



Decision Report

on the Canterbury Regional Pest Management Plan

Appendix 3 – Minutes of the Hearing Panel

CANTERBURY REGIONAL PEST MANAGEMENT PLAN
Under the Biosecurity Act 1993

Report and recommendations of the Hearing Panel

Appendix 3 – Minutes of the Hearing Panel

Hearing Panel:

Councillor Tom Lambie (Chair)

Councillor Cynthia Roberts

Councillor Iaeen Cranwell

John Simmons

Table of Contents

MINUTE 1	3
MINUTE 2	9
MINUTE 3	11
Questions that may assist with the preparation of response	15
MINUTE 4	17
MINUTE 5	19
MINUTE 6	25
MINUTE 7	27
MINUTE 8	29
MINUTE 9	37
MINUTE 10	39

Canterbury Regional Council
Proposal for Canterbury Regional Pest Management Plan

pursuant to the Biosecurity Act 1993

MINUTE AND DIRECTIONS OF HEARING PANEL
on preparation for hearing of submissions

[Minute 1]

INTRODUCTION

1. At its meetings on 15 June 2017 and 20 July 2017 the Canterbury Regional Council (**Council**) under clause 32 of Schedule 7 of the Local Government Act 2002 appointed us as the Hearing Panel on the Proposal for the Canterbury Regional Pest Management Plan (**the Proposal**).
2. The Council delegated to us the powers, functions and duties of the Council set out in:
 - a. Sections 72 to 74 (excluding section 72(5)) and sections 100D(6)(b) of the Biosecurity Act 1993 (**BSA**), in respect of the Proposal; and
 - b. Sections 75(1) and (2) of the BSA to prepare a written report on the Plan.
3. These include the powers, functions and duties of hearing submissions on the Proposal for the Canterbury Regional Pest Management Plan and of making recommendations to the Council on the Canterbury Regional Pest Management Plan.
4. The members of the Hearing Panel are:
 - a. Councillor Tom Lambie (Chair)
 - b. Councillor Cynthia Roberts
 - c. Councillor Iaeen Cranwell
 - d. John Simmons

NOTICE OF HEARING

5. Notice is given that a hearing by the Council has been set to consider the Proposal for the Canterbury Regional Pest Management Plan and submissions received on the Proposal.
6. The dates and venues for the hearing of submissions are set out below. Sitting times for the hearing are 9:30am – 4:30pm.

WEEK 1

Date: 11 September 2017
Location: Christchurch
Venue: Environment Canterbury, 200 Tuam Street, Christchurch

Date: 12 September 2017
Location: Christchurch
Venue: Environment Canterbury, 200 Tuam Street, Christchurch

Date: 13 September 2017
Location: Timaru
Venue: Environment Canterbury, 75 Church St, Timaru

WEEK 2

Date: 19 September 2017
Location: Amberley
Venue: Rugby Club Rooms, Amberley Domain Reserve, Douglas Rd, Amberley

Date: 20 September 2017
Location: Amberley
Venue: Rugby Club Rooms, Amberley Domain Reserve, Douglas Rd, Amberley

Date: 22 September
Location: Christchurch
Venue: Environment Canterbury, 200 Tuam Street, Christchurch

DECISION ON ACCEPTANCE OF LATE SUBMISSIONS

7. The following four submissions were received on the Proposal by the Council after the date for making submissions closed at 5pm on 3 July 2017 (together, the **Late Submissions**):
 - a. QEII National Trust – 3 July 2017 at 5.02pm
 - b. Ministry for Primary Industries (**MPI**) – 3 July 2017 at 5.29pm
 - c. Air New Zealand Inc – 3 July 2017 at 8.48pm
 - d. Forest & Bird – 5 July at 3.44pm
8. Three of the Late Submissions were filed on the day that the submission period closed, with the remaining submission by Forest & Bird being lodged within 2 working days. The submissions lodged had not yet been made available on the website for viewing. Further, no Notice of Hearing had been issued and directions for the filing of evidence had not yet been made.
9. Section 72(1)(a) of the BSA requires us to be satisfied that that if Ministers' responsibilities may be affected by the plan, the Ministers have been consulted. The Council has identified that the interests of the Minister for Primary Industries may be affected by the plan, and therefore should be consulted.
10. We are also required to be satisfied under section 72(1)(d) of the BSA that, if consultation with other persons is appropriate, sufficient consultation has occurred.

11. We consider that the acceptance of the remaining late submissions will assist in meeting this requirement of the BSA and that no persons will be prejudiced by the late filing of these submissions.
12. Accordingly, the Panel accepts the Late Submissions as valid submissions on the Proposal. This means that these submissions will be included in the summary of submissions in accordance with the Panel's directions set out below.

DIRECTIONS

13. This Minute sets out the Panel's directions for the conduct of the public hearing.

Staff Report

14. Council Staff are directed to prepare a Staff Report containing:
 - a. A summary of the key themes raised in submissions.
 - b. A summary of the legal framework in the BSA for making a regional pest management plan.
 - c. A summary of the submissions received on the Proposal highlighting key issues raised in submissions, including staff recommendations in response to each submission.
 - d. A further assessment against the consultation requirements in section 72 of the BSA, following the Council meeting on 25 May 2017.
15. The Staff Report will be made available on the website on and from 18 August 2017.

Website

16. All information relevant to the hearings will be made available on the Council's website: **www.ecan.govt.nz/pests**.
17. Submitters who wish to be heard are advised to view that information on the website.

Service on the Council

18. Any information or evidence required by this Minute, and any memorandum or application to the Hearing Panel, may be lodged:
 - a. In writing, addressed to Environment Canterbury, PO Box 345, Christchurch 8140 marked for the attention of the Hearings Officer Lochiel McKellar
 - b. By delivery to Environment Canterbury, 200 Tuam Street, Christchurch.
 - c. By email to lochiel.mckellar@ecan.govt.nz.

Confirmation of wish to be heard

19. Submitters who wish to be heard at the public hearing must confirm by email to lochiel.mckellar@ecan.govt.nz their intention and availability no later than 4 August 2017, and advise:

- a. Where they would prefer to appear.
- b. Whether they require more than 15 minutes to speak to their submission and/or call evidence, and if so, an estimate of time and reasons for the additional time requested.
- c. Whether they have any special needs (e.g. projector and screen).
- d. Whether they intend to call expert evidence.
- e. If they would like to present in Te Reo Māori.

A Hearing Plan

20. A Hearing Plan will be e-mailed to submitters and posted to the website showing the location, date, sequence and time allocation granted to each submitter.
21. Submitters will be allocated 15 minutes to speak to their submission and/or call evidence. If submitters require more time, they are required to advise the Hearing Officer when they confirm their wish to be heard and give reasons for the additional time required (in accordance with paragraph 19 of this Minute).
22. Any additional time allocations will be set in light of the content of each submitter's submission, evidence (if any) and the time estimate and reasons provided by the submitter.

Provision of written evidence

23. To allow for the Hearing Panel to read the evidence prior to the hearing, submitters who intend to call or give evidence are to provide a written statement of the evidence of each witness so that it is received by the Council by 4 September 2017. Please note that this applies to all written evidence, including both expert and lay evidence. Due to the limited timeframes extensions to this date will not be granted.
24. It is noted that if lay persons wish to present evidence but do not wish to prepare a written statement of evidence, they may attend the hearing and make an oral presentation within the time allocation specified.
25. This timetable is established because the Hearing Panel considers that the scale and significance of the public hearing makes this direction appropriate. The statements of evidence will be posted on the website.

The Hearing Procedure

26. The Hearing Panel will read submissions and evidence in advance, and take such materials as read, so time allocations can be set to allow submitters to provide an executive summary of their submission and/or provide evidence in response to new issues and/or provide rebuttal evidence.
27. Submitters will not be permitted to cross-examine witnesses. The Hearing Panel may question submitters and witnesses.

Evidence Recording

28. An audio record of the hearing will be maintained and made available to submitters on the website.
29. Excerpts from the audio record may be transcribed, if appropriate, where the Panel requires it or receives an application and makes a direction for transcription.

Acknowledgement of Potential Conflict of Interest

30. Having reviewed a list of submitters, the Hearing Panel have identified those submitters with whom the Hearing Panel have had current or previous associations.

Councillor Tom Lambie:

- Member of Federated Farmers of New Zealand.
- Interest in Meadowvale Limited, a farming property in the Timaru District.

Councillor Cynthia Roberts:

- Member of Forest and Bird
- Member of the Rod Donald Banks Peninsula Trust that contributes substantial funds to the Banks Peninsula Conservation Trust

John Simmons:

- Previous association with KiwiRail Holdings Limited.
- Previous association with Land Information New Zealand.
- Previous association with Ministry for Primary Industries.

31. The Hearing Panel is satisfied, subject to any matters submitters might raise, that any perceived conflicts of interest can be dealt with by this disclosure, and there is no need for any Panel member to recuse themselves from considering and determining any of the submissions.
32. If any submitter takes a different view, or wishes to raise additional matters, they are to alert the Council as a matter of urgency.

ISSUED by the Hearing Panel

25 July 2017

Canterbury Regional Council
Proposal for Canterbury Regional Pest Management Plan

pursuant to the Biosecurity Act 1993

MINUTE AND DIRECTIONS OF HEARING PANEL
on preparation for hearing of submissions

[Minute 2]

INTRODUCTION

1. This is the second Minute of the Hearing Panel, following the issue of Minute 1 dated 25 July 2017. In Minute 1 this Panel gave notice of the hearing on the Proposal for the Canterbury Regional Pest Management Plan (**the Proposal**) and addressed a number of procedural matters, including the acceptance of late submissions.
2. This Minute deals with additional late and invalid submissions.

DECISION ON ACCEPTANCE OF LATE SUBMISSIONS

3. The following two submissions were received on the Proposal by the Council after the date for making submissions closed (together, the **Late Submissions**):
 - a. Graham, P – 4 July 2017 (by mail)
 - b. Otago Regional Council – 7 August 2017 at 4:30pm
4. P Graham's submission was received by post on 4 July 2017, prior to our Minute 1. The Otago Regional Council submission has been received prior to the exchange of the Council's Staff Report and submitter evidence.
5. The following submitters have also sought to add further points to their original submissions (together, the **Late Additional Submission Points**):
 - a. QEII National Trust – 31 July 2017 at 4:06pm
 - b. Christchurch City Council – 2 August 2017 at 12:53pm
6. Christchurch City Council originally filed a submission within the submission period. QEII National Trust filed its submission after the submission period had closed, but this Panel accepted its late submission as valid in Minute 1. The Late Additional Submission Points have been received prior to the exchange of the Council's Staff Report and submitter evidence.
7. Section 72(1)(b) of the Biosecurity Act 1991 (**BSA**) requires us to be satisfied that that if local authorities' responsibilities may be affected by the plan, the authorities

have been consulted. The Council has identified that the interests of these local authorities may be affected by the plan, and therefore should be consulted.

8. We are also required to be satisfied under section 72(1)(d) of the BSA that, if consultation with other persons is appropriate, sufficient consultation has occurred.
9. We consider that the acceptance of the remaining late submissions and additional submission points will assist in meeting this requirement of the BSA and that no persons will be prejudiced by the late filing of these submissions.
10. Accordingly, the Panel accepts the Late Submissions and Late Additional Submission Points as valid submissions and submission points on the Proposal. This means that these submissions and additional submission points will be included in the Council's summary of submissions in accordance with the Panel's directions in Minute 1.

INVALID SUBMISSION

11. The submission of Mr Ian Burn raised issues quite clearly beyond the scope or jurisdiction of the Proposal. The submission is frivolous and vexatious in its nature and discloses no reasonable or relevant matter for the Hearing Panel to consider.
12. Accordingly, the Panel determines that Mr Burn's submission is invalid. It will not be included in the Council's summary of submissions and will not be considered further by the Hearing Panel.

ISSUED by the Hearing Panel

DATE 9 August 2017

Canterbury Regional Council
Proposal for Canterbury Regional Pest Management Plan
pursuant to the Biosecurity Act 1993

MINUTE AND DIRECTIONS OF HEARING PANEL
on key matters arising from submissions and additional hearing date

[Minute 3]

INTRODUCTION

1. This is the third Minute of the Hearing Panel.
2. The Panel would like to thank staff for the officer's report on the Regional Pest Management Plan proposal ('RPMP', 'proposal') and acknowledge the work that has been put into its preparation. This minute sets out some key questions that have arisen from the review of the officer's report and submissions to date, and which will assist us with our consideration of the proposal.
3. We also issue a further directions as to the scheduling of a hearing day for the Council's response to submissions and evidence.

KEY MATTERS ARISING

4. We set out below our key questions arising from the review of submissions and the officers report to date. This is not intended to be an exhaustive list and we are likely to have further questions that may be addressed in the course of the hearing. However the following questions will assist both the Council and submitters in their preparation for the hearing. It does not limit the matters on which either the Council or submitters may present.
 - a. The objectives for each pest species address individual pests as required by the Biosecurity Act. We ask the Council to consider whether it might be appropriate to include a strategic objective that sets out the outcomes and hierarchy of priorities for the whole pest management programme, addressing both productive and biodiversity pests?
 - b. Can the Council envisage use of a property management plan in the rules, which might be integrated with pest reporting and monitoring?
 - c. Can the Council clarify and distinguish the difference between a pest and a pest agent?
 - d. Can more information be provided around how the budget allocation for pest management works in relation to the funding mechanisms set out in the RPMP versus budget allocation in annual plans and the Long Term Plan, and the role of the Panel setting funding mechanisms in the RPMP, along with any risks?
 - e. Can targeted rates on productive land be spread over Canterbury, and if so, what are the implications of this?

- f. Do Pest Liaison Committees have a standard terms of reference, and if so, can a copy be provided, along with a map showing their distribution and area of responsibility?
- g. How do Environment Canterbury's river management policies integrate with the RPMP in terms of removal of pest plant species (including management of willows and pests on braided river systems)?
- h. How does the control of wilding conifers under the proposed RPMP compare to existing management – is it an increase in the regulatory component?
- i. Can information be provided on funding for wilding conifer removal for each of the financial years ending 2015-2018?
- j. In relation to wilding conifers, how does the proposal integrate with the Resource Management (National Environmental Standard for Plantation Forestry) Regulations 2017? Is any amendment required in response to that regulation?
- k. The proposal indicates removal of 900,000ha of wilding conifers over a ten year programme, how much of the existing total wilding conifer area does this constitute, and does it include consideration of future additional areas?
- l. In relation to wilding conifers, is it possible to elaborate (further on the statement in the staff report that “there are significant economic reasons for not including Douglas fir and Pinus radiata in the list of specified pest conifers, primarily because this would be overly prohibitive to the forestry industry”.
- m. What is the reason for not taking a single policy direction for management of pests on roads by roading authorities?
- n. Is there any research available on the impact of removal of feral cats, on increase in other harmful pest species such as rats, rabbits and mustelids, and is there any evidence that might support feral cats being included in a site led programme?
- o. What are the implications of including a definition for feral cats, such as “a feral cat is a cat without a microchip, collar or harness”?¹
- p. What is the progress of management of African feather grass over the previous 5 years?
- q. Is Environment Canterbury the best lead agency for the management of Koi carp, or should it be the Department of Conservation?
- r. What is an effective wallaby-proof fence?
- s. What is the practicality of removing Russell Lupin (both financial and physical) from high value biosecurity sites, and have any been identified? If this was to be done, what would be a realistic reduction target under Objective 19?
- t. Is there a reason that consideration of feral pigs were not considered as part of the Cost Benefit Analysis
- u. Was any consideration given to the costs and benefits of removal of feral goats on Banks Peninsula; if not, can that be addressed?

¹ Refer Officer's report pg 41-42, response to sub 45.1

- v. What is the status of Chilean Mayten, is it in other Regional Pest Management Plans, and could it be considered for inclusion in the RPMP?
 - w. Is there an opportunity for a site led programme for Himalayan Balsam in the Waiau River catchment, and what would be the implications of such a programme?
 - x. Could Rule 6.4.3 in relation to Bennett's wallaby be extended to transporting or releasing wallabies?
 - y. What are the current constraints at present in terms of detection of wallabies?²
 - z. Can a copy of 'Review of current and future predicted distributions and impacts of Bennett's and dama wallabies in mainland New Zealand' be provided to the Panel?³
 - aa. Could consideration be given to inclusion of definitions for the following:
 - i. Land value
 - ii. Pest agent
 - iii. Unwanted organism
5. We direct the Council respond to the questions in writing and to make this available by **5pm 8 September 2017**. A copy of the response will be placed on the website for submitters on the following link <http://www.ecan.govt.nz/pests>.

COUNCIL REPLY HEARING DAY

6. We note that the following additional hearing day will be scheduled to hear the Council's reply:
- Time: 9.30am
- Date: 26 September 2017
- Location: Environment Canterbury, 200 Tuam Street, Christchurch
- Venue: Council Chambers
7. This will be held in public and submitters are welcome to attend and hear the presentation from Council officers.

ISSUED by the Hearing Panel

DATE 31 August 2017

² Refer Officer's report pg 222, response to sub 93.4

³ Refer Officer's report pg 223, response to sub 93.6

Questions that may assist with preparation of response

The following questions are particular matters which we would find helpful for a response from staff. We do not intend these questions to be seen as limiting the Council's response in relation to submissions heard.

1. Management of the roadside reserves does not appear to have been quantified in the cost benefit analysis – what are the implications of a consistent policy of occupier responsibility (i.e. the roading authority)?
2. DOC sought the inclusion of Japanese Larch, Hybrid Larch and Bishops Pine into the wilding conifer list – should these be included?
3. We are interested in the time and cost involved in including species as an organism of interest – and can the process be explained as to how information is collected that then enables that to become a site led programme?
4. We would staff to carefully consider whether wild Russell and Tree Lupins could be included as a pest, with Russell Lupin as a pest agent. We received substantial information on their adverse impact on braided waterways – if such a framework were to be adopted, what would appropriate setbacks from watercourses be?
5. If a framework were to be developed for wild lupins, would it be possible to require parties to undertake management and clearance, where an agreed management plan is adopted by the Regional Council and the occupiers. This would pull together private, public and crown agencies? We note the format could be similar to proposed 6.4.9, but more focussed on management of sensitive areas, rather than the very tight control applied to Chilean Needle Grass.
6. In a similar manner, would there be value around a rule that might be developed for control of gorse and broom around waterways?
7. Is there a better way of providing for compliance with control of Nassella Tussock that provides for Mr Turnbull's situation?
8. We are interested in staff comment on the use of "indigenous conservation" versus "biodiversity."
9. We are interested in whether staff have revised their position on the 50:50 funding split for a number of the inspection costs, given additional information regarding the impact of certain pests on biodiversity values.
10. We are interested in exploring the concept of identifying feral goats as a pest, and farmed goats as a pest agent, and whether this could be geographically constrained to address the Banks Peninsula area.

Canterbury Regional Council
Proposal for Canterbury Regional Pest Management Plan
pursuant to the Biosecurity Act 1993

MINUTE AND DIRECTIONS OF HEARING PANEL

Following hearing of submissions

Minute 4

INTRODUCTION

1. This is the fourth Minute of the Hearing Panel.
2. The hearing of submissions has now been completed, and Council Staff have provided their initial response to submissions and questions from the Hearing Panel, which is available on the website, along with recordings from the hearing days.
3. We thank submitters for the time and effort put into making submissions and presenting at the hearing, noting that this has assisted us greatly with our decision-making process.
4. The following sets out our directions for the process going forward through to us making our recommendations to Council:
 - a. Canterbury Regional Council Staff are to provide a recommended revised proposal to the Hearing Panel by **Tuesday, 24 October 2017**. This revised proposal is to be in the format of a plan.
 - b. The Panel will consider the Staff recommended revised proposal, and, if necessary, issue a Minute by **Friday 3 November 2017** directing any further amendments to be made by Council Staff.
 - c. The revised proposal, with any amendments by Council Staff in response to the Hearing Panel's Minute, will be released to submitters and uploaded on the Council's website on **Friday, 10 November 2017**, for written comment on minor technical and workability matters.
 - d. Submitter comments on technical and workability matters are due by 6pm on **Monday, 20 November 2017**. We indicate that we are unlikely to grant extensions to this date.
 - e. Following receipt of submitter comments and further Panel deliberations we will issue a Minute directing Canterbury Regional Council Staff to prepare the final draft Plan for our final deliberations.
 - f. We will then complete our deliberations and report our recommendations for decision to the Canterbury Regional Council in the New Year.

ISSUED by the Hearing Panel

11 October 2017

Canterbury Regional Council
Proposal for Canterbury Regional Pest Management Plan
pursuant to the Biosecurity Act 1993

MINUTE AND DIRECTIONS OF HEARING PANEL

Directions on interim draft Plan

Minute 5

INTRODUCTION

1. This is the fifth Minute of the Hearing Panel.
2. As directed in our fourth Minute, Council staff have now provided a recommended interim draft following the hearings on the Regional Pest Management Plan proposal.
3. The Hearing Panel is provided the opportunity to consider the revised proposal and direct any amendments to the Plan. This step takes place prior to its release for comment on minor technical and workability matters.
4. It is important to stress that at this stage, the revised proposal does not represent a final draft nor does it signal that we have reached a decision on submissions. Further changes will be undertaken as we move through our deliberations towards the end of the year and consider submissions, evidence and submitter comment on the recommended revised proposal.
5. Following amendment in relation to our directions below, the revised proposal will be released for comment on **Friday, 10 November 2017**.
6. Comments should focus on technical and workability matters in relation to the draft Plan. It is not the opportunity to resubmit on matters already submitted on, as those matters will still be considered as part of our deliberations.
7. Written comments on such minor technical and workability matters may be lodged:
 - a. In writing, addressed to Environment Canterbury, PO Box 345, Christchurch 8140 marked for the attention of the Hearings Officer Lochiel McKellar.
 - b. By delivery to Environment Canterbury, 200 Tuam Street, Christchurch.
 - c. By email to lochiel.mckellar@ecan.govt.nz.
8. Comments on technical and workability matters are due by 6pm on **Monday, 20 November 2017**. We indicate that we are unlikely to grant extensions to this date.
9. The following directions for changes for staff to undertake to the draft Plan prior to its release for comments are made:
 - a. Insert a new paragraph regarding setting priorities for pest management at 1.2. Possible drafting is included at Appendix 1.
 - b. Insert new para into 3.1 to the effect that an operational plan is required, such as:

Under section 100B(1)(a) of the Act, Environment Canterbury as the management agency must prepare an operational plan, to be reviewed annually, within 3 months of this Plan being approved.

- c. Insert a new paragraph into 3.3.4 that signals that a consistent policy across Road Controlling Authorities will be undertaken as part of the 10 year review of the Plan, recognising the immediate potential financial impact and enabling time for this to be provided for.
- d. In 6.1 make provision so that, where a pest that has been identified under an exclusion programme, as being located in the Canterbury Region, the pest shall become a pest to be managed for eradication, and the objectives and principal measures to be used for managing the pest shall apply.
- e. Rule 6.4.9 – amend (b) to state “be party to a Written Management Agreement that has not been terminated (unless the Regional Council determines such an agreement is not required). Delete 2 iii, as these matters will be covered by the mandatory CNG Management Plan in Rule 6.4.8.
- f. Provide greater clarity around which rules are pest rules, and which rules are pest agent rules. Include recognition of this in the objectives. Amend headings and content in Section 6 where both pests and pest agents have rules. Include a new paragraph 4.2 which describes what a pest agent is, and which species are identified as pest agents in the Plan.
- g. Provide for planted conifers within the Wilding Conifer Containment Area to be identified as pest agents in certain circumstances where they present a risk for wilding conifer management. Suggested drafting is contained in Appendix 2.
- h. Similarly, recognise that Russell lupins are a pest agent, with wild Russell lupins being pests.
- i. Similarly, differentiate that domesticated/farmed goats in the area specified in Appendix 3 Map 14 are pest agents for the purpose of draft rules 6.5.1 and 6.5.2 and that feral goats are a pest within the identified area.
- j. Include a rule that requires the destruction of feral goats within the containment area in Appendix 3 Map 14 on receipt of written direction from an authorised agent.
- k. Amend objective 19 to the following effect:

Over the duration of the Plan, sustainably control the extent of Russell lupin within specified distances from waterways to preclude establishment of wild Russell lupin and to prevent adverse effects on environmental values.
- l. Amend Rule 6.4.24 relating to Russell lupin planting to apply to all of the Canterbury Region, not just rural zones.
- m. Reduce the timeframe for objective 19 for feral goats to indicate they will be removed in 10 years.
- n. Remove wild Russell lupin from Appendix 2 and add:
 - i. Chilean glory vine
 - ii. Tree lupin
 - iii. Tree Lucerne
 - iv. False tamarisk
- o. Insert the following powers into 8.1 Table 33
 - i. Small scale management – s100V
 - ii. Authorised persons to comply – s 104

- iii. Entry re: offences – s111
- iv. Power to seize evidence – s 118
- v. Power to seize abandoned goods – s 119
- vi. Duration of place and area declaration – s 133
- vii. Offences – s154M, 154N and 154O
- p. Remove from Table 36 reference to low, medium and high prone funding formulae as these duplicate the same formula.
- q. Amend 9.3 and 9.4 to combine 9.4(a) and 9.4(c), and to remove specificity around rabbit control, as the funding formula is indicated as being the same for all classes of prone land.

ISSUED by the Hearing Panel

3 November 2017

Appendix 1

1.2 Setting priorities for pest management

In the course of carrying out its functions under the Biosecurity Act 1993, and setting funding under Local Government Act 2002 Long Term Plans and Annual Plans, Environment Canterbury will often be in a position where it is necessary to balance priorities for managing pests based on limited resources. Priorities for management will need to be set taking into account the following matters:

- The level of impact or potential impact on significant biodiversity, or primary production, values, including an evaluation of the quantifiable and non-quantifiable costs and benefits;
- Any positive or negative effects on Ngai Tahu cultural values, including mahinga kai, waahi tapu and waahi taonga;
- Provide for a focus on public funding for exclusion or eradication of pests, followed by management for containment or control, and finding the right balance; and
- Re-allocate funding to more effective uses, such as pathway management and site led programmes, that protect significant cultural, biodiversity or production values, taking into account the costs and benefits of alternative actions.

The diagram below demonstrates the impact that pest management can have in the early stage of population growth and spread.

[insert multi species population dynamic curve]

Appendix 2

Plan Rule 6.3.4	Explanation of rule
<p>Within the Wilding Conifer Containment Area shown on Map 1 in Appendix 3, occupiers shall, on receipt of written direction from an Authorised Agent, destroy any tree or group of trees identified as a pest agent that is present on land they occupy, if –</p> <p>(a) the tree or group of trees is located within or adjacent to an area which has had control operations carried out to destroy wilding conifers, contorta, Corsican, Scots, mountain and dwarf mountain pines, larch and/or other planted conifer species; and</p> <p>(b) The control operations were publicly funded (either in full or in part).</p> <p>For the purpose of this rule, the species identified in Table 3 of the Plan are specified as pest agents where:</p> <ol style="list-style-type: none">1. the tree or group of trees is not a plantation forest as defined by cl 2 of the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017;2. Environment Canterbury identifies a particular tree or group of trees as a source or potential source of wilding conifer seed;3. the tree or group of trees is located in or adjacent to an area that either:<ol style="list-style-type: none">a. is not currently affected by wilding conifer incursion; orb. there there has been, or will be, significant investment to clear wilding conifers trees;4. in the opinion of Environment Canterbury, following consultation with the land owner and/or occupier, it considers the benefits of removal of the tree outweigh the costs of retention; and5. Environment Canterbury notifies the owner and/or occupier in writing that it deems an identified tree or group of trees to be a pest agent.	<p>Over the duration of the Plan, to ensure that new infestations, or reinfestation, of wilding conifers are prevented at sites where wilding conifers contorta, Corsican, Scots, mountain and dwarf mountain pines, larch and/or any other planted conifer species that have previously been destroyed through publicly funded control operations.</p>

<p>A breach of this rule creates an offence under section 154N(19) of the Act.</p>	
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Canterbury Regional Council
Proposal for Canterbury Regional Pest Management Plan
pursuant to the Biosecurity Act 1993

MINUTE AND DIRECTIONS OF HEARING PANEL

Release of interim draft Regional Pest Management Plan for comment

Minute 6

INTRODUCTION

1. This is the sixth Minute of the Hearing Panel.
2. This minute sets out details around the interim draft Regional Pest Management Plan that is being released for comment. We note that comment is not sought from new parties to the process.
3. The interim draft is a copy of the recommended interim draft RPMP provided to the Hearing Panel by Council Staff on 24 October 2017 which now incorporates specific changes directed by the Hearings Panel in Minute 5. These specific changes are shown in track changes in the interim draft document. The interim draft does not represent the Panel's decision, nor does it necessarily represent Council staff's position in relation to directions for changes we have made.
4. We expect that both submitters and the Council will provide comment on technical and workability matters in relation to this document.
5. The Panel will continue to work through the evidence presented to it, as well as consider the comments made by the parties in this next step in the process. This will all contribute to our decision making process before we direct the final draft to be prepared.
6. We re-iterate that comments on technical and workability matters are due by 6pm on **Monday, 20 November 2017**. We again indicate that we are unlikely to grant extensions to this date.

ISSUED by the Hearing Panel

10 November 2017

Canterbury Regional Council
Proposal for Canterbury Regional Pest Management Plan

pursuant to the Biosecurity Act 1993

MINUTE AND DIRECTIONS OF HEARING PANEL
regarding rules for conifers as a pest agent

[Minute 7]

1. Having considered the submissions, evidence and further comments from submitters, the Hearing Panel considers that there is a strong case for inclusion of a rule or group of rules that enables control of conifers as a pest agent in the Wilding Conifer Containment Area.
2. We ask that Council, as a matter of urgency, provide us with an update on its position regarding the further comment from the Ministry of Primary Industries on technical and workability matters.
3. We ask the Council to provide us with the following:
 - a. Does the Council recommend to us, if a rule or group of rules to manage conifers as a pest agent in the Wilding Conifer Containment Area were to be included in the RPMP, that sufficient consultation has been undertaken that would allow us to include such a rule or group of rules?
 - b. If the Council recommends that there has been sufficient consultation, what timeframe and process would be required to develop an appropriate rule or group of rules, including appropriate consideration of allocation of costs?
 - c. If the Council recommends that it considers insufficient consultation has taken place, what timeframe and process would be recommended to develop an appropriate rule or group of rules, including appropriate consideration of allocation of costs, after the plan has been made.
4. We direct the Council to provide us with a response to this minute by **5pm Tuesday 28 November 2017**.

Issued by the Hearing Panel

27 November 2017

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.¹ 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).

¹ 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.²
 - 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.

² 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

Canterbury Regional Council
Proposal for Canterbury Regional Pest Management Plan

pursuant to the Biosecurity Act 1993

MINUTE AND DIRECTIONS OF HEARING PANEL

[Minute 9]

1. We noted in Minute 8 that we accepted the Council's position in its further comments on the interim draft, with two exceptions, which we noted in that minute.¹
2. We seek to correct an omission in relation to two additional matters arising from the Council's comments and its response to Minute 7, and our deliberations on those matters:
 - a. Having taken into account the Council's comments on additional costs for goat control on Banks Peninsula, we do not at this stage propose to make any changes to Objective 23, and direct that the wording in the interim draft Plan is retained.
 - b. We are would like to further consider the Council's response in the staff report to Ministry of Primary Industries suggestions for drafting changes for Objective 4.
3. These matters will be included as part of our final deliberations on the Plan.

ISSUED by the Hearing Panel

7 December 2017

¹ At [37], Minute 8, issued 1 December 2017

Canterbury Regional Council
Proposal for Canterbury Regional Pest Management Plan

pursuant to the Biosecurity Act 1993

MINUTE AND DIRECTIONS OF HEARING PANEL

Minute 10

1. The Hearing Panel has received the staff report and amended plan as directed in Minutes 8 and 9.
2. In Minute 8, we directed Council staff to provide a Staff Report and that it address any recommended changes to be made to the funding provisions in the RPMP.¹ The provisions have been substantially simplified.
3. We do, however, have two questions of clarification that will assist us with our final deliberations, and those relate to an explanation of the funding split and allocation of costs to each of the identified species in Table 37.
 - a. Could the Council provide a more thorough explanation of how the funding splits apply in relation to individual species control programmes. In particular, we are interested in what costs would be involved in relation to the category “control of production pests” and examples of where direct costs would be applied, or targeted rates sought. Identification in the table of where these costs sit for each pest may assist.
 - b. There are rules that require individual landowners to undertake actions in relation to wild Russell lupins, Bennett’s wallaby, and conifers. The way the provisions are currently drafted, it would appear to the reader that public funding would be provided for clearance, rather than the clearance being the responsibility of the individual landowner. How does the programme funding impact an individual landowner’s obligations to undertake clearance at their own cost?
4. We would be assisted in our deliberations by the Council responding to these questions of clarification, and any consequential changes recommended. The Council is directed to provide a response to us by **5pm Wednesday 20 December 2018**.

ISSUED by the Hearing Panel

14 December 2017

¹ Para 47(d), Minute 8, 1 December 2017