

KAIKOURA DISTRICT COUNCIL MEETING HELD AT 9.00AM ON WEDNESDAY 18 AUGUST 2010, IN MEMORIAL HALL SUPPER ROOM, ESPLANADE, KAIKOURA.

AGENDA

1. *Apologies*
2. *Matters of Importance to be raised as Urgent Business*
3. *Open Forum – Session for members of the public wishing to comment on items included in this agenda.*

The Council meeting will adjourn following this item and will resume following the Finance and Policy Committee meeting.

4. **Minutes to be Confirmed:**
 - *Council 21/7/2010* *page 87*

- Reports to be Adopted:**
- *Works & Services Committee 21/7/2010* *page 93*
 - *Environmental Services Committee 21/7/2010* *page 96*
 - *Finance and Policy Committee 21/7/2010* *page 99*

5. *Matters arising from Confirmed minutes*

6. *Minutes Action List Update*

MEETING	ACTION REQUIRED	BY	DATE ACTIONED
	16 JUNE 2010		
Council	Provide a map of paper roads within the District to the new committee.	District Planner / Asset Manager	In Progress.
	21 JULY 2010		
Council	Tidy litter from the West End corner	Asset Manager	A general litter collection will be undertaken for 2 hours per day on 2 days per week. On call arrangement are also in place.
Council	Put an item in the monthly Council newsletter reminding people not to litter from cars.	District Planner	An item will be included in the next Council newsletter.
Council	Provide from survey results the percentage of people who advised they were satisfied with rural roads lived rurally.	Customer Services Officer	Of the 130 respondents who indicated they were satisfied with rural roads 28% lived outside of the town centre and South Bay.
Council	Make available on the website results from the Annual Resident and Ratepayer Satisfaction Survey on the website	Finance Manager	Completed.

7. *11.30am NZ Police Update*

- An update from Kaikoura Police will be provided in Public Excluded

8. *Public Forum*

<i>TIME</i>	<i>NAME</i>	<i>SUBJECT</i>
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9. *Youth Council*

- A Youth Council representative will be in attendance at 1.00pm to present this item.

10. *Kaikoura Lions Pool Report 2009/2010 Season* *page 101*

- Brent Maru from Sports Tasman will be in attendance at 1.15pm to present this item.

11. *1080 Use within the Kaikoura District* *page 113*

12. *Interim Appointments to the Regional Water Management Committee* *page 122*

13. *Committee Updates*

14. *Mayor's Report*

- A verbal report will be provided at the meeting.

15. *Urgent Business*

16. *Council Public Excluded Session*

Moved, seconded that the public be excluded from the following parts of the proceedings of this meeting, namely

- a. Confirmation of Minutes of Council Public Excluded meeting on 21/7/2010*
- b. New Zealand Police Update*
- c. Kaikoura Community Facilities Charitable Trust Update*
- d. Chief Executive Officer Review Process*
- e. Kaikoura Health Facilities Update to Council*

The general subject matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1) and 7(2)(i) of the Local Government Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each to be considered	Reason for passing this resolution in relation to each matter	Grounds of the Act under which this resolution is made
Minutes of the Council Public Excluded meeting 21/7/2010	The exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Local Authority to deliberate in private on its decision or recommendation.	Section 48(1)(a) and 7(2)(a), 7(2)(c)(ii)
New Zealand Police update.	The exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Local	Section 48(1)(a) and 7(2)(c)(ii)

	Authority to deliberate in private on its decision or recommendation.	
Community Facilities Charitable Trust Update	The exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Local Authority to deliberate in private on its decision or recommendation.	Section 48(1)(a) and 7(2)(f)(i)
Appointment of District Plan Committee	The exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Local Authority to deliberate in private on its decision or recommendation.	Section 48(1)(a) and 7(2)(a)
Chief Executive Officer Review Process	The exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Local Authority to deliberate in private on its decision or recommendation.	Section 48(1)(a) and 7(2)(a)
Kaikoura Health Facilities Update to Council	The exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Local Authority to deliberate in private on its decision or recommendation.	Section 48(1)(a) and 7(2)(b)(ii)

1080 Use within Kaikoura District

1. Purpose of report

The purpose of this report is to enable Council to determine a way forward when considering the use of 1080 in this district. To date Kaikoura District Council does not have a formal stance on the issue.

2. Significance of the decision

The significance of this decision must be weighted against the Council's Significance Policy to determine if the proposal affects the following criteria:

- The extent to which there is, or is likely to be, a change in the capacity of the Council to carry out, or the cost to the Council in carrying out, any activity identified in the Annual Plan or Long-Term Council Community Plan.
- The extent to which there is, or is likely to be, a change in the level of service in carrying out any significant activity.

The Kaikoura District Council will determine the significance of any issue requiring a decision, by making judgements according to the likely impact of that decision on the social, economic, environmental, and cultural well-being of the district, both now and in the future.

The Kaikoura District Council will then determine:

- (a) the degree of significance, and
- (b) the appropriate level and type of consultation

In consideration of the Significance Policy for this instance the use of 1080 is considered to have impacts on the Environmental Certification for the Kaikoura Community and the Environmental and Social Sustainability Policy. Environmental Certification is identified in the Long Term Community Plan as an outcome to maintain. The extent to which this policy affects the Environmental Certification for the Kaikoura Community and the Environmental and Social Sustainability Policy is not considered to be a significant change to the capacity of Council to carry these activities and is discussed further in the report.

3. Background

The use of 1080 in Kaikoura has been an issue of concern to many community members for some time now but has more recently been highlighted by Environment Canterbury applying for consent for the use of 1080 throughout the Canterbury region over a 15 year period. Several individuals and groups lobbied to Mayor Kevin Heays during 2009 to advocate on their behalf and to engage Council in a proactive stance on the issue of 1080 use in Kaikoura.

In response a substantial amount of information has been presented to Council from both groups concerning the use of 1080 during March and April 2009. All councillors have been given several opportunities to receive that information. The information has been provided to give Council a good understanding of the different issues and views held with respect to 1080. In addition elected members were encouraged to acquire further information within their own time to become more aware of the issue and our community.

The debate surrounding the use of 1080 is about the relative safety of applying chemical to the environment. As a generalisation, views differ in the community widely on the practicalities, public health, economic costs and environmental matters around using 1080 and the aerial application of 1080 as opposed to other methods. Representatives of the different views back their claims with 'scientific' evidence.

Council's role is not about making a judgment or being the arbiter between these differing views. It is about considering the direction the wider Kaikoura district would wish for Council to take on

the issue. The second matter that Council needs to consider is its role with respect to the use of 1080. As outlined in section 4 of this report (Matters for Consideration), Council does not have any responsibility as a consent authority for the use of 1080. However under the Local Government Act 2002 (LGA) the purpose of local government makes provisions for promoting the social, economic, environmental and cultural wellbeing of the community, in the present and future. Council's role if it chooses, under the Local Government Act is in advocacy on behalf of the Kaikoura district.

Given the above, a recommendation was put forward to Council by Mayor Kevin Heays at the Council meeting of November 18th 2009, and is as follows:

Moved by Councillor Woods, seconded by Councillor Ransley and resolved that Council agree to form a community-based working party to investigate and accumulate appropriate information regarding pest control within our district, and to report back to Council with, at the least, guidelines from which Council may follow to address concerns of the community regarding this activity throughout the district.

Various discussions and presentations at Council were based around the use of 1080 in Kaikoura as opposed to 'pest control' in a broad sense. This is the basis of which the subsequent working group was established.

Expressions of interest were asked of the general public by way of advertisements in the local Kaikoura Star. Subsequently a working group was established consisting of the following:

- Kevin Heays – Mayor and community member
- Steve Walker – community member
- Peter McInnes – community member
- Quentin Melville – community member
- Ron Daley – community member
- Gina Solomon – community member and Te Runanga o Kaikoura
- Ted Howard – community member and local Forest & Bird
- Heath Urquhart – community member, farmer and local representative of Federated Farmers
- Dave Hayes – Department of Conservation
- Simon Andrews – Animal Health Board
- Ray Maw – Environment Canterbury

In addition:

Jodie Denton – Secretary (Kaikoura District Council)

Murray Hunt (Kaikoura District Council's Solicitor) was appointed as independent facilitator

The group was established based on a clear terms of reference, as attached.

Meetings were conducted by agenda, facilitation and minutes. Five meetings were held in total, once a month from January 2010 to July on the following dates: 11/2/10, 16/3/10, 22/4/10, 27/5/10, and 8/7/10.

The main aim of the group was to provide Council with a clear set of guidelines at the very least, which can be used as a basis for considering especially, resource consent applications for 1080 in Kaikoura.

There were many issues for the group to consider in order to achieve this.

4. Matters of consideration.

Kaikoura District Councils Mandate.

Environmental Certification for the Kaikoura Community and the Environmental and Social Sustainability Policy both are affected by the decision on this policy. Environmental Certification is identified in the Long Term Community Plan as an outcome to maintain.

The extent to which this policy affects the Environmental Certification for the Kaikoura Community and the Environmental and Social Sustainability Policy is not considered to be significant. Environmental Certification is managed under the Green Globe certification program. The Objective of the program is to reduce use of non-biodegradable chemicals in the environment. This applies to all types of pesticides used within the Kaikoura Community. The program seeks to do this through:

A reduction in the ecological impact of pesticides can be achieved by greater use of biodegradable products (usually based on natural plant extracts) and alternative practices including integrated pest management programs (programs that develop locality specific solutions and can include practices such as using grass species suited to the locality and avoiding over-application of chemicals).

The issue with 1080 use for that Kaikoura District Council, as lead agency for community environmental certification, it does not have any control over the amounts or use of 1080 within the District. This proposed policy seeks to advocate for alternative pest control methods where possible and practicable, therefore the policy is in accordance with the outcomes sought through community environmental certification.

The Environmental and Social Sustainability Policy also seeks outcomes for the District based on good environmental and social frameworks. This 1080 policy seeks to reduce the use of 1080 and therefore is consistent with the Environmental and Social Sustainability Policy in the following ways:

- Reduces the reliance on products transported into the District.
- Reduces the reliance on aerial dropping of 1080.
- Uses local pest control contractors for ground control.
- Reduces the reliance on processed chemicals, this issue being the environmental impact of the 1080 production.
- Reduces any potential environmental impact from the use of 1080.

Kaikoura District Council's District Plan

The Resource Management Act (RMA) gives District Councils the ability to control any actual or potential effects of the use, development, or protection of land, including for the purpose of the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances. (Section 31 RMA).

Canterbury Regional Plans

1. The Transitional Regional Plan is the relevant operative regional plan and the Proposed Natural Resources Regional Plan ("PNRRP") is the relevant proposed plan.
2. The Transitional Regional Plan is a substantially redundant document. However, it seems that there are no specific rules that address the discharge of 1080 and so the activity would be discretionary under those provisions.
3. The analysis of the Proposed Natural Resource Regional Plan is not as straight forward.
4. The hearing of submissions in relation to this Plan has been completed but determinations have not been issued therefore limited weight can be attached to it at this stage as it is not substantially advanced.

5. The activity appears best classified as discretionary under Rule WQL57.
6. The assertion can be made that the discharge of 1080 to land is a permitted activity for which no consent is required. This assertion is subject to debate.
7. Assistance can be found in a decision of a Commissioner appointed by the Canterbury Regional Council in relation to an application for discharge under CRC091153 [Barry Loe].
8. Having considered his analysis I have adopted his reasoning and concluded that the discharge of 1080 onto land in the bed of a river is a discretionary activity and the discharge to land where 1080 may enter into water is a non complying activity [paragraph 34 of the decision].
9. The provisions of the Proposed Natural Resources Regional Plan do contemplate under WQL16 that 1080 applications will be a permitted activity. The complication is the possibility that it will enter water. In that sense the permitted baseline may be relevant albeit against a context where there is no risk of entry into the water courses.
10. No application for consent is required for a permitted activity. Any consent application is accompanied by an assessment of effects and in my experience 1080 applications are accompanied by consents from the Medical Officer of Health and the landowner. Care is taken with signage and the methods used.

Environmental Risk Management Authority – summary of the determination.

1. The report itself is a comprehensive report of 214 pages. The key finding was to approve the continued use of 1080 but to apply more stringent controls including a mechanism for monitoring further aerial drops. The group recommended more research into alternative methods of possum control, further studies on the impact 1080 and improvements to the overall management of the aerial drops.
2. The report noted the deep division of public opinion and acknowledged the inherent conflict between pests like possums, rabbits, rats and stoats which pose a threat to the economy and the aerial application of 1080 is seen to pose unacceptable risks by many.
3. The determination emphasises that it is not for all time and highlights that aerial drops of 1080 which account for most of its use in New Zealand will be kept under close scrutiny.

Summary of Benefits

4. The continued use of 1080 has significant benefits for New Zealand. These benefits would not be fully realised if the use of 1080 was restricted to ground based use only. The benefits include;
 - (a) Reduced concern about ecosystem degradation.
 - (b) Reduced anxiety in farming communities about bovine Tb infection.
 - (c) Increased enjoyment of recreational activities relying on a healthy forest habitat.
5. Aerial application of 1080 is needed to target large areas of rugged inaccessible terrain. The adverse effects are primarily associated with aerial application. While it was noted that there is a high degree of concern over human health effects, as well as concern of hunters and dog owners. The Authority was satisfied that those could be controlled and mitigated.

Findings

6. Key findings included:

- (a) Control relating to decontamination of loading sites ensures there are minimal adverse effects from spill of bait at these sites.
 - (b) The Committee noted that 1080 is biodegradable in soil. Soil bacterial and fungi are able to detoxify the substance. There was little to suggest that any risk from the concentration of soil as a result of aerial applications.
 - (c) It was noted there was no data available of the degradation of 1080 in New Zealand's cooler temperatures.
 - (d) It was noted that scientific data confirmed that degradation of 1080 occurred in water but there was uncertainty about that as applied to the New Zealand environment. Results from experiment and controlled field studies produced no evidence of adverse effects when exposed to toxic baits in aquatic species. Monitoring of 1080 residues confirm none had been measured at a level which would indicate concern for toxicity to aquatic organism.
 - (e) 1080 is not bio accumulative. There is no evidence to substantiate concerns with plants. The committee concluded that controls and recommendations for adoption of best use practice by all users of 1080 would reduce the risk to bird populations to acceptable levels. Some methods are seen as attractive to birds were modified for example cut apple baits are only to be used in bait stations on the land.
 - (f) Native bats, terrestrial invertebrates, lizards and frogs were addressed as was indirect or secondary exposure from eating carcasses. Secondary bait in stoats and ferial cats were a beneficial affect, when targeting rabbits and possums. The committee concluded that secondary poisoning is a risk irrespective of the format of the substance used and how they were applied and did not consider the effects to be sufficient to warrant declining approval.
7. The committee in its decision approved the guidelines to the application use of 1080 which a comprehensive set of rules covering the obligations in relation to it. That rules are extensive and have the effect of regulation.

5. Mechanism options available to Council.

Researched by District Planner, Matt Hoggard.

District Plan – The Resource Management Act (RMA) gives District Councils the ability to control any actual or potential effects of the use, development, or protection of land, including for the purpose of the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances. (see Section 31 RMA). However, activities are permitted unless expressly controlled through a rule in the District Plan. Any control of 1080 through the District Plan would require new rules to be written into the District Plan.

This approach would require a change to the District Plan based on the outcome of the working group's recommendation. Any changes to the District Plan must be agreed to by Council and requires a public process which is subject to appeal to the Environment Court. District Plan changes are therefore lengthy and costly and the final outcome of any plan change is unknown. As such a change to the District Plan is not recommended.

By-Law – The Kaikoura District Council may make bylaws for its district, covering among other things, the following:

protecting the public from nuisance

protecting, promoting, and maintaining public health and safety
minimising the potential for offensive behaviour in public places
the management of public space.

Before making a bylaw Councils must, according to the Local Government Act 2002, first prove that a bylaw is the most appropriate way of addressing the issue. Determination would include, for example, whether the issue is already covered under existing legislation. The use of a bylaw is therefore not recommended.

Long Term Council Community Plan (LTCCP) – The LTCCP can be reviewed annually and includes an “Environmental and Social Sustainability Policy”. It is therefore possible that the outcome of the working group could be included in the “Environmental and Social Sustainability Policy”. Again this is subject to public process and submissions however the plan is not subject to appeal before the Environment Court. The LTCCP can be reviewed as part of the annual plan however submissions for this closed on 2nd June 2010. The LTCCP will not be reviewed until next year.

Council Policy - There are several Council policies listed on the Kaikoura District Council website http://www.kaikoura.govt.nz/council_documents/policies/index.htm these documents lists policies about how Council operates or interacts with the wider community. These policies are approved by the elected members of the Council. A Council approved policy is a statement of position on an ongoing or recurring matter, issue or problem. Its purpose is to direct any response, future action, or inaction. If a policy was drafted by the working group it would still require approval of the Council.

Such a policy could be used to provide direction to staff and councillors alike as to what direction the Council is taking. It is possible that if a policy on 1080 or similar was developed that this could then included with the Long Term Council Community Plan therefore adding additional weight to the document by its inclusion.

These recommendations were subsequently reviewed by Councils solicitor; the conclusion being that a Council policy would be the best option.

Taking the above into account, it is clear that Council does not have the mandate to ban 1080 from the district outright. It does however have the ability to act as an advocate for the community. This therefore forms the basis of the draft policy the Working Group has formulated for Councils approval.

The draft policy takes into consideration both the views and needs of the pro and anti 1080 groups and is a balanced outcome for both by not supporting or opposing. The group accept there are valid arguments for both directions. The agreed draft policy sets out guidelines by which Council can make well balanced submissions on the community’s behalf when future opportunities arise.

Therefore the group would like to recommend that the following draft policy be adopted by Council, and that staff be given the delegated authority to make submissions on Councils behalf and for their approval.

Policy for Council when considering 1080 use within Kaikoura District

The Kaikoura Community 1080 working group recommended guidelines for Kaikoura District Council.

1. When considering the use of 1080 in Kaikoura district, the public issues associated with that, and the potential social, health, iwi, environmental and economic implications of its use, Kaikoura District Council shall:
 - a) Give delegated authority to staff to draft responses, submissions or statements regarding the use of 1080 for the Councils approval that:
 - i. Clearly indicates that Council does not necessarily approve of 1080 being the most appropriate method of pest control within the District.
 - ii. Ensures all such processes are rigorously evaluated having regard to the potential social, health, iwi, environmental and economic implication of the use of 1080.
 - iii. Council supports and encourages the processes which are necessary to hasten the research into alternative methods of such control.
 - b) Be mindful that to a part of its community, the use of 1080 is considered necessary and appropriate.
 - c) Remain aware of any public dissatisfaction for the use of 1080 and the need to consider that opinion along with any available research in taking any action.
 - d) Advocate for alternative pest control methods including but not limited to ground based control, where topography or other circumstances allows for it.
 - e) Consider supporting any employment, commercial and/or educational opportunities within the meat/skin industry where practicable and feasible e.g. possums & rabbits & mustelids.
 - f) Advocate that any proposal/intention to disperse 1080 aerially is communicated and discussed with any and all interested parties for each block in the Kaikoura District in relation to each operation.
 - g) Be mindful of its role and responsibilities in terms of its statutory functions and the statutory provisions relating to the use of 1080.
 - h) Annually consider including this set of guidelines (or any revised version of them) in association with the Environmental and Social Sustainability Policy of the LTCCP.
 - i) Be mindful of the financial costs of any policy on local ratepayer.
2. This policy is limited to 1080, but there may be other toxins that the Council may consider merit a similar response or approach.
3. This policy to be reviewed regularly and in any event no later than 3 years. Any review shall consider the extent to which this policy should reflect other plans for example District Plan, Te Poha O Tohu Raumati (Te Runanga O Kaikoura Environmental Management Plan), and/or the extent to which this policy should be incorporated in other Plans or Policy documents.

Kaikoura District Council looks forward to a future when the development of other more acceptable pest control methods enables our district of Kaikoura to be 1080 free.

Interim Appointments to the Regional Water Management Committee

Implementation of the Canterbury Water Management Strategy is now well underway. The first zone committee, Hurunui – Waiau, has been appointed and appointment processes for several others (Waimakariri, Selwyn-Waihora, Ashburton, Lower Waitaki) are underway.

Expressions of interest have closed for community members for the Regional Water Management Committee and it is anticipated those appointments will be finalised by the end of August.

The Regional Committee also has a number of appointments that are the responsibility of territorial authorities and a decision is required in time for the Regional Council meeting on 26th August. These are:

- 1 member appointed by Christchurch City
- 3 nominated representatives appointed by the combined Territorial Authorities (one from each sub region – North, Mid and South Canterbury)
- An interim TA appointment to the Zone Committee, until such time as zone committees are established, at which time the zone committee will appoint their representative. This is required in those zones that are not likely to have or be close to having a zone committee by September this year.

In terms of the Waimakariri, Hurunui and Kaikoura (North Canterbury) area Mayor Keating has expressed interest in being the representative.

Recommendation:

It is recommended that Council endorse the appointment of Mayor Keating as the representative on the Regional Water Management Committee for the North Canterbury sub region.

Kaikoura does not currently have a Zone Committee and it is likely this will be investigated from November. In the interim Council will need to appoint a representative to the Regional Water Management Committee in place of the Chair of the Zone Committee. As Mayor Heays has been involved with the Water Management Strategy it is recommended he be appointed as the representative on the Committee.

Mayor Heays could be appointed as an individual which would overcome the issue of position holders going out of office on the 9th of October. If Council appoint the Mayor as representative there will be a short period of time where there will be no representative.

Recommendation:

It is recommended that Council appoint K Heays or the Mayor as Kaikoura representative on the Regional Water Management Committee until a Zone committee is established in Kaikoura.