

**Canterbury Regional Council**  
**Proposal for Canterbury Regional Pest Management Plan**

**pursuant to the Biosecurity Act 1993**

**MINUTE AND DIRECTIONS OF HEARING PANEL**

**[Minute 8]**

**INTRODUCTION**

1. The Biosecurity Act 1993 (**BSA**) provides a step by step process which must be followed in the preparation of a regional pest management plan.
2. The Canterbury Regional Council (**Council**) completed the First and Second steps of the plan making process by resolving on 25 May 2017 that it was:
  - a. Satisfied that section 70 of the BSA has been complied with in relation to the Proposal for the Canterbury Regional Pest Management Plan (**the Proposal**); and
  - b. Satisfied of the matters in section 71 of the BSA in relation to the Proposal.
3. The Council also resolved that given that members of the wider public are likely to be affected by the Proposal and that those members may not have been consulted with to date, that it was not satisfied that sufficient consultation had been undertaken, pursuant to section 72(4) of the BSA.
4. The Council directed that further consultation on the Proposal be undertaken, and that the Proposal be publicly notified on 3 June for a period of submissions until 3 July 2017, followed by a hearing of submissions received.
5. The hearing on submissions took place over the course of 6 hearing days. Council staff gave an opening presentation on 11 September followed by presentations by submitters on 11 to 13, 19 and 22 September. Council staff gave a reply presentation on 26 September.
6. Following the hearing we asked Staff to provide us with a recommended revised proposal in the format of a plan. We considered this Staff recommended revised proposal and issued a Minute (Minute 5) on 3 November directing Staff to make further amendments. Staff made those amendments and this interim draft plan was made available to submitters to make comments on technical and workability matters.
7. We have received comments from submitters and Council Staff in response to our Minute 5. Comments from MPI were received at 12.56am on 21 November. Comments were due at 6pm on 20 November. In our Minute 5 we indicated that it was unlikely that we would grant an extension to this timeframe. However, given that the comments were received before the other comments were loaded on the website and were provided to the Panel, we do not consider there to be any prejudice in accepting these late comments. We also consider that the acceptance of the late comments will assist us in meeting the requirements of the BSA.

8. This Minute now addresses the Third and Fourth steps of the plan making process as set out in sections 72 and 73 of the BSA:
  - a. Third Step: satisfaction with consultation or requirement of more consultation; and
  - b. Fourth Step: approval of preparation of plan and decision on management agency.
9. A further Minute or Minutes will be issued to deal with the Fifth and Sixth steps of the process in accordance with sections 74 and 75 of the BSA once the directions in this Minute and the preparation of the plan have been completed.

### **THIRD STEP: SATISFACTION WITH CONSULTATION**

10. Under section 72(1) of the BSA we are required to be satisfied:
  - (a) *that, if Ministers' responsibilities may be affected by the plan, the Ministers have been consulted;*
  - (b) *that, if local authorities' responsibilities may be affected by the plan, the authorities have been consulted; and*
  - (c) *that the tangata whenua of the area who may be affected by the plan were consulted through iwi authorities and tribal runanga; and*
  - (d) *that, if consultation with other persons is appropriate, sufficient consultation has occurred.*
11. The consultation undertaken prior to the public notification of the Proposal is summarised in Section 2.5 of the Proposal and in the Stakeholder Engagement Summary Report provided to the Council and made available on the Environment Canterbury website. A summary of consultation was also provided as Appendix 2 to the Staff Recommendations Report that we received prior to the hearing.
12. A discussion document was released in December 2015 on the future of pest management in Canterbury. The purpose of the discussion document was to seek the community's views on the best approaches to be taken in a new regional pest management plan. The Council received a total of 97 feedback responses and 13 public meetings were held.
13. The Proposal was publicly notified on 3 June 2017 for a period of submissions closing on 3 July 2017. A public notice was published in The Press. A total of 93 submissions were lodged on the Proposal and 36 submitters attended the hearings to speak to their submission, a number with multiple speakers and witnesses.
14. We address each of the requirements of section 72(1) below.

### **Consultation with Ministers**

15. The responsibilities of the Minister for Primary Industries, the Minister of Conservation and the Minister of Land Information may be affected by the plan.
16. Each of these Ministers were consulted with prior to the public notification of the Proposal as set out in the Stakeholder Engagement Summary Report.
17. Following public notification of the Proposal, the Ministry for Primary Industries (**MPI**), the Director-General of Conservation (**DOC**) and LINZ lodged submissions on the

Proposal. Staff have liaised further with MPI and DOC and LINZ were also involved in the working group that considered the inclusion of provisions in the plan to control the spread of wilding Rusell Lupin. These Ministries have also been given the opportunity to make written comment on the interim draft plan on technical and workability matters.

18. We are satisfied, in accordance with section 72(1)(a) that the Ministers whose responsibilities may be affected by the Proposal have been consulted.

### **Consultation with local authorities**

19. The responsibilities of local authorities in Canterbury and local authorities neighbouring Canterbury may be affected by the plan. The relevant local authorities were consulted with prior to the public notification of the Proposal as set out in the Stakeholder Engagement Summary Report and in Appendix 2 to the Staff Recommendations Report. This included meetings with council representatives and meetings of the Canterbury Planning Managers Group.
20. Following public notification of the Proposal, Christchurch City Council, Hurunui District Council, Marlborough District Council, Otago Regional Council, Selwyn District Council, Timaru District Council and Waimakariri District Council lodged submissions on the Proposal.
21. We are satisfied, in accordance with section 72(1)(b) that the local authorities whose responsibilities may be affected by the plan have been consulted.

### **Consultation with tangata whenua**

22. Te Rūnanga o Ngāi Tahu are the tangata whenua of Canterbury who may be affected by the plan.
23. The Council has consulted with Te Rūnanga o Ngāi Tahu representatives, the Runanga Working Group and Te Paiherenga as set out in the Stakeholder Engagement Summary Report and Appendix 2 of the Staff Recommendations Report. Te Rūnanga o Ngāi Tahu representatives attended the Canterbury Planning Managers Group meetings and the Council consulted with Te Rūnanga o Ngāi Tahu representatives, the Rūnanga Working Group and Te Paiherenga to discuss the process for the regional pest management plan review and high level structure of the Proposal. Some specific talking points with these groups were around the link between biodiversity and production pest management, establishing other pests or organisms of interest, managing pests/organisms outside the plan, funding streams and the responsibilities and obligations of resource users.
24. Following public notification of the Proposal, Te Rūnanga o Ngāi Tahu lodged a submission on the Proposal. In the Staff Reply Report, staff also acknowledged that ongoing consultation with Papatipu Rūnanga and Te Rūnanga o Ngāi Tahu will be maintained during the life of the plan to discuss pest species that are having an impact on sites of values to Rūnanga.
25. We are satisfied, in accordance with section 72(1)(c) that the tangata whenua who may be affected by the plan have been consulted.

### **Consultation with other persons**

26. In considering whether we are satisfied that sufficient consultation has occurred with other persons as required by subsection (1)(d), the Panel must have regard to the following matters under section 72(2) of the BSA:
- (a) *the scale of the impacts on persons who are likely to be affected by the plan; and*
  - (b) *whether the persons likely to be affected by the plan or their representatives have already been consulted and, if so, the nature of the consultation; and*
  - (c) *the level of support for, or opposition to, the proposal from persons who are likely to be affected by it.*
27. A discussion document was released in December 2015 to outline proposed changes to the Canterbury Regional Pest Management Strategy. This was followed by various community and stakeholder meetings. Details of these have been provided in the Stakeholder Engagement Summary Report and Appendix 2 of the Staff Recommendations Report.
28. Further opportunity for feedback has also been provided through the public notification of the Proposal where the community has had an opportunity to submit on the proposal and speak to their submission at the hearing. A further opportunity has been provided for submitters to comment on the interim draft plan in relation to technical and workability matters.
29. We have considered the scale of impacts of the proposed plan, which are wide ranging across the region and also impact on neighbouring local authorities. The impacts affects a range of stakeholders and we had representations to us on the issues those stakeholders were faced with as a result of the provisions in the proposal. We had submissions both in support, and in opposition to many of the inclusions of pests in the plan, and received helpful input from the public for identification of new pests and pest agents, as well as organisms of interest. Staff were able to respond to those submissions and refine the Plan.
30. Given the wider ranging scale of impacts, we are satisfied that undertaking notification and carrying out hearings enabled us to consider those impacts, and that the public generally, as well as those directly affected, had an opportunity to take part in an open and public process.
31. Having regard to the matters set out in section 72(2) of the BSA, we are satisfied that the requirements of section 72(1)(d) have been met and sufficient consultation has occurred with other appropriate persons.

### **Whether issues raised in all the consultation undertaken on the Proposal have been considered**

32. We are also required to be satisfied under section 73(1) of the BSA that all issues raised in all the consultation undertaken on the Proposal have been considered.
33. As set out in Section 2.5 of the Proposal, issues raised during consultation have been considered by staff in the preparation of the Proposal and have been addressed where appropriate throughout the Proposal.
34. Following notification of the Proposal we directed Council staff to prepare a report containing:

- a. A summary of the key themes raised in submissions;
  - b. A summary of the legal framework in the Biosecurity Act 1993 for making a regional pest management plan.
  - c. A summary of the decisions requested in submissions received on the Proposal, including staff recommendations in response to each decision requested.
  - d. A further assessment against the consultation requirements in section 72 of the BSA, following the Council meeting on 25 May 2017.
35. This Staff Report was provided to us on 18 August 2017 and made available on the Council's website.
36. We have carefully considered the issues raised in submissions together with the evidence lodged, oral presentations, written comments and any further matters raised at the hearing.
37. In response we have recommended:
- a. Accepting the changes to the interim draft plan recommended by the Council in its further comment response to us, dated 20 November 2017, except:
    - i. We do not agree to the recommended changes to wording in section 3.1. We note that section 7 is about Monitoring, rather than implementation. We recommend that section 7.2 a, b and d is moved to section 3.1 and that section 7.2(c) is retained as the only matter under section 7.2.
    - ii. We do not agree to recommended changes to Objective 19. This is to be retained as directed.
  - b. A number of directions for changes to be undertaken to the interim draft plan in response to submissions, set out in para 45 below.
  - c. Directions for staff to provide us with a cost benefit analysis on the inclusion of:
    - i. Russell lupin provisions; and
    - ii. Conifers as a pest agent in the Wilding Conifer Containment Area.
  - d. That staff provide us with the draft Plan and Staff Report.<sup>1</sup> The Staff Report is to address those matter raised in the further comments, and any other matter it considers relevant for our decision.

### **Conclusion on consultation**

38. We are satisfied that the consultation required by section 72(1) has occurred and that all of the issues raised in all the consultation undertaken on the Proposal have been considered in accordance with section 73(1).

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<sup>1</sup> We note that a full report under section 75 of the BSA will be issued providing our recommendations on the plan and the reasons for accepting or rejecting the submissions.

## **FOURTH STEP: APPROVAL OF PREPARATION OF PLAN AND DECISION ON MANAGEMENT AGENCY**

### **Approval of preparation of plan**

39. Having been satisfied that the consultation required by section 72(1) has occurred and that all of the issues raised in all the consultation undertaken on the Proposal have been considered as required by section 73(1), the Panel may now approve the preparation of a plan. We have received a revised Proposal in the format of an interim draft plan. Therefore we make directions below for the Staff to take that interim draft plan and prepare a final draft plan in accordance with sections 73 and 74 of the BSA. This draft plan will be provided to the Panel for the Panel to make its final recommendations on the Plan.

### **Management Agency**

40. Having approved the preparation of a plan, the Panel must apply section 100 of the BSA to decide which body is to be the management agency. Under section 100(1), the management agency specified in a plan must be a department, a council, a territorial authority or a body corporate.
41. In deciding which body is to be the management agency, the Hearing Panel must take the following into consideration:
- (a) *the need for accountability to those providing the funds to implement the plan; and*
  - (b) *the acceptability of the body to –*
    - (i) *those providing the funds to implement the plan; and*
    - (ii) *those subject to management provisions under the plan; and*
  - (c) *the capacity of the body to manage the plan, including the competence and expertise of the body's employees and contractors.*
42. It is proposed that Environment Canterbury will be the management agency responsible for implementing the Proposal and the resultant Plan because:
- a. Environment Canterbury is accountable to the Plan funders, including Crown agencies through the requirements of the Local Government Act 2002;
  - b. It has implemented previous regional pest management strategies; and
  - c. It has the capacity, competency and expertise to implement the Plan.
43. Following consideration of the matters set out in section 100 we determine that Environment Canterbury (Canterbury Regional Council) be the management agency for the plan.

## **DIRECTIONS**

### **Draft Canterbury Regional Pest Management Plan**

44. The Panel directs Council staff to prepare a draft Canterbury Regional Pest Management Plan in response to matters raised in submissions. The draft Plan must:

- a. Specify the matters set out in section 73(3) of the BSA;
  - b. May contain the matters set out in section 73(4) to (6) of the BSA; and
  - c. Must meet the requirements of section 74 of the BSA.
45. The Panel also directs the following:
- a. Guidance is provided in the plan clarifying how site-led programmes are included. This could appear under either, or both, sections 5.2 and 6.5. Refer to submission 79.7.
  - b. Remove reference to Pest Liaison Management Committee in the glossary, these no longer appear in the document. Refer submission 79.8.
  - c. Add to the title under section 2.2.5 "and the Freshwater Fisheries Regulations 1983".
  - d. Add Horehound to the Organisms of Interest list. Refer submission 14.2.
  - e. Amend the reference to feral goats in Appendix 2, it needs to exclude goats in the Banks Peninsula containment area. Refer submission 64.4.
  - f. Amend Rule 6.4.2 to remove reference to "reasonable steps". This should be replaced with a measure of "where an adjacent property owner is maintaining wallaby populations at or below a Guildford level 3." Refer to submission 85.2.
  - g. Make any amendments required regarding funding, as signalled in the staff narrative report that accompanied the Interim Draft Plan.<sup>2</sup>
  - h. Include provisions for conifers as a pest agent species, as outlined in its response to Minute 7.
  - i. The Council undertake any minor corrections or drafting clarifications that do not change the effect of any of the regulatory provisions.
46. The draft Canterbury Regional Pest Management Plan is to be provided to the Hearing Panel by **5pm, 8 December 2017**, accompanied by the Staff Report and cost benefit analysis as set out below.

### Staff Report

47. Council staff are directed to prepare a Staff Report containing:
- a. Staff recommendations on submitter comments on technical and workability matters (where relevant);
  - b. An assessment of the draft Plan against the matters specified in section 73 of the BSA;
  - c. An assessment of the draft Plan against the requirements of section 74 of the BSA; and
  - d. Address any recommended changes to be made to funding provisions in the RPMP.

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<sup>2</sup> at paras 70 and 71.

48. The Staff Report is to be provided to the Panel by **5pm, 8 December 2017** and made available on the Council's website.
  
- 49. Cost benefit analysis**
50. Council staff are directed to provide:
  - a. A cost benefit analysis for the inclusion of Russell lupin provisions; and
  - b. A cost benefit analysis for the inclusion of conifers as a pest agent in the Wilding Conifer Containment Zone.
51. The cost benefit analysis for Russell lupin is to be provided to the Panel by **5pm, 8 December 2017** and made available on the Council's website.
52. The cost benefit analysis for conifers as a pest agent in the Wilding Conifer Containment Area is to be provided to the Panel by **5pm, 9 February 2018** and made available on the Council's website.
53. Once the Panel receives the draft Canterbury Regional Pest Management Plan and the Staff report, and received the cost benefit analyses, it will commence its final deliberations before providing its recommendations to the Council.

ISSUED by the Hearing Panel

1 December 2017