

Report No. 00.208

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Report to the Utility Services Committee
from Barry Leonard, Plantation Forestry Manager

Forest Working Plan

1. Purpose

To approve the submission of a 10 year Forest Working Plan to the Minister of Forestry in order to meet Council's obligations under the *Wellington Regional Water Board Act 1972*.

2. Background

Council's plantation forestry operations west of the Rimutaka Ranges are authorised by Part III of the *Wellington Regional Water Board Act 1972*. One of the requirements of this part of the Act is for all forestry operations to operate in accordance with a Forest Working Plan approved by the Minister of Forests.

Council submitted and had approved a plan for the period 1985 to 1995. In July 1996 a further plan for the period through to 2006 was submitted for Ministerial approval. This report had been prepared in consultation with officers of the Ministry and a draft was submitted for perusal prior to the document being formally presented for approval. Copies of this correspondence are attached as Attachment 2. Although notification of approval was expected, none was received.

As a result of recent Ministerial correspondence, officers of the Ministry of Agriculture and Forestry contacted Council in February and advised that no copy of the plan or the Council's correspondence could be located. All the personnel involved in the initial submission of the plan had since left the Ministry.

On receipt of this advice officers advised the Ministry that the Working Plan would be updated before being presented again for approval.

3. **Comment**

As no approved copy of the working plan could be located either within the Ministry or within Council, officers sought the views of Council's legal advisors as to the actions that the Council should take and to consequences that may arise from this situation.

Oakley Moran found that Council's Metro Forestry activities would be unauthorised if there was no approved working plan. While it is possible that Ministerial approval may have been granted, this cannot be demonstrated as no approved copy of the plan can be located.

Given this situation, it is appropriate for an approved plan to be obtained and is sensible for this plan to be updated to reflect future activities. It is unlikely that the Minister would have power to approve a plan that related to past as well as future activities.

There are no statutory provisions as to the consequences of the conduct of forestry activities without prior approval of the Minister. While action could be taken through the High Court, it is unlikely that this would be successful, as the illegality was as a result of oversight and Council is moving to legitimise its operations.

Oakley Moran recommends as follows:

Now that the irregularity has come to light, the proper course of action for the Council is to approve its working plan as soon as possible and submit it to the Minister for approval. Ministerial approval should likewise be sought as soon as possible. In principle there should be no difficulty in obtaining Ministerial approval as I understand the information contained in the working plan for which approval is sought is more detailed than that which was contained in earlier approved plans and there has been no fundamental changes from the earlier (approved) working plan nor any matters which are likely to give cause for any concern. Moreover, the Council's forestry activities have been successively subjected to public scrutiny through the annual plan process.

Realistically, it is impractical to discontinue forestry activities pending approval by the Minister. Any attempt to cease such activities would be likely to give rise to problems with employees and contractors, thereby creating needless liability on the part of the Council. So long as Council is assiduous in pursuing the approval of a new plan, I do not see any significant consequence arising from the continuation of such activities.

4. **Plantation Forest Working Plan**

Section 49 of the *Wellington Regional Water Board Act 1972* specifies as follows:
49. *Working plans*

- (1) *The Board shall from time to time prepare working plans in respect of forestry operations in forestry areas and in other land vested in or under the control of the Board and used for forestry purposes.*
- (2) *A working plan shall not come into force until it is approved by the Minister of Forests and may, with the consent of the Minister, be altered by the Board.*
- (3) *Every such plan shall, subject to any rights existing on the date of its adoption by the Board and to the provisions of this Part of the Act, regulate the management of the forest area to which it relates for such period not exceeding 10 years as may be specified in the plan.*
- (4) *Every working plan shall specify –*
 - (a) *The maximum area of the land affected from which forest produce may be taken annually;*
 - (b) *The maximum quantity of forest produce that may be disposed of annually;*
 - (c) *Forestry operations proposed to be carried out during the currency of the plan;*
 - (d) *The protection and development operations to be carried out; and*
 - (e) *Such other matters as the Board thinks fit.*
- (5) *The Board shall not carry out any forestry operations unless and until a plan relating thereto is in force, and all such operations shall be carried out in accordance with the plan.*
- (6) *The Board shall, not later than the 30th day of April in each year, forward to the Minister of Forests a report for the financial year then immediately preceding setting out in detail particulars of forestry operations and of the administration of all forestry areas and all other land vested in or under the control of the Board for forestry purposes, and at the same time shall submit a plan of operations and of administration proposals for the ensuing year for the approval of the Minister.*

The attached Forest Working Plan provides the information sought in clause 4 above and includes a specific section on fire protection.

The requirements of section 49(4)(a) and (b) are sourced from the Plantation Forestry Cutting Plan, which is the main input document for the Annual Plan and Long Term Financial Strategy. Sections 49(4)(c) and (d) are consistent with the proposals set out in the Annual Plan document.

The plan reflects the proposals set out in the Plantation Forestry Department Operating Plan 2000–2010 but is expressed in a more general form so that future decision making will not be constrained.

The plan is prepared to specifically meet the requirements of the Act and, as such, it is couched in general terms. The plan includes references to other Council policy and management documents that set out the intentions of Council and the methodologies of operating in much greater detail.

5. **Communications**

As this is a “technical” issue and all relevant information is in the public domain through the Annual Plan process, no specific communication initiatives are required.

6. **Recommendations**

- (1) *That the Committee recommend to the Policy and Finance Committee that:*
- (a) *The Forest Working Plan 2000-2010 be approved.*
 - (b) *The Forest Working Plan be forwarded to the Minister of Forestry for approval, pursuant to section 49(2) of the Wellington Regional Water Board Act 1972,*
- (2) *That the Committee note that nothing in this plan is inconsistent with other Council plans, policy or management documents.*

Report prepared by:

Approved for submission:

BARRY LEONARD
Plantation Forestry Manager

DAVID BENHAM
Divisional Manager, Utility Services

Attachments : 2