry, Topic 22 issues. Those issues involve the following matters:

A. Is any purpose served by inclusion of the phrase *National Environmental Standards for Plantation Forestry 2017* in rule 3.3.6 and other provisions?

2. At paragraph 124 of the original Section 42A report, an amended wording was recommended for Rule 3.3.6 which provided for permitted activity standards for commercial forestry “*including where managed by the National Environmental Standards for Plantation Forestry 2017*”.
3. As the Hearing Panel apprehends that as a matter of law by statutory regulation all plantation forestry is required to be managed by the National Environmental Standards for Plantation Forestry 2017, the Panel enquires why the recommended wording of rule 3.3.6 needs to have that wording included?
4. There are also numerous other provisions where a similar inclusion has been recommended of that phrase.
5. The short question is – given the statutory situation is that wording serving any purpose?

B. Inconsistency between para 119 to 121 discussion and para 126 (b) recommendation

6. The discussion at paragraphs 119 to 121 concludes that it is important for the MEP to adopt the NESPF definitions for each of ‘planting’ and ‘replanting’ as separate activities. That is reflected by the recommendation at paragraphs 126 and 280 respectively of separate definitions of ‘commercial forestry planting’ and ‘commercial forestry replanting’.

7. However, at paragraph 126 the new definition recommended for 'commercial forestry planting' includes at (b) "*replanting commercial forestry*".
8. There appears at first sight to be an inconsistency in those two approaches and the Panel seeks your clarification as to whether it has overlooked something?

C. Page 52 need for words in parentheses in recommended rule 4.5.3?

9. At page 52 of the Section 42A report, paragraph 276 recommends that rule 4.5.3 as inserted in the alignment exercise as to restricted discretionary activity standards be amended to include in parentheses the words "*(excluding commercial forestry replanting that meets permitted activity standards)*".
10. However, as the matters applied by rule 4.5.3 are restricted discretionary activity matters only, then as a matter of law it would seem to the Panel that these matters cannot apply to permitted activities. If that is correct it would appear that the words suggested in parentheses serve no purpose.
11. The Panel seeks your comment?

General

12. The Panel requests the report as to Issues A – C above by Friday 5 April, 2019 to assist deliberation considerations by the Panel in the following week commencing Monday 8 April, 2019.

Dated 12 March 2019

A handwritten signature in black ink, appearing to read 'T Hook', with a small dot at the end.

Councillor Trevor Hook

Chair of the MEP Hearing Panel