



## Office of Hon Dr Nick Smith

MP for Nelson  
Minister for the Environment  
Minister for Climate Change Issues  
Minister for ACC

25

28 October 2009

Alec Neill  
Chair  
Environment Canterbury  
PO Box 345  
CHRISTCHURCH 8140

Dear Alec

**Re: Performance review of Environment Canterbury**

Thank for meeting with us yesterday to discuss the draft terms of reference for the performance review of Environment Canterbury.

The final version of the terms of reference is attached. This reflects the agreement reached on various points of detail when we met with you and your chief executive yesterday. We aim to be in a position to confirm appointees to undertake the review next week.

As discussed at our meeting, we plan to announce this review today at 2pm. By then, you will have discussed the review with your council, under embargo until our press release.

Thank you again for your co-operation and assistance in establishing this review.

Yours sincerely

Hon Dr Nick Smith  
Minister for the Environment

Hon Rodney Hide  
Minister of Local Government

Cc: Dr Bryan Jenkins, Chief Executive

## **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 survey period and performance subsequently 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 of the 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 perceived poor performance under the LGA02 or other statutes.

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

*Investigation of Environment Canterbury's performance under the RMA and identify possible solutions*

- 3.1. The investigation will cover the following factors:
  - Guidance for applicants and use of Section 88
  - Use of Section 92
  - Analysis of consent processing systems and practices
  - Staffing and use of resources
  - Administrative systems and tools
  - Internal audits and monitoring
  - Relationships between applicants and submitters and ECan
  - Relationship of timeframes to quality of decisions
  - Other contextual matters, including:
    - The management of sustainability limits and cumulative effects
    - Adequacy of current planning framework for 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 and identify possible solutions*

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

- The approach of ECan to meeting its legal obligations
- Adequacy of ECan's governance
- Adequacy of ECan's management and decision making processes
- Financial management of ECan
- The relationships between ECan and the territorial authorities in its region, and extent to which ECan and TAs have met their legal obligations for collaborating and co-operating

**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. Further additional information may be requested onsite.

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
- Finance and Corporate Services Director
- Regional Programmes Director
- Managers and planning, consenting and compliance staff under the above Directors
- 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.

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