

Environment Canterbury (Temporary Commissioners and Improved Water Management) Amendment Bill

Government Bill

Explanatory note

General policy statement

The Environment Canterbury (Temporary Commissioners and Improved Water Management) Amendment Bill implements the Government's decisions to extend the Canterbury Regional Council's governance arrangement and special water management decision-making powers in the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 (the **Act**).

The Bill will continue to empower Government-appointed commissioners to provide the governance and leadership necessary to continue to address long-standing, systemic, institutional, and governance issues with the Canterbury Regional Council (**ECan**). It will also continue to provide the commissioners with powers necessary to enable them to complete and implement the Canterbury region's resource management framework.

After the expiry of governance by commissioners in the Act, circumstances and governance challenges will continue to exist in Canterbury that require the continuation of an innovative approach to re-

gional governance. The Canterbury earthquakes, Canterbury's vast and valuable water resources, its significant capacity to support efficient and highly productive agriculture, its size, and its history of competing interests for resources continue to set the challenges of its regional governance apart from those of other regions.

National initiatives in water and land reform require an effective, efficient, and stable governance arrangement to achieve the projected outcomes of economic and environmental return. Governance continuity of ECan is also essential to support the earthquake recovery process. The commissioners will be expected to continue to provide leadership and direction for the Canterbury region on resource management matters, with a particular emphasis on their important freshwater management responsibilities.

As the governing body of ECan, the commissioners will continue to have the same statutory duties and powers as those of a regional council under the Local Government Act 2002, the Resource Management Act 1991, and other statutes that give regional councils responsibilities. The public consultation and participation requirements of those statutes will remain in place.

In order to enable the commissioners to adopt a second-generation Land and Water Plan and other plans and to fully implement the Canterbury Water Management Strategy, the commissioners will continue to be provided with additional resource management powers. Appeals to the Environment Court on the merit of the commissioners' decisions on the Canterbury resource management planning and policy framework will continue to be disallowed under the Bill. However, the Bill will continue to preserve the right of participants to appeal against commissioners' decisions to the High Court on points of law. Appeals to the superior courts on the decisions of the High Court will follow the normal judicial processes.

When making decisions on regional plans and policy statements in Canterbury, including any variations or changes subsequently promoted by the commissioners, the commissioners will be required to have particular regard to the vision and principles of the Canterbury Water Management Strategy.

The Bill will continue to require the Minister for the Environment to direct applications for new water conservation orders in Canterbury, and applications to vary or revoke existing water conservation orders in Canterbury, to the commissioners rather than to a special tribunal.

The commissioners' recommendations on water conservation orders will be appealable to the High Court on points of law only.

The Bill will continue to provide commissioners with the power to impose targeted moratoria, subject to the approval of the Minister for the Environment, to prevent the granting of further resource consents for water takes in groundwater zones and other freshwater resources in Canterbury that are nearing or beyond full allocation. It will continue to provide both the commissioners and the Minister for the Environment with the power to revoke a moratorium at any time.

The Bill will require the Minister of Local Government to commence a review of ECan's governance arrangement on 1 March 2014. The review must cover the governance structure of ECan, its membership, and its powers and functions in relation to resource management issues.

The Bill repeals the provisions relating to the Hurunui WCO application. The application has been withdrawn, making those provisions unnecessary.

Regulatory impact statement

The Department of Internal Affairs produced a regulatory impact statement on 31 July 2012 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- http://www.dia.govt.nz/diawebsite.nsf/wpg_URL/Resource-material-Regulatory-Impact-Statements-Index?OpenDocument
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. The Bill is to come into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Bill amends the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 (the **Act**).

Part 1

Amendments to preliminary provision

Clause 4 amends section 4, which contains definitions of terms used in the Act. The amendments—

- replace the definition of 2013 election with a definition of 2016 election:
- repeal the definition of Hurunui WCO application:
- amend the definition of next election to replace the reference to the 2013 election with a reference to the 2016 election.

Part 2

Amendments to other provisions

Clause 5 inserts *new section 17A*, which requires the responsible Ministers to begin a review of ECan on 1 March 2014. The review must cover—

- the governance structure of ECan; and
- the membership of ECan; and
- ECan's powers and functions under Part 3.

Clause 6 makes a drafting amendment to the cross-heading above section 22.

Clause 7 amends section 22, which provides that the triennial general election of members of ECan for 2010 is not to be held. The amendments extend the provision to apply to the 2013 triennial general election.

Clause 8 repeals section 60(2), which applies Part 2 of Schedule 2 to the Hurunui WCO application.

Clause 9 repeals Part 2 of Schedule 2.

Hon David Carter

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(Temporary Commissioners
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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Environment Canterbury (Temporary Commissioners and Improved Water Management) Amendment Act **2012.** 5
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act**
This Act amends the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 (the **principal Act**). 10

Part 1

Amendments to preliminary provision

- 4 Section 4 amended (Interpretation)** 15
- (1) In section 4(1), replace the definition of **2013 election** with:
“**2016 election** means the triennial general election of members of ECan that (subject to section 11 of the Local Electoral Act 2001) must be held on the second Saturday in October 2016”. 20
- (2) In section 4(1), repeal the definition of **Hurunui WCO application**.
- (3) In section 4(1), definition of **next election**, replace “2013” with “2016”.

Part 2 25

Amendments to other provisions

- 5 New section 17A inserted (Review)**
- After section 17, insert:
- “**17A Review**
- “(1) The responsible Ministers must begin a review of ECan on 1 March 2014. 30
- “(2) The review must cover—

- “(a) the governance structure of ECan; and
- “(b) the membership of ECan; and
- “(c) ECan’s powers and functions under Part 3.”

- 6 Cross-heading above section 22 amended** 5
In the cross-heading above section 22, replace “*2010 election*” with “*2010 and 2013 elections*”.
- 7 Section 22 amended (2010 election for members of ECan must not be held)**
- (1) In the heading to section 22, replace “**2010 election**” with “**2010 and 2013 elections**”. 10
 - (2) In section 22(1),—
 - (a) replace “general election” with “general elections”; and
 - (b) after “(the **2010 election**)”, insert “and in October 2013”.
- 8 Section 60 amended (Transitional provisions)** 15
Repeal section 60(2).
- 9 Schedule 2 amended**
In Schedule 2, repeal Part 2.
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