

Terms of Reference

Review of Environment Canterbury

Preamble

1. Performance issues with Environment Canterbury (ECan), identified in the Independent Review of 2010, led to the passing of the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 (the Act).
2. The Act made two important changes to regional governance in Canterbury. First, the Act replaced the elected members of ECan with seven commissioners to act as ECan's governing body. Second, the Act provided the Commissioners with modified powers to address issues relevant to the efficient, effective, and sustainable management of fresh water in the Canterbury region. Notably, the public's right to appeal to the Environment Court against certain resource management decisions is restricted and appeals to the High Court are limited to points of law.
3. These provisions expire at the 2016 local authority elections. After the elections, ECan would return to operating under the general legal frameworks for regional councils with an elected governing body and general resource management powers. The Act specifies that the Minister for the Environment and the Minister of Local Government must begin a review of ECan on 1 March 2014 covering:
 - the governance structure of ECan;
 - the membership of ECan; and
 - ECan's powers and functions under Part 3 of the Act.¹

Purpose of review

4. The review's purpose is to consider ECan's governance, membership, and its use of the powers under Part 3 of the Act, and to consider arrangements for regional governance in Canterbury when the Act expires. To fulfil the review's purpose this means considering:
 - whether there are any elements of the current governance arrangements under the Act that will continue to be important to good regional governance in Canterbury;
 - aside from ECan returning to being a democratically elected regional council under the general legal frameworks, the relative merits of providing any additional/alternative representation and governance mechanisms; and
 - ECan's additional resource management powers and functions

Scope

5. The scope of the review focuses on the operation and membership of ECan, its additional resource management powers and functions, and its relationships with territorial authorities and Ngāi Tahu and its role in the Canterbury earthquake recovery. The scope is described in greater detail below.

¹ Part 3 of the Act varies certain resource management powers and functions of ECan.

In scope

6. First, the review will examine the role of the current governance structure of ECan in dealing with the issues it was established to resolve and consider whether there is a need for any elements of the current arrangements to continue past 2016.
7. Second, examining the nature of the membership of ECan, that is, the composition of its governing body and representation. The current, temporary, arrangements will expire with the Act in 2016. Understanding the decision-making and transitional challenges facing ECan is critical to good regional governance for Canterbury. This includes considering future representation and governance arrangements for ECan that would ensure strong organisational performance and effective local representation. This examination will be undertaken with a view to identifying and making recommendations for future arrangements and ensuring a successful transition to these.
8. Third, it is important to consider ECan's additional resource management powers. The Commissioners were given certain resource management powers, to address issues relevant to the efficient, effective, and sustainable management of fresh water in the Canterbury. Examining how ECan has used these powers and what the results have been will be a key component of the review.
9. Finally, ECan's role, relationships and work with other local authorities and Ngāi Tahu will be considered. Collaboration between ECan and Canterbury's territorial authorities has enabled the Canterbury Water Management Strategy and facilitated Canterbury earthquake recovery. Ngāi Tahu has a special and important relationship with environmental issues, and ECan has significant responsibilities to Ngāi Tahu. This part of the review will include examining the elements of successful regional relationships and collaboration. It will also include looking at ECan's role in earthquake recovery once the Canterbury Earthquake Recovery Act 2011 expires in April 2016.

Out of scope

10. Changes to Canterbury's existing territorial authority structure and regional boundaries and the statutory allocation of functions between the regional council and territorial authorities are out of scope of the review. The review focuses on ECan and not wider local government in Canterbury. The Government is mindful that major change may be destabilising to the community and undermine the Christchurch earthquake recovery.
11. Changes to the broader organisation of transport in Canterbury are out of scope of the review. This review process is not appropriate for the consideration of alternative means to manage roading authority functions.

Alignment with other Government work

12. The review will be aligned with other Government work programmes in Canterbury on resource management, transport, and the Canterbury earthquake recovery.

Key questions

13. To fulfil the purpose of the review, it will consider, amongst other matters, the following key questions:
 - a. *Governance and membership*: Are elements of the current governance, membership and institutional arrangements important on an on-going basis to

good regional governance in Canterbury? What are the representation, membership and governance options for ECan that would support strong organisational performance and effective, accountable decision-making? What, if any, additional transitional support or legislation will ECan require both before and after the Act's expiry in 2016?

- b. *Additional powers:* What, if any, of the special powers under Part 3 of the Act could assist effective regional natural resource management and planning in the future?
- c. *Performance:* What are the emerging issues for ECan to deal with (particularly in relation to the management of fresh water in Canterbury), what issues will remain after the expiry of the Act in 2016. What are the risks to ECan's work being dealt with by the temporary commissioners and the freshwater management programme after the expiry of the Act, and what are the options for mitigating these risks?

Review to be undertaken by officials

14. The review will be undertaken jointly by officials from the Ministry for the Environment and the Department of Internal Affairs, and will be underpinned by appropriate research, analysis and stakeholder engagement.

Consultation

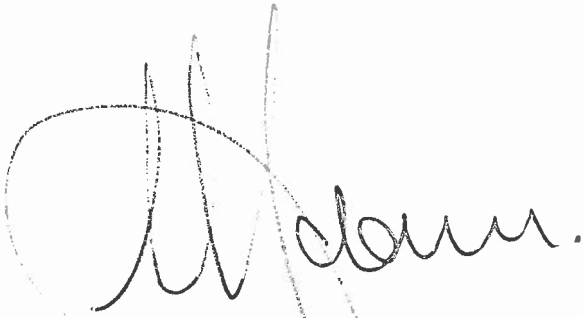
15. The input of local stakeholders is important for review's success. Consultation will entail both general and targeted processes. Officials will identify and involve relevant stakeholders in Canterbury including: local authorities, Ngāi Tahu, the Canterbury business community, the farming sector, environmental groups, government agencies, and the general public.
16. As part of the consultation process, officials will:
 - involve ECan in the review;
 - work closely with the Canterbury Mayoral Forum and seek its input at key junctures of the project; this includes the Forum providing input into a discussion document;
 - seek local authorities, zone committees and other key stakeholders' input;
 - seek input from Ngāi Tahu; and
 - seek the input and views of the people of Canterbury through a discussion document.

Timeframe for the review

17. The review will begin on 1 March 2014. Consultation process will run for approximately four months. Subsequent research, analysis and report preparation processes will run for approximately five months. These timeframes can be varied by responsible Ministers.

Reporting

18. Officials will report at appropriate intervals to Ministers on the progress of the review. The findings from the review, the input of local stakeholders, and the feedback from the stakeholder consultation process will form the basis of a formal report to the Minister for the Environment and the Minister of Local Government by 1 December 2014

A handwritten signature in black ink, appearing to read 'Amy Adams', with a large, sweeping flourish on the left side.

Hon Amy Adams
Minister for the Environment

A handwritten signature in black ink, appearing to read 'Paula Bennett', with a large, stylized flourish on the left side.

Hon Paula Bennett
Minister of Local Government