



## Office of Hon Dr Nick Smith

**MP for Nelson**

Minister for the Environment

Minister for Climate Change Issues

Minister for ACC

Alec Neill  
Chair  
Environment Canterbury  
PO Box 345  
CHRISTCHURCH 8140

23 OCT 2009

Dear Alec

### **Re: Performance review of Environment Canterbury**

Following the results of the 2007/2008 RMA survey of local authorities, the Minister for the Environment expressed concern at seeing a significant decline in performance by some councils in meeting statutory timeframes for processing resource consents under the Resource Management Act 1991 (RMA).

We are writing to advise that the Minister for the Environment has requested an investigation of Environment Canterbury under section 24A of the RMA. Section 24A sets out that the Minister for the Environment may investigate the exercise or performance by a local authority of any of its functions, powers, or duties under the Act and may make recommendations. The primary focus of this investigation is the resource consent processing functions of the Council. It will identify what has led to the Council's poor performance over the survey period and identify possible solutions. The investigation will also consider Environment Canterbury's other related responsibilities under the RMA.

In conjunction with this section 24A investigation, the Minister of Local Government has asked the Department of Internal Affairs to conduct a non-statutory assessment of Environment Canterbury, looking at wider issues under the Local Government Act 2002 and other statutes. The two departments have developed a joint draft terms of reference for the performance review of Environment Canterbury. Please find this information attached in the following pages.

Should you have any concerns or queries regarding the section 24A investigatory part of this performance review, please contact Natasha Tod, Acting Manager of the Monitoring, Review and Compliance Team at the Ministry for the Environment on (04) 439 7716 or email [natasha.tod@mfe.govt.nz](mailto:natasha.tod@mfe.govt.nz). For any concerns or queries about the non-statutory assessment of wider issues, please contact Antony Moss, Manager (Regulatory Policy) at the Department of Internal Affairs on (04) 494 0636 or email [antony.moss@dia.govt.nz](mailto:antony.moss@dia.govt.nz).

We ask for your co-operation with this performance review which, we hope, will be valuable to your council's future planning and operation. We look forward to meeting with you on 27 October to discuss the process for the review and the draft terms of reference.

Yours sincerely

Hon Dr Nick Smith  
**Minister for the Environment**

Hon Rodney Hide  
**Minister of Local Government**

cc: Dr Bryan Jenkins, Chief Executive



## **Draft TOR for a Review of Environment Canterbury's Performance**

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### **1. Preamble**

1.1. Following the results of the 2007/2008 RMA Survey of Local Authorities, the Minister for the Environment has decided to undertake an investigation of resource consent processing practices in Environment Canterbury (ECan) and a broader review of ECan's performance under the Resource Management Act 1991 (RMA). The Minister of Local Government has also expressed an intention to review ECan's wider performance under the Local Government Act 2002 (LGA02) in response to concerns raised by Canterbury Mayors. The Ministers have agreed to conduct a joint review of ECan's performance under both the RMA and LGA02.

### **2. Nature of Review**

2.1. This review has two components. The first component is a statutory investigation under section 24A of the RMA that seeks to identify what has led to ECan's poor performance record over the last year in resource consent processing. It also aims to identify any broader planning, policy and governance matters that may have contributed to the poor performance record of Environment Canterbury during the period from 2007/2008 survey period in meeting statutory requirements under the RMA.

2.2. The second component is a non-statutory assessment of whether there are wider issues with ECan's governance, policies or implementation that are contributing to poor performance under the LGA02 or other statutes.

### **3. Scope of the Review**

#### *Investigation of Environment Canterbury's performance under the RMA*

3.1. The investigation will cover the following factors:

- Applications: guidance for applicants and use of section 92
- Analysis of consent processing systems and practices
- Council staffing and use of resources
- Administrative systems and tools
- Internal audits and monitoring
- Customer relationships and feedback
- Other contextual matters
- The approach of ECan to managing significant and/or cross boundary resource management issues, including resource allocation
- Whether the current planning framework is capable of delivering the vision and objectives of the Canterbury Water Management Strategy in an effective and efficient manner

#### *Assessment of Environment Canterbury's wider performance under the LGA02 or other legislation*

3.2. The non-statutory assessment will cover the following factors:

- The approach of ECan to meeting its legal obligations.



- Adequacy of ECan's management and decision-making processes
- Financial management
- The extent to which ECan has met its obligations for collaborating and co-operating with other local authorities

#### **4. Methodology for Review**

##### *Investigation of Environment Canterbury's performance under the RMA*

- 4.1. The investigation will be undertaken by two external investigators. The skill set required is primarily skills and experience in resource consent processing and RMA matters and experience in working with local government. Experience in evaluation, performance assessment and organisational improvement is also vital.

##### *Assessment of Environment Canterbury's wider performance under the LGA02 or other legislation*

- 4.2. The assessment will be carried out by one external consultant. This person will have qualifications, skills and experience in working with local government.

##### *On site work*

- 4.3. The team of consultants will spend up to three weeks with Environment Canterbury undertaking discussion with council staff and assessing databases, file information and council administrative systems.
- 4.4. Discussions with council staff will be based on a set of interview questions focussed on council practices and procedures. These questions, along with requests for the documents and files required for the performance review, will be pre-circulated to ECan prior to investigators arriving on site.
- 4.5. The following council staff will need to be available on request during the performance review period:
- Chief Executive
  - Chair
  - Councillors
  - Investigation and Monitoring Director
  - Regulation Director
  - Resource Planning and Consents Director
  - Operations Director
  - Managers and consenting and compliance staff under the above Directors
  - Planning Administrators
  - Customer Services staff (if applicable)

#### **5. Reporting**

- 5.1. The findings (including any recommendations) from the performance review will form the basis of a draft report to be discussed with ECan before being finalised and presented to the Minister for the Environment and the Minister of Local Government. A copy of each final report will be provided to ECan.
- 5.2. The RMA investigation may result in recommendations being made to ECan on ways to improve its performance under section 24A(b) of the RMA.



- 5.3. The non-statutory assessment may result in recommendations being made to Environment Canterbury on ways to improve its governance, policy or implementation processes under the LGA02 or any other enactment.
- 5.4. Either set of recommendations may include ongoing monitoring.
- 5.5. In response to the review's report, the Minister for the Environment and the Minister of Local Government may consider whether there is a case for further intervention under the RMA or the LGA02, if necessary.

**6. *Timeframe for the review***

- 6.1. The review is planned to take place over a three week period in November 2009, with a report being drafted before the end of the year.
- 6.2. Any final recommendations on ways to improve council performance will be reported to ECan following officials briefing the Ministers on the final report. This is expected to be in early 2010.

