



STAFF REPORT

TO: Environment & Planning Committee

FROM: D C Bush-King, Environment & Planning Manager

REFERENCE: S611

SUBJECT: **MANAGER'S REPORT– REPORT EP08/01/06** - Report Prepared for 31 January Meeting

1. Update on Council's involvement in Marine Biosecurity

At its establishment in 2004, Biosecurity NZ (a division of the Ministry of Agriculture and Forestry) was charged with responsibility for developing and leading a national biosecurity system covering economic, trade, animal welfare, environmental, social and cultural issues.

Marine biosecurity has been one area where it has made little progress until recently. One recent step involved lifting the profile of marine biosecurity with boat owners, Biosecurity NZ has adopted the advocacy model used in the Didymo social marketing (Check, Clean, Dry) campaign where they funded Regional Councils to undertake advocacy and provided resources and training. Tasman District Council, working closely with Marlborough DC and Nelson CC, is using contractors on a part-time basis to oversee this work. All costs will be charged back to Biosecurity NZ.

At a strategic level, a small group of interested parties that included the three councils, Biosecurity NZ, Ministry of Fisheries, Aquaculture NZ and DOC, have been discussing the development of a Top of the South Marine Biosecurity Strategy. This project has been given a push by the arrival of a sea squirt, Didemnum, that is now smothering mussels and a regional partnership has been established. Its goal is to prevent the introduction and minimise the spread of invasive marine species in the Top of the South region. It has scoped the outline of a strategy and will be asking for expressions of interest from three contractors. This phase is being funded by Biosecurity NZ.

We do not deal with marine organisms in our regional pest management strategy because of the national interest involvement. It may be that because of our local presence and the risks posed to environmental and economic values, that we will be under increasing pressure to pick up some responsibility in this area.

2. NATIONAL ENVIRONMENTAL STANDARD FOR SOURCES OF HUMAN DRINKING WATER

The Government has gazetted the national environmental standard for sources of human drinking water. The regulation will take effect from 20 June 2008. The intention behind the standard is intended to reduce the risk of contaminating drinking water sources (such as rivers and groundwater).

The national environmental standard is a regulation under the Resource Management Act (RMA) 1991. It requires regional councils to ensure that effects on drinking water sources are considered in decisions on resource consents and regional plans. Specifically, councils will be required to:

- decline discharge or water permits that are likely to result in community drinking water becoming unsafe for human consumption following existing treatment
- be satisfied that permitted activities in regional plans will not result in community drinking water supplies being unsafe for human consumption following existing treatment
- place conditions on relevant resource consents requiring notification of drinking water suppliers if significant unintended events occur (e.g. spills) that may adversely affect sources of human drinking water.

We have previously challenged the need for this standard. It is not well targeted to the perceived risk, introduces requirements that should be undertaken under other legislation (eg Local Government Act) or under the RMA now (eg declining consents that pose unacceptable contamination risk). The main regulations apply to the water source of any registered drinking-water supply that provides no fewer than 501 people with drinking water for not less than 60 days each calendar year. Fortunately the threshold has been raised from 25 people or more since the draft but the standards will still apply to the following schemes in Tasman District

Hope/Brightwater
Lower Moutere Water Scheme
Motueka
Motueka High School
Murchison

Redwoods Valley
Richmond
Waimea/Ruby Bay
Wakefield

We will have to programme work early to determine the state of the catchments affected and identify risk factors.

3. BOVINE TB VECTOR MANAGEMENT

Regional Councils have received a briefing from the Animal Health Board (AHB) on proposed changes to the delivery of Tb vector management services across the country. For Tasman District there will not be any major change as we currently do not provide vector management services – they are already contracted out to Southern Pest Management Services by AHB. We are simply a funding partner. The main difference is that Tasman will be moved into a combined West Coast/Tasman Region, one of 6 new entities (reducing to 5 eventually).

In addition a new National Strategy is required by 2009 and there is some debate on whether the AHB should be pursuing a Containment Strategy or an Eradication Strategy from 2011-2030. Regional Councils will be expected to form a view on this in due course.

4. NATIONAL INITIATIVES AFFECTING EPD

An update of Central Government legislative or policy changes affecting Environment & Planning which are currently out or soon to be released is attached as Appendix 1. While

some of the initiatives can be welcomed if they have as their objective clarifying roles and responsibilities or standards applicable across the country, the devil is in the detail. Cumulatively there will be significant cost imposition on local authorities and communities. As a number of the items have submissions closing before our next scheduled meeting on 4 March 2008, the Committee may wish to consider an alternative delegation to the Chair and Deputy or alternatively consider the matters retrospectively.

5. TREATY OF WAITANGI CLAIM

Te Atiawa Ki Te Tau Ihu have lodged a claim with the Waitangi Tribunal concerning the allocation of rights to water by local government agencies to third parties. A copy is attached as Annex 2. It represents a fundamental challenge to the Resource Management Act and the water management functions that regional councils have, and have had since 1967.

Obviously the Crown will have to defend the claim which is expected to take some years. In the meantime it is business as usual for Council although we should note that there are still some outstanding submissions to Part VI TRMP (Water) from iwi to be disposed of which raise similar issues. These will be reported on separately in February.

In my view the claim misunderstands the water allocation process. Water is a public resource and use rights are allocated for a time bound period to "permit holders" who may or may not be private land owners. Further, water is a freely flowing resource and its location, whether in the form of either river water or groundwater, generally bears little relationship to human or legally defined property boundaries. The quantity of water available at any one point is also not confined in two-dimensional terms like land and nor is the consumption of water always tied to just the land overlying (groundwater) or adjacent (river, spring) to a water body eg. a public, private, industrial, irrigation or power generation water use.

The claim alleges that the Council has adopted a policy of granting water to applicants who occupy land rather than landowners. That is not correct. We grant consents in the same way as all regional councils in New Zealand – to those *bona fide* users who seek the right to use water as a public resource. They may be a land owner but that is not a prerequisite. They may not be the land owner of the land onto which the water is to be used in fee simple terms but they may have another form of interest in that land.

One matter that may have driven the Claim is the presence of Maori perpetual lease land in the Motueka area. Here Maori as owners have not had the historical ability to ensure that once the land reverts back to them upon expiry of the lease, any water permit is likewise handed back. However this is not an issue. The Tasman District Council is the only council to have in place a water allocation reservation for Maori perpetual lease lands. This reservoir of water is available in Motueka if Maori find such land does not get handed back with a water permit. We know of no case where Maori perpetual lease land has been deprived of access to water. In the future when the land reverts back to Maori, any water permits becomes available for reallocation and even if a lessee transferred the allocation to another site, there is a default protection for Maori perpetual lease land.

The relief seeks that "the management of water be returned" to Maori. Under the present law this can only happen if the Council agrees to transfer such responsibility. The majority of the Tasman community I am sure would be of the view that management of water

should remain in the whole community's hands via a democratically elected Council. The Claim fails to address how other users would be able to access water and how the water resource is to be continually investigated, monitored and managed is not mentioned.

6. RECOMMENDATION

It is recommended that this report be received.



D C Bush-King
Environment & Planning Manager

NATIONAL INITIATIVES		
Description	Submissions Close	Staff Involved
Actioned (including decision to take no action)		
Possible NPS on Renewable Energy – submission lodged	7 November 2007	Steve Markham
Licensed Building Practitioners Scheme – launched 1 November, response /information has been requested – no submission lodged		Jean Hodson
Review of New Zealand Standard for Noise Measurement NZS 6802 (will probably lead to change to the TRMP) – no submission lodged	14 November 2007	David Lewis
Possible NES on electricity transmission (x2) – submission lodged	30 November 2007	Stephanie Trevena
Easter Trading and Holidays Legislation – affecting Sale of Liquor Act (as well as others) – no submission lodged	14 December 2007	David Lewis
Port and harbour safety management review – no submission lodged	19 December 2007	Graham Caradus
Paper on decision making and resourcing national biosecurity incursions – aka how can regional councils help central government. Submission lodged	14 December 2007	Lindsay Vaughan
Draft Seabird Standard and National Plan of Action – no submission lodged	14 March 2008	
NES on Sources of Human Drinking Water – submissions closed, regulations come into force 20 June 2008		
Still to do/Still to come		
Possible NPS on Flood Risk Management – several drafts have been circulated. Formal invitation now expected early 2008.		Steve Markham
There is also a voluntary draft New Zealand Standard out for consultation - DZ9401 (Committee P9401) Flood Hazard Risk Management	1 February 2008	Phil Drummond/Eric Verstappen
DR07920 On-site domestic wastewater management draft standard now available for public comment	1 February 2008	Rob Lieffering
Revision of NZS 4441:1985 Code of practice for Swimming Pools	8 February 2008	Jean Hodson

National Bovine Tb Pest management Strategy – comments invited on AHB approach	28 February 2008	Dennis Bush-King/Lindsay Vaughan
Changes to the Dog Control Act including additional matters to be considered in Dog Control policies, adding the Presa Canario breed to the banned list, and making it possible for Government to issue national guidelines for Councils	29 February 2008	David Lewis
Proposed National Policy Statement on Fresh Water Management	29 February 2008	Steve Markham
Affordable Housing Enabling Territorial Authorities Bill – introduced 4 December 2007	29 February 2008	Jean Hodson
Public Health Bill – introduced 21 November 2007	7 March 2008	Jean Hodson/David Lewis
Improving public safety under the Dog Control Act – new options	31 March 2008	Jean Hodson/David Lewis
Food Safety Reforms – new law expected soon		David Lewis
Proposed NZ Coastal Policy Statement – expected in the New Year		Neil Jackson
Draft National Alcohol Strategy – expected early 2008		David Lewis
NZ Building Code Review – submissions received in September 2007, reissue expected in 2008		Jean Hodson
NES on water measuring devices – submissions closed, regulations expected soon (will require water meters on all consented water takes)		
Acceptable solutions – a package of 29 modules so far prepared by the department of Building and Housing detailing acceptable design and construction standards for building work	On-going	
Review of Infringement Fine System – Ministry of Justice		Carl Cheeseman

NPS = national policy statement under the Resource Management Act
NES = National Environmental Standards under the Resource Management Act