

Chair  
Cabinet Business Committee

## **ENVIRONMENT CANTERBURY: GOVERNANCE ARRANGEMENTS**

### **Proposal**

1. This paper seeks Cabinet decisions on the preferred governance arrangements for the Canterbury Regional Council (ECan) following the expiry of the current governance arrangements at the 2013 local authority elections.

### **Executive Summary**

2. Following an extended period of serious poor performance, the Government passed the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 (the Act) and appointed Commissioners to exercise the functions and powers of the Canterbury Regional Council. ECan is set to return to an elected governing body of regional councillors at the local authority elections in October 2013. The Act does not provide for any managed transition path.
3. There were problems with the performance of ECan in a number of areas. Urban/rural and political divisions impaired the effectiveness of planning and decision making and organisational capability was poor. Relationships with key stakeholders were ineffective. Both Government and the local community had lost confidence in its elected representatives.
4. The Canterbury region is of national as well as regional significance. It has 60 per cent of New Zealand's fresh water resource, 34 per cent of its hydro-electric capacity and 50 per cent of its grain, seed and fodder crops. It also has the second largest number of dairy cows of any region and is a significant tourism destination. Canterbury has huge economic growth potential.
5. ECan Commissioners have been highly effective in addressing the problems in Canterbury. They have set a clear vision around the management of natural resources - with supporting strategies and plans, and have improved organisational performance. Many of their achievements are in progress but not completed. Without a managed transition, progress may stall, or at worst, be reversed at the expiry of their term. Ensuring stability, continuity and continued momentum is critical to supporting economic growth and achieving earthquake recovery objectives. As required by their Terms of Reference the Commissioners made a number of recommendations to the Government in April 2012.
6. A number of governance options have been considered. The preferred option is for a transitional mixed governance body, with seven elected, and five Crown appointed members. The Chair would be elected by all members of the governance body. However, should a deadlock occur, the Chair would be

appointed from the members by the Minister of Local Government. The intention of this transitional model is that ECan will return to a fully locally elected democratic body under a transitional plan detailing the succession process. The Local Government Commission would determine the representation arrangements for the elected members. The transitional body will be required to develop a transition plan for how governance will return to full elected members. The model would be reviewed in 2017 to determine whether the mixed model should continue or if there should be a return to a fully elected membership at the 2019 local authority elections.

7. It is also proposed that the limitation on the rights of appeal to points of law only to the High Court on Resource Management Act (RMA) plans and policy statements that are notified under the proposed legislation and that relate to freshwater management (including those instruments containing related land use or discharge provisions) would remain. This is a significant reduction in the existing limitation of appeal rights against all RMA decisions. The need for maintaining this limitation would be subject to review by the Minister of Local Government and the Minister for the Environment.
8. These proposals reflect a number of the recommendations made by the Commissioners. These proposals will require urgent legislation to be introduced in 2012 and enacted by early March 2013 to enable representation to be determined for the 2013 local authority elections.

## **Background**

9. In 2010, following an extended period of serious poor performance, the Government intervened in ECan. The Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 (the Act), enabled the temporary replacement of Environment Canterbury's (ECan) elected governing body with Commissioners. Seven Commissioners were appointed. The Commissioners were charged with fulfilling all the powers and functions of the regional council governing body and were given strengthened decision making powers in relation to fresh water management.
10. The Act also limited the rights of appeal to points of law only to the High Court against significant Resource Management Act 1991 (RMA) decisions and changes to water conservation order processes.
11. Under the Act, ECan is set to return to an elected governing body of regional councillors at the local authority elections in October 2013. The Act does not provide for any managed transition path from Commissioners to democratically elected councillors.

## **The problem in regional Canterbury**

12. Over several years a number of problems with ECan's performance emerged. These problems fell across a range of areas. Urban/rural and political divisions prevented ECan from developing a clear strategic vision for the region - leadership became fragmented, planning ineffective, and decision making deadlocked. Key priorities of regional and national importance, such as the effective management of Canterbury's valuable freshwater resources, were not

progressed. Relationships with key stakeholders, including iwi and territorial authorities, were not effectively managed and broke down. Poor organisational capability also resulted in the regional council failing to effectively manage and deliver a number of its core regulatory functions. Overall, the business, urban and rural community lost confidence in its elected representatives' ability to manage its regional resources that also have important national significance. ECan's poor performance was impeding the regions' significant growth and prosperity potential.

### **What makes Canterbury unique?**

13. Canterbury is of national, as well as regional, significance. The Canterbury region has 60 per cent of New Zealand's fresh water resource. It has around 34 per cent of New Zealand's hydro generation capacity, 70 per cent of its generation storage and accounts for, in the order of, 18 per cent of the country's overall hydro electric generation. In addition, it has 50 per cent of New Zealand's grain, seed and fodder crops and has the second largest number of dairy cows of any region in New Zealand. Canterbury is a significant destination for national and international tourism, and recreation, and takes in New Zealand's second largest city. The Canterbury region has huge economic growth potential. Irrigation is predicted to significantly contribute to the growth of the New Zealand economy, with Canterbury being a key contributor. The value of production in Canterbury is predicted to increase from \$1,000 ha to \$7,000 ha with the irrigation acceleration initiatives underway.

### **Effectiveness of Commissioners**

14. The Commissioners' leadership has been highly effective in addressing the governance and decision making problems and improving core performance in Environment Canterbury. The Commissioners have also been very effective in developing a clear vision for the future and sustainable management of the natural resources in the Canterbury region and developing comprehensive strategies and plans to deliver innovations and reform in key areas. They have also worked extensively to establish constructive and collaborative working relationships with councils, Ngāi Tahu and other key stakeholders – achieving a truly regional approach. The benefits from the Commissioners' work have been considerable and tangible. Their work will however not be concluded by the time their term expires.

### **Ensuring continued momentum**

15. As noted earlier, the Act does not provide for any managed transition path from Commissioners to democratically elected councillors. Without some form of managed exit, there is a significant risk that the progress that has been made since the Commissioners' appointment will stall, or at worst, be reversed at the expiry of their term with the local authority election in October 2013. If no transition arrangements are put in place the Commissioners' extensive expertise will be lost to ECan.
16. Given the significance of the Canterbury region, both to the rebuild of Christchurch and to the overall New Zealand economy, any deterioration in its

effectiveness would have serious consequences. The earthquakes have significantly changed the governance, social and economic environment in Canterbury resulting in an increased need for stability in the region, particularly for continuity of leadership during the early critical period of recovery.

17. Many of the Commissioners' achievements are in progress, and therefore not complete. Until then further concentrated leadership and effective decision making will be required to deliver on the strategies and plans that the Commissioners have adopted; and maintain the contribution and continuity of advice, decision making, and involvement in the recovery of Christchurch and wider Canterbury.

18. The Commissioners' Terms of Reference require them to contribute to Government consideration of long-term regional governance and institutional arrangements (for Canterbury). On 3 April 2012, the Commissioners reported to Government with proposals for regional governance after their terms expire as follows:

- a mixed model transitional governing body comprising elected and Government appointed members
- retaining the existing local government structure for Canterbury comprising a regional council (i.e. ECan) and ten territorial authorities within existing boundaries;
- retaining limited rights of appeal to points of law only to the Environment Court against ECan's resource management planning and policy decisions (provided for in the Act); and
- extending ECan's functions to include regional strategic planning and some territorial authority functions.<sup>1</sup>

19. As a result we have considered a range of options for ensuring continuity and maintaining the momentum that Commissioners have achieved in the region. This consideration of the options was based on there being no regulatory change to the functions between ECan and the Canterbury region's territorial authorities.

### **Governance Options**

20. We have identified and assessed five options to address the problems that exist in respect to Canterbury and ECan:

*Option One - A transitional mixed governance body (preferred option)*

21. The intention of this transitional model is that ECan will return to a fully locally elected democratic body. This would comprise seven elected members and five persons appointed by the Minister of Local Government and the Minister for the Environment (responsible Ministers). The responsible Ministers would appoint five members who collectively have knowledge and expertise in matters such as freshwater management, local authority governance and management, tikanga Māori, and the Canterbury region. A chair person would be elected from among

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<sup>1</sup> Such as rural land use planning, civil defence emergency management, and transport functions.

the members by the members. However, should there be a deadlock in the election of a chair person; the Minister of Local Government would appoint the chair person from amongst the members. The Local Government Commission would determine the representation arrangements of the elected members and would have discretion to balance rural and urban interests. The mixed governance arrangements would commence from the day that the new elected members are sworn into office following the 2013 local authority elections.

22. The appointed members may command higher levels of remuneration than elected members on the basis of their skills and expertise. The rate of remuneration would be set by the Remuneration Authority in line with the current level of remuneration to existing Commissioners. In order to mitigate the issue of a disparity in the level of remuneration received by appointed and elected members, it is proposed that the Remuneration Authority also determine the level of remuneration for elected members.
23. The limitation on the rights of appeal to points of law only to the High Court on RMA plans and policy statements that are notified under the proposed legislation and that relate to freshwater management (including those instruments containing related land use or discharge provisions) would remain.
24. The transitional mixed governance body would be required to develop a transition plan detailing the succession process for governance to be returned to a fully elected council, and provide this plan to the responsible Ministers after the local authority elections in 2016, but before the 2017 Ministerial review.
25. A review of this model would be undertaken by the responsible Ministers by 2017. The review would consider whether to continue with the mixed governance body or return to having all members elected at the 2019 local authority elections. The reason for the use of two electoral cycles for the review period is to allow a reasonable period of time for the objectives of the succession plan to be met by the transitional mixed governance body.

*Option Two - A permanent mixed governance body*

26. The intention of this option is to establish a permanent mixed model governance arrangement for ECan. This would have the same composition as the transitional governance body outlined in option one, but would be a permanent arrangement. There would be a review of the arrangements at least every six years. The review would consider whether to alter representation arrangements or reduce the proportion of Government appointed members to elected members.

*Option Three - Extend the terms of existing Commissioners*

27. The terms of the existing ECan Commissioners would be extended with no reintroduction of elected representatives during the extension period.

*Option Four - Return to a fully elected governance body*

28. This would involve a return to the arrangements that existed prior to the appointment of the ECan Commissioners in time for the 2013 local authority elections. Members would be elected under the Local Electoral Act 2001, and a chair elected by and from those members.

*Option Five - Ministerial direction for a broader representation review*

29. The adoption in principle of a mixed model governance for ECan, but with a direction for a full review of its governance arrangements (potentially including the position of electoral boundaries to address the balance between rural and urban issues).

**Assessment criteria**

30. The criteria used to assess the five options were whether the option demonstrated administrative practicality, promoted democratic local decision making, produced effective governance outcomes, mitigated economic and environmental risks, and facilitated earthquake recovery. Option Five was rejected as part of this analysis and does not appear in the table. This analysis is reflected in the table below.

Approved for release by the  
Minister of Local Government  
and the Minister for the Environment

**Table 1: Summary of options and assessment criteria**

Option	Criterion 1: Administrative practicality	Criterion 2: Democratic local decision making	Criterion 3: Effective governance outcomes	Criterion 4: Mitigates economic and environmental risks	Criterion 5: Facilitates earthquake recovery	Risks
1 Transitional mixed governing body (with provision for Ministerial review by 2017)	Strongly meets criterion	More fully meets by providing partial local democratic representation, phasing to full elected representation	Strongly meets criterion	Capacity to meet economic growth and prosperity objectives	Strongly meets criterion	<ul style="list-style-type: none"> <li>New and untested governance arrangement, could generate uncertainty</li> <li>Significant intrusion into local government powers; risks of blurred or unclear accountability</li> <li>Tension between elected members' requirement to act in the local interest and being requested to deliver outcomes in the national interest.</li> <li>Uncertainty around duration of arrangement and arrangement after the transition period</li> </ul>
2 Permanent mixed governing body	Strongly meets criterion	Meets criterion by providing ongoing partial local democratic representation	Strongly meets criterion	Strong capacity to meet economic growth and prosperity objectives	Strongly meets criterion	<ul style="list-style-type: none"> <li>Risks same as first three bullet points for Option One above</li> <li>Potential barrier to nationally consistent governance and resource management frameworks for regions (potentially reducing overall local government system regulatory efficiency)</li> </ul>
3 Extend Commissioners' terms	Meets criterion	Does not meet criterion	Meets criterion	Strong capacity to meet economic growth and prosperity objectives	Meets criterion	<ul style="list-style-type: none"> <li>Conflicts with key principle of local government: communities decide their local affairs through local representatives</li> </ul>
4 Return to a fully elected governing body	Strongly meets criterion	Strongly meets criterion	Meets criterion	Uncertain capacity to meet economic growth and prosperity objectives	Partially meets criterion	<ul style="list-style-type: none"> <li>Would create governance arrangements with a lack of institutional knowledge, ownership of current work programmes</li> <li>Potential for political divisions to return that would limit its ability to operate effectively</li> <li>Environmental and economic risks with a lack of fully operative planning framework</li> </ul>

### **Comment on options**

31. All options, except Option Four, will require legislation as a return to a fully elected governance body was provided for in the Act.
32. We propose Option One - a transitional mixed governance body, be applied to ECan. This option is largely based on the recommendations from the ECan Commissioners, which are included in their report to Government on 3 April 2012.
33. Option One will provide for a managed withdrawal from current ECan Commissioner arrangement. It allows for the specialist expertise and knowledge of the Commissioners to be available to ECan for a period and for that knowledge to be transferred to elected representatives. It will provide for democratic and balanced decision making. The majority of members will be elected and therefore this new governance body will be both responsive to the region's communities and be able to draw on the experience and specialist expertise of appointed members. A similar model operates in District Health Boards.
34. This model will provide stability and continuity and ensure that the Commissioners' momentum and achievements are progressed to completion thereby mitigating some potentially significant economic and environmental risks. The transition period will allow for ECan's Land and Water Plan to be finalised and any subsequent regional plan changes to be made in an expeditious manner (reducing costs and delays).
35. This option will also facilitate the earthquake recovery process. It will provide for a stronger relationship and partnership with central government and other stakeholders who are key to the achievement of the region's recovery objectives.
36. Option One will require urgent legislation. Legislation will need to be enacted by early March 2013 to allow time for representation arrangements to be made for the seven elected representatives of ECan in the local authority elections in October 2013.
37. Although we recognise that ECan currently requires assistance to manage the significant challenges facing their region, it is desirable in the longer term that local governance arrangements are kept administratively simple and aligned as closely as possible with the rest of New Zealand. This is better achieved through a transitional governance arrangement than a permanent mixed governance model.
38. Extending or entrenching the term of the current ECan Commissioners involves continuing the significant intervention by Government in ECan's governance. Although this has provided benefits in expediting ECan work and provided for stable leadership it would significantly limit the capacity to provide for democratic local decision making.
39. Reverting to a fully elected governance arrangement in 2013 is considered to carry too high a risk. Although this option is administratively simple, it may see a return to the deadlocked decision making and ineffective governance arrangements of the past. It is critical that disruption to the important role ECan provides in supporting the Canterbury Earthquake recovery effort and the implementation of the Canterbury Water Management Strategy is avoided, and



that growth in the Canterbury economy (as well as its contribution to overall New Zealand GDP) is not put at risk.

40. We consider a broader review of representation will take too long and in the meantime introduce an unacceptable level of uncertainty over future governance arrangements at a crucial time in Canterbury's history.

#### **Continuation of limited appeal rights**

41. The Act currently removes appeal rights to the Environment Court in relation to decisions made by ECan, but provides a right of appeal to the High Court on points of law. We propose to continue this limitation to decisions that are made on RMA plans and policy statements that relate to freshwater management (including those instruments containing related land use or discharge provisions). This is to ensure that the CWMS is given appropriate priority and to enable broader freshwater related plans and policies to be progressed in a timely manner. This is consistent with the significance of freshwater management as reflected in other government policies including the Irrigation Acceleration Fund and Business Growth Agenda.
42. We propose that the limitation of appeal rights be considered as part of the review by the Minister of Local Government and the Minister for the Environment in 2017.

#### **Consultation**

43. This paper was developed by the Department of Internal Affairs and the Ministry for the Environment. The Treasury, the Ministries of Health and Justice, the Ministry for Primary Industries, the Department of Conservation, Te Puni Kōkiri and the Canterbury Earthquake Recovery Authority have been consulted in the preparation of this paper. The Department of Prime Minister and Cabinet has also been consulted. Officials consulted the ECan Commissioners in developing the proposals in this paper.
44. Several agencies consider that a transitional mixed governance body is an appropriate option to move towards an eventual return to a fully locally elected democratic body.
45. MoJ commented on the continuing limitation of appeal rights. The Ministry noted that while the removal of appeals rights may be justified while the transitional arrangements are in place, they do not consider that they should be removed indefinitely.

#### **Financial Implications**

46. The direct costs of implementing the transitional mixed governance model (Option One) would be incurred by ECan in the form of remuneration, fees and payments to the governing body. In our view, it is appropriate that legislation specify that these costs be met from council funding.

47. There would also be a cost to the Department of Internal Affairs for the representational review to be undertaken by Local Government Commission.
48. Additional costs could be incurred in the long term by the Department of Internal Affairs and the Ministry for the Environment to assist with any Ministerial reviews or transitions to the democratic status quo.
49. The Crown would incur costs administering the legislative framework, including monitoring its operation and regular appointment decisions. It is conceivable that legal challenge may result in court proceedings.

### **Legislative Implications**

50. The proposals in this paper will require urgent legislation. A Bill does not have a place on the 2012 legislation programme. The proposed enactment date for the Bill is not later than 5 March 2013.
51. Parliamentary Counsel Office has been consulted on the legislative implications of the paper.
52. We have considered whether or not it would be appropriate to pursue the changes through the amendment of the Act. However the advice of Parliamentary Counsel Office is that separate legislation will be required to give effect to the proposals in this paper.
53. The proposed government bill would result in an Act binding on the Crown.

### **Regulatory Impact Analysis**

54. The Regulatory Impact Analysis (RIA) requirements apply to the proposal in this paper and a Regulatory Impact Statement (RIS) has been prepared and is attached.

### **Quality of Impact Analysis**

55. The agency opinion on the quality of the analysis is as follows:

"The Regulatory Impact Analysis Team (RIAT) has reviewed the RIS prepared by Department of Internal Affairs and the Ministry for the Environment and associated supporting material, and considers that the information and analysis summarised in the RIS partially meets the quality assurance criteria.

The RIS sets out the problems with dysfunction, lack of expertise and the resulting certainty issues.

However, as acknowledged in the RIS, there are difficulties in determining the nature and scale of costs, benefits and risks of the options, in particular whether the return of a majority elected members on ECan will reintroduce dysfunction and what value electors place on democratic local decision making versus expected greater efficiency in decision making and certainty in governance arrangements.

Consultation has not been carried out with affected parties on the proposals, and so is not adequate. In particular electors have not been consulted. While consultation with electors might not be able to give information about the likelihood of the election of councillors who will contribute to potential dysfunction on ECan, it could give information about the extent to which electors value democratic local decision making versus effective governance and certainty, which would usefully inform Cabinet's decision on this key trade-off."

### ***Consistency with Government Statement on Regulation***

56. We have considered the analysis and advice of our officials, as summarised in the attached RIS and we are satisfied that, aside from the risks, uncertainties and caveats already noted in this Cabinet paper, the regulatory proposals recommended in this paper:

- are required in the public interest
- will deliver the highest net benefits of the practical options available, and
- are consistent with our commitments in the Government statement "Better Regulation, Less Regulation".

57. The RIS sets out the problems with dysfunction, lack of expertise and the resulting certainty issues. However while the underlying analysis involves considering a trade-off between democratic local decision making versus a perception of greater efficiency and certainty, this is not made clear in the RIS. The RIS also places little weight on the consideration of whether decisions will be considered from the perspective of the greater national interest. Also, while the RIS acknowledges difficulties in determining the impacts of options, it does not adequately explore these potential implications. The options analysis does not link clearly enough to the problem definition.

58. Consultation has not been carried out with affected parties on the proposals, and so is inadequate. In particular electors have not been consulted. While consultation with electors might not be able to give information about the likelihood of the election of councillors who will contribute to potential dysfunction on ECan, it could give useful information about the extent to which electors value democratic local decision making versus effective governance and certainty, which would usefully inform Cabinet's decision on this key trade-off.

59. We have carefully considered whether the proposals in the paper are consistent with the expectations set out in the Government Statement on Regulation, and certify that they do.

### **Human Rights**

60. All the options in this paper, except a return to a fully elected Council, limit the democratic rights of residents of Canterbury compared with the rest of the country. Section 12 of the New Zealand Bill of Rights Act 1990 affirms the right of New Zealand citizens to vote in elections for the House of Representatives but does not extend to local government. However, article 25 of the International Covenant on Civil and Political Rights (ICCPR) affirms the right of every citizen to

take part in public affairs, directly or through freely chosen representatives, and to vote and be elected at genuine periodic elections.

61. Article 25 covers all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels. Limiting the democratic rights of citizens in Canterbury could therefore be in breach of the ICCPR. In the absence of domestic remedies, individuals could complain directly to the United Nations Human Rights Committee. This could result in international criticism of New Zealand for failing to meet its international human rights obligations.
62. There are implications for the Treaty of Waitangi. Reduction in elected members means that the ability for Māori to have a voice, traditionally and often most effectively manifested through elected representatives, will be restricted. This is contrary to the principle in Article 3 which states that Māori will be treated the same as other citizens. However, the affect on Māori would be no greater than the affect on non-Māori eligible voters. The proposed model may also impact on the relationship with iwi and requirements for consultation in the consent process.
63. Limited appeal rights may be contrary to the Legislation Advisory Committee guidelines. Paragraph 13.3.2 deals with when an appeal right should be limited to points of law. Factual errors are not covered by an appeal on points of law only. In the context of council decision making, mistakes of fact are possible and can greatly impact the local population if they cannot be reviewed. For this reason it is important to ensure any limitation of appeal rights is adequately justified.

#### **Publicity**

64. We propose to publicly announce the Government's intention to establish a transitional mixed model governance structure for ECan to provide a transition back to elected representation, whilst maintaining the momentum established by the Commissioners.
65. We also propose to release this Cabinet paper and the corresponding Cabinet Minute on the Department of Internal Affairs and Ministry for the Environment websites.

#### **Recommendations**

66. We recommend that the Committee:
  1. **note** the Environment Canterbury (ECan) Commissioners were appointed to address the dysfunction and poor performance of Environment Canterbury in 2010, and were to exercise the powers and functions of the Canterbury Regional Council including strengthened decision making powers in relation to fresh water management;
  2. **note** the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 limited the rights of appeal to points of law only to the High Court against significant Resource Management Act decisions and changes to water conservation order processes;

3. **note** that the above Act does not provide for a managed transition path from Crown appointed Commissioners to democratically elected councillors; and that Commissioners' terms will expire when new councillors are declared elected at the local authority elections in October 2013;
4. **note** Canterbury's natural resources are such that they are of national, as well as regional, significance;
5. **note** the Commissioners' leadership has been highly effective in addressing the governance and decision making problems including improving core performance in ECan, and rebuilding key stakeholder relationships;
6. **note** the Christchurch earthquakes have changed the governance, social and economic environment in Canterbury resulting in an increased need for stability in the region;
7. **note** many of the Commissioner's achievements are still in progress and continued leadership and effective decision making will be required to deliver on the strategies and plans Commissioners have initiated;
8. **note** the Commissioners Terms of Reference require them to contribute to Government consideration of long-term regional governance and institutional arrangements for Canterbury; Commissioners' have therefore recommended to the Minister of Local Government;
  - 8.1 a mixed model transitional governing body comprising elected and Government appointed members;
  - 8.2 retaining the existing local government structure for Canterbury comprising a regional council (i.e. ECan) and ten territorial authorities within existing boundaries;
  - 8.3 continue limited rights of appeal to points of law only on certain resource management decisions; and
  - 8.4 extending ECan's functions to include regional strategic planning and some territorial authority functions;
9. **note** the existing local government structure for Canterbury comprising a regional council and ten territorial authorities within existing boundaries will be retained for the 2013 local authority elections;
10. **note** that the unique circumstances that exist in Canterbury require an innovative approach to ensure a stable governance structure for Environment Canterbury;
11. **note** that the national initiatives in water and land reform require an effective, efficient and stable governance structure to achieve the projected outcomes of economic and environmental return;
12. **agree** that a mixed model governance structure will help maintain the momentum of the Commissioners' achievements to date;
13. **agree** to Option One, a transitional mixed model governance structure comprising twelve members, of which five will be Government appointees

- and the remainder democratically elected members, being established for Environment Canterbury until at least 2019 with a review to be conducted by the Minister of Local Government and the Minister for the Environment in 2017;
14. **agree** to the Minister of Local Government and the Minister for the Environment appointing five Government appointees to ECan;
  15. **agree** to the election of a chair by the members of the governance body from amongst the members;
  16. **agree** to the Minister of Local Government appointing the chair in the situation of a deadlock by the members of ECan;
  17. **agree** that a succession plan for a return to a fully locally elected democratic body is to be developed by the members of the governance body in consultation with the territorial authorities after the local authority elections in 2016, and this plan is to be provided to the Minister of Local Government and the Minister for the Environment by 2017;
  18. **agree** that there will be no appeal to the Environment Court in respect of decisions of ECan relating to Resource Management Act plans and policy statements dealing with freshwater management (including those with related land use or discharge provisions) and that appeals will be limited to the High Court on matters of law only;
  19. **agree** that these limited appeal rights will continue to apply until 2019 but will be included in a 2017 review by the Minister of Local Government and the Minister for the Environment;
  20. **agree** to issue instructions to the Local Government Commission under section 31 of the Local Government Act 2002 for a representational view for Canterbury;
  21. **agree** that there be no regulatory changes to the allocation of functions between ECan and the Canterbury region's territorial authorities;
  22. **agree** that a bill be introduced to give effect to the transitional mixed model governance structure for Environment Canterbury in September 2012 for enactment in March 2013;
  23. **agree** that drafting instructions be issued to Parliamentary Counsel to give effect to Option One (recommendation 12 above);
  24. **authorise** the Minister of Local Government and the Minister for the Environment to make decisions on any subsequent issues arising from the drafting of the bill; and

25. **agree** to the Minister of Local Government and the Minister for the Environment publicly announcing the Government's intention to establish a mixed model governance structure for ECan to provide a planned transition back to elected representation whilst maintaining the momentum established by the Commissioners.

Hon David Carter  
Minister of Local Government

Hon Amy Adams  
Minister for the Environment

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