



Information request

Timelines for Investigation of Environment Canterbury

Date:	24 September 2009	MfE Priority:	URGENT
Security Level:		Number of Attachments:	Nil
		MfE Ref No:	09-B-02920

	Description	Relevant dates
Minister for the Environment Hon Dr Nick Smith	Department of Internal Affairs timelines for a joint investigation of Environment Canterbury	

Ministry for the Environment Contacts

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Purpose

You requested further information on timelines for a joint investigation of Environment Canterbury (ECan) with the Department of Internal Affairs (DIA). This briefing presents timelines drafted by the DIA and also presents other revised options for investigation of Environment Canterbury which could provide a better outcome.

Timing

Option 1 – Fast track

Joint investigation as per the draft timelines provided to us by DIA.

Under DIA's draft timeline it is proposed (see **Appendix 1**) the Minister of Local Government send a copy of the Mayor's complaint letter to ECan, noting that he is considering the appointment of a review authority. ECan will have until **28 September** to respond to this letter.

Subject to ECan's response, it is then proposed that the Ministry for the Environment (MfE) and the DIA will prepare advice for Ministers, draft terms of reference for the review and go to Cabinet as an oral item on **19 October**.

Upon noting the Minister of Local Government's decision to appoint a review authority a paper will then go to Cabinet by **7 December**.

The investigation could then commence sometime in December. The DIA's draft timelines have the review being investigated and reported by mid February with recommendations ready in **late February**.

We believe this timeline is optimistic at best, especially references to Cabinet timeframes. We are concerned that these timeframes do not allow other Ministers and Departments to be consulted adequately. We would also be concerned about our ability to develop a robust terms of reference for a wider investigation in the time available.

A 'fast track' approach is also risky as the issues in ECan are complex and will be difficult to identify and properly address. We run the risk of missing the real problems and only focussing on the symptoms if we fast track the investigation.

Option 2 – Alternative investigation

More time in the planning and scoping phase of the investigation

Option 2 allows officials to spend more time on planning the review scope and terms of reference, aiming to have the Review authority commencing in early 2010. This is presented as an Alternative approach in **Appendix 2**.

This involves a slightly slower timeframe on the decision for a joint review under both statutes.

The purpose of the delay would be to allow time to deal with the implications of the voting out of the Chair of ECan, and to allow time to consider the effect of the Draft Canterbury Water Management Strategy (the Strategy) as it goes through the public consultation process.

Proceeding with option 2 would allow us to address resource consent processing issues as part of a wider context. The evidence we have of problems in the resource consent processing practices of ECan are merely a symptom of a bigger problem.

This slightly slower and fully joint investigation would see officials coming back with detailed advice on the best way of dealing with the deep seated problems in ECan in early November. It would also provide more time to ensure fuller engagement with other Departments and Ministers to ensure the response/review will contribute to the governments overall aims for water management in Canterbury.

Investigation of Far North District Council

You can still proceed quickly with an announcement to review resource consent processing in Far North District Council.

Key Points

- It is vital to develop a very good terms of reference for the review to ensure the underlying problems in ECan are well addressed.
- A review needs to be seen as part of the government's broader engagement on Canterbury water issues, and needs to have a positive effect on ECan's ability to deliver to its community.
- It is vital to get the messaging to the Canterbury community right.
- Option 1 (fast track) allows a quick turn around but risks missing the real problems and only focussing on the symptoms.
- Option 2 will mean more time is spent in the planning and scoping phase but will produce a more robust review.

Kevin Currie
Director Environmental Protection

Date

Appendix 1: Draft process for appointing review authority in ECan under section 254 of the LGA

Stage	Completion time
1. Complaint letter received from Canterbury Mayors.	18 September
2. Complaint letter acknowledged, including copy to ECan.	22 September
3. Scoping of possible review authority candidates and logistical planning begins.	
4. Minister of Local Government sends a copy of the complaint letter to ECan, notifying ECan that Minister is considering the appointment of a review authority. ECan invited to comment and provide information to defend itself. Five working days to respond.	28 September (AMOLG signs)
5. Information from ECan received.	2 October
6. The material provided by Canterbury Mayors and ECan is reviewed by DIA in consultation with MfE. Further material may be requested from ECan, as required.	9 October
7. Advice prepared for Ministers, in consultation with MfE, on whether we consider the grounds for a ministerial review authority are met. Terms of reference for review drafted.	15 October (assumption Minister decides to start formal consultation from this date)
8. If Ministers consider the statutory grounds for a review authority are met, Minister of Local Government advises Cabinet that he intends to appoint a review authority and is consulting before making a decision.	Cabinet (Oral Item) 19 October
9. Formal consultation process as set out under section 254 of the LGA. Letters CC'd to Prime Minister & others as appropriate.	Statutory 20 working day consultation period ends 13 November
10. Cabinet notes Minister of Local Government's decision to appoint review authority and approves appointee and any budget required (assumes full Cabinet Committee and Cabinet process).	Paper to Cabinet 30 November or 7 December
11. Review authority begins review – at least 2 months to investigate and report.	Two months – mid February
12. Minister assesses recommendations and decides on further action. Cabinet paper may be advisable if local authority is to be required to comply.	Late February

Appendix 2: Ministry for the Environment's Alternative approach

Date	DIA (fast-track) option	Alternative approach
28 Sep	Minister of Local Government notifies ECan that Minister is considering the appointment of a review authority.	Minister of Local Government notifies ECan that Minister is considering the appointment of a review authority.
1 Oct		[Option: Minister for the Environment announces proposal to review consenting practices in ECan and Far North, and signals publicly that a broader review is being considered]
15 Oct	Advice prepared for Ministers on whether the grounds for a ministerial review authority are met under LGA. Terms of reference for review drafted. (Assumption Minister decides to start formal consultation from this date)	Officials develop draft Terms of Reference for a joint review and assess what, if any, other interventions are needed to improve ECan's performance.
19 Oct	<p>Oral Item to Cabinet</p> <p>If Ministers consider the statutory grounds for a review authority are met, Minister of Local Government advises Cabinet that he intends to appoint a review authority and is consulting before making a decision.</p>	Consultation with other departments and Ministers with an interest in Canterbury water resources.
End Oct		Canterbury Water Management Strategy due for release
4 or 11 Nov		Paper to EGI (as for 19 Oct under the fast-track), plus advice on any other necessary supporting measures to improve ECan performance
13 Nov	Formal consultation process as set out under section 254 of the LGA ends.	
30 Nov or 7 Dec	<p>Cabinet paper</p> <p>Cabinet notes Minister of Local Government's decision to appoint review authority and approves appointee and any budget required (assumes full Cabinet Committee and Cabinet process).</p>	
Mid/late Dec		Formal consultation process as set out under section 254 of the LGA ends.
Late Jan 2010		Paper to Cabinet (as for 30 Nov under the fast-track) – review commissioned
Mid Feb	Review authority – at least 2 months to investigate and report.	Review authority commences.
Late Feb	Minister assesses recommendations and decides on further action. Cabinet paper may be advisable if local authority is to be required to comply.	

