

**Environment Canterbury (Transitional Governance  
Arrangements) Bill**

Government Bill

As reported from the committee of the whole House



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**Key to symbols used in reprinted bill**

**As reported from the committee of the whole House**

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*Hon Dr Nick Smith*

# **Environment Canterbury (Transitional Governance Arrangements) Bill**

Government Bill

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Environment Canterbury (Transitional Governance Arrangements) Act **2015**.

**2 Commencement**

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- (1) **Section 4A, Part 3, and Schedules 1 to 3** come into force on the transition day.
- (2) The rest of this Act comes into force on the day after the day on which it receives the Royal assent.

**Part 1**

10

**Preliminary provisions**

**3 Purpose**

- (1) The purpose of this Act is to provide governance arrangements for the Canterbury Regional Council that will—
  - (a) operate during the 2016 to 2019 local authority election-cycle period; and
  - (b) replace the governance arrangements that have been in place since 2010 under the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010; and

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- (c) provide for a majority of members of the Council to be elected by the people of the Canterbury region; and
  - (d) provide for the continuation of some of the modified resource management processes that have operated under the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 to remain available to the Council in order to further progress issues relating to the management of fresh water within the Canterbury region. 5
- (2) To this end, this Act—
- (a) replaces the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010; and 10
  - (b) provides for a new governing body for the Canterbury Regional Council comprising a mix of elected and appointed members; and
  - (c) authorises the new governing body to continue to exercise certain of the powers and perform certain of the functions conferred on the commissioners appointed under the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010; and 15
  - (d) sets out rules to manage the interface of this Act with other legislation applicable to local authorities, including (but not limited to) the Local Government Act 2002, the Local Electoral Act 2001, and the Resource Management Act 1991. 20

#### **4 Interpretation**

- (1) In this Act, unless the context otherwise requires,—
- 2010 Act** means the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 25
- 2016 election** means the triennial general election of members of local authorities required by section 10 of the Local Electoral Act 2001 to be held on the second Saturday in October 2016
- 2019 election** means the triennial general election of members of local authorities required by section 10 of the Local Electoral Act 2001 to be held on the second Saturday in October 2019 30
- appointed member** means a member of the transitional governing body who is appointed to office under **section 11**
- Canterbury region** means the region over which Environment Canterbury has jurisdiction 35
- Canterbury Water Management Strategy** means the *Canterbury Water Management Strategy—Strategic Framework*, November 2009
- elected member** means a member of the transitional governing body who is elected to office under the Local Electoral Act 2001 (as modified by **section 10**) 40



- Environment Canterbury** means the regional council named in Part 1 of Schedule 2 of the Local Government Act 2002 as the Canterbury Regional Council
- member**, in relation to Environment Canterbury or the transitional governing body, means— 5
- (a) an elected member; or
  - (b) an appointed member
- proposed fresh water plan or regional policy statement** has the meaning given by **section 19(1)**
- responsible Ministers** means— 10
- (a) the Minister for the Environment; and
  - (b) the Minister of Local Government
- resumption day** means the day after the day on which the official result of the 2019 election is declared under section 86 of the Local Electoral Act 2001 in relation to Environment Canterbury 15
- RMA** means the Resource Management Act 1991
- transition day** means the day after the day on which the official result of the 2016 election is declared under section 86 of the Local Electoral Act 2001 in relation to Environment Canterbury
- transition period** means the period— 20
- (a) starting on the transition day; and
  - (b) ending on the close of the day before resumption day
- transitional governing body** means the governing body of Environment Canterbury during the transition period (*see* **section 8(1)**)
- vision and principles of the Canterbury Water Management Strategy** has 25 the meaning given by **section 19A**
- water body** has the meaning given by section 2(1) of the RMA
- water conservation application** means—
- (a) an application for a water conservation order in respect of a water body in the Canterbury region; and 30
  - (b) an application to revoke or vary a water conservation order in respect of a water body in the Canterbury region.
- (2) A term or expression that is defined in the Local Government Act 2002 and used, but not defined, in **Part 2** or **subpart 1 of Part 4** of this Act has the same meaning as in the Local Government Act 2002. 35
  - (3) A term or expression that is defined in the RMA and used, but not defined, in **Part 3, Schedule 1, or Schedule 2** of this Act has the same meaning as in the RMA.

<b>4A</b>	<b>Transitional, savings, and related provisions</b>	
	The transitional, savings, and related provisions set out in <b>Schedule 1 Schedules 1 and 2</b> have effect according to their terms.	
<b>5</b>	<b>Act binds the Crown</b>	
	This Act binds the Crown.	5
<b>6</b>	<b>Repeal of this Act</b>	
(1)	This Act is repealed on the close of the resumption day.	
(2)	Despite <b>subsection (1)</b> ,—	
	(a) <b>Part 3</b> and <b>Schedules 1 to 3</b> of this Act continue, as if they had not been repealed, for the purposes of completing any decision or decisions (including any appeals) to which they apply that have not been completed before the resumption day; and	10
	(b) for the purposes of <b>paragraph (a)</b> , the transition period is to be treated as if it had not ended.	
<b>7</b>	<b>Relationship between this Act and other legislation applicable to local authorities</b>	15
	The Local Government Act 2002, the Local Electoral Act 2001, the Resource Management Act 1991, and any other enactment applicable to a local authority apply to Environment Canterbury except to the extent that those enactments are inconsistent with, or modified by, this Act.	20

## Part 2

### Governance arrangements during transition period

#### *Transitional governing body*

<b>8</b>	<b>Transitional governing body</b>	
(1)	During the transition period, the governing body of Environment Canterbury comprises—	25
	(a) no fewer than 4 and no more than 7 elected members; and	
	(b) no fewer than 3 and no more than 6 appointed members.	
(2)	During the transition period, every reference in the Local Government Act 2002 or any other enactment to a member or an elected member of a local authority or regional council must, in relation to Environment Canterbury, be read as including a reference to an appointed member (including, for example, treating a reference to the member's election as a reference to the member's appointment).	30
(3)	Without limiting <b>subsection (2)</b> , during the transition period, each member of the transitional governing body has the same functions, powers, responsibilities	35

ities, and duties as each other member of the governing body, irrespective of whether the member is elected or appointed.

**9 Chairperson and deputy chairperson**

At the first meeting of Environment Canterbury during the transition period, the members must elect a chairperson and deputy chairperson from among themselves. 5

*Elected members*

**10 Process for electing members**

- (1) Seven elected members of the transitional governing body must be elected at the 2016 election— 10
- (a) using the First Past the Post electoral system (as described generally in section 5A of the Local Electoral Act 2001); and
  - (b) by the electors described in the rest of this section.
- (2) One member must be elected by electors within the districts of the following local authorities (the **South Canterbury constituency**): 15
- (a) Mackenzie District Council; and
  - (b) Timaru District Council; and
  - (c) Waimate District Council; and
  - (d) that part of the Waitaki District Council that is also within the Canterbury region. 20
- (3) One member must be elected by electors within the districts of the following local authorities (the **mid-Canterbury constituency**):
- (a) Selwyn District Council; and
  - (b) Ashburton District Council.
- (4) One member must be elected by electors within the districts of the following local authorities (the **North Canterbury constituency**): 25
- (a) Waimakariri District Council; and
  - (b) Hurunui District Council; and
  - (c) Kaikoura District Council.
- (5) Four members must be elected, at large, by electors within the district of the Christchurch City Council. 30

*Appointed members*

**11 Process for appointing members**

- (1) The responsible Ministers—

- (a) must appoint 3 members of the transitional governing body with effect no later than 28 days after the transition day; and
  - (b) may appoint, at the same time or subsequently, no more than 3 other members.
- (1A) Two of the members appointed in accordance with **subsection (1)(a)** must be persons recommended by Te Rūnanga o Ngāi Tahu. 5
- (1B) Before making a recommendation, Te Rūnanga o Ngāi Tahu must take into account the matters referred to in **subsections (2) and (3)**.
- (2) The responsible Ministers must appoint members who will complement the knowledge and expertise of the elected members so that, collectively, the members of the transitional governing body will have knowledge of, and expertise in relation to, the following matters: 10
- (a) the management of fresh water; and
  - (b) local authority governance and management; and
  - (c) tikanga Māori, as it applies in the Canterbury region; and 15
  - (d) the Canterbury region and its people.
- (3) The responsible Ministers may appoint a person only if the person—
- (a) is qualified to be a candidate for election under section 25 of the Local Electoral Act 2001; and
  - (b) is not a member of any other local authority or community board or local board of any local authority. 20
- (4) However, nothing in **subsection (2)** affects the validity of the appointment of an appointed member once made.
- (5) **Section 12** applies to each appointment made under this section.
- 12 Appointments must be in writing and notified** 25
- (1) The responsible Ministers make an appointment under **section 11** by giving the person concerned a written notice of appointment that states the day on which the appointment takes effect.
- (2) As soon as practicable after making an appointment, the responsible Ministers must— 30
- (a) notify the appointment in the *Gazette*; and
  - (b) give a copy of the notice of appointment to Environment Canterbury.

*Procedural matters relating to transitional governing body*

- 13 When members come into office**
- (1) Elected members come into office in accordance with section 115(1) of the Local Electoral Act 2001. 35

- (2) Appointed members come into office on the date stated in their notices of appointment.

**14 When members leave office**

- (1) The term of office of each elected member ends on the earlier of the following:
- (a) the date on which the member leaves office in accordance with section 116(1) of the Local Electoral Act 2001; and 5
  - (b) the date on which the member leaves office under clause 5 of Schedule 7 of the Local Government Act 2002.
- (2) The term of office of each appointed member ends on the earlier of the following: 10
- (a) the close of the day before resumption day; and
  - (b) the date on which the member—
    - (i) leaves office under clause 5 of Schedule 7 of the Local Government Act 2002; or
    - (ii) is removed from office by a notice given under **section 15(2)**. 15
- (3) For the purposes of **subsection (2)(b)(i)**, the references to the chief executive in clause 4 of Schedule 7 of the Local Government Act 2002 must be read as references to the responsible Ministers.

**15 Appointed members may be removed at discretion of responsible Ministers** 20

- (1) The responsible Ministers may, in their complete discretion, remove an appointed member at any time.
- (1A) However, before removing a member who was recommended by Te Rūnanga o Ngāi Tahu, the Ministers must consult Te Rūnanga o Ngāi Tahu.
- (2) The responsible Ministers remove an appointed member by giving the person a written notice of removal that states the day on which the removal takes effect. 25

**16 Filling of vacancies in office of appointed members**

- (1) If the office of an appointed member recommended by Te Rūnanga o Ngāi Tahu becomes vacant, the responsible Ministers must, in accordance with **sections 11 and 12**, appoint a replacement member recommended by Te Rūnanga o Ngāi Tahu. 30
- (2) If a vacancy occurs in the office of any other appointed member, the responsible Ministers may appoint a replacement member in accordance with **sections 11 and 12**.

- 17 First meeting of Environment Canterbury during transition period**
- (1) The first meeting of Environment Canterbury during the transition period must be called by the chief executive of Environment Canterbury as soon as practicable after the members appointed under **section 11(1)(a)** come into office.
- (2) The chief executive must give all members no less than 2 days' notice of the meeting (unless an emergency exists, in which case the chief executive may give notice as soon as practicable). 5
- (3) This section is subject to **section 28**.

*Remuneration of members*

- 18 Remuneration of members** 10
- (3) Clauses 6 to 13 of Schedule 7 of the Local Government Act 2002 apply for the purposes of making determinations in respect of Environment Canterbury as follows:
- (a) if exercising the power under clause 6(3)(c)(ii) or (d) of the schedule, the Remuneration Authority must not differentiate on the basis of whether members are elected or appointed; and 15
- (b) to avoid doubt, clause 12 of Schedule 7 of the Local Government Act 2002 applies to appointed members so that Environment Canterbury, and not the Crown, must make payments to appointed members as well as elected members. 20
- (4) However, the Remuneration Authority must, no later than 15 July 2016, make a determination of the remuneration, allowances, and expenses payable immediately after the transition day to—
- (a) the chairperson, deputy chairperson, and other members of Environment Canterbury; and 25
- (b) chairpersons of committees of Environment Canterbury.

**Part 3**

**RMA arrangements during transition period**

- 19 Proposed fresh water plan or regional policy statement to which this Part applies** 30
- (1) This Part applies to the following (a **proposed fresh water plan or regional policy statement**):
- (a) a proposed plan, or a proposed change to or variation of the Canterbury Land and Water Regional Plan or any other plan, that—
- (i) is or has been notified by Environment Canterbury under clause 5 or 26 of Schedule 1 of the RMA at any time before the date of the 2019 election; and 35

- 
- (ii) relates to the management of fresh water within the Canterbury region; and
- (iii) ~~is consistent with the vision and principles of the Canterbury Water Management Strategy; and~~
- (b) a proposed regional policy statement, or a proposed change to or variation of a regional policy statement, that— 5
- (i) is or has been notified by Environment Canterbury under clause 5 or 26 of Schedule 1 of the RMA at any time before the date of the 2019 election; and
- (ii) relates to the management of fresh water within the Canterbury region; and 10
- (iii) ~~is consistent with the vision and principles of the Canterbury Water Management Strategy.~~
- (2) This Part does not apply to any other proposed plan or regional policy statement, or to a proposed change to or variation of any other plan or regional policy statement (for example, a proposed regional coastal plan or a proposed change to or variation of a regional coastal plan). 15
- 19A Meaning of vision and principles of Canterbury Water Management Strategy**
- (1) For the purposes of this Part, the **vision and principles of the Canterbury Water Management Strategy**— 20
- (a) means the text of the vision and principles included in the Canterbury Water Management Strategy as reproduced in **Schedule 3**; but
- (b) does not include any amendments to that text.
- (2) To avoid doubt, the inclusion of the text of the vision and principles of the strategy in **Schedule 3** does not accord the strategy or its vision and principles any status in law other than as provided in this Act. 25
- 20 Application of RMA**
- Except as otherwise provided in this Part, the provisions of the RMA (including, without limitation, Part 2 of that Act) apply— 30
- (a) to the performance and exercise by Environment Canterbury of its functions and powers under this Part or **Schedule 1** during the transition period; and
- (b) so far as they are relevant, to any proposed fresh water plan or regional policy statement. 35

*Water conservation orders***21 Process to apply for applications made after transition day**

Part 9 of the RMA applies to a water conservation application made on or after the transition day.

*Proposed fresh water plans or regional policy statements* 5

**23 Additional criteria for decisions during transition period**

In considering any proposed fresh water plan or regional policy statement during the transition period, Environment Canterbury must have particular regard to the vision and principles of the Canterbury Water Management Strategy in addition to the matters relevant under the RMA to its decisions made under clause 10(1) of Schedule 1 of that Act. 10

**24 Rights of appeal**

- (1) This section applies to decisions—
  - (a) made during the transition period by Environment Canterbury under clause 10 of Schedule 1 of the RMA; and 15
  - (b) in respect of which Environment Canterbury was required to have particular regard to the vision and principles of the Canterbury Water Management Strategy in accordance with **section 23**.
- (2) No person may appeal to the Environment Court under clause 14 of Schedule 1 of the RMA in respect of such a decision. 20
- (3) However, a person who made a submission under clause 6 or 8 of Schedule 1 of the RMA on the proposed fresh water plan or regional policy statement concerned may appeal to the High Court in respect of the decision, but only on a question of law.
- (4) For this purpose, a notice served by Environment Canterbury under clause 11 of Schedule 1 of the RMA must include a statement of the time within which an appeal on a question of law may be lodged by a person described in **subsection (3)**. 25
- (5) An appeal under **subsection (3)**—
  - (a) must be lodged in accordance with the requirements stated in the notice served under **subsection (4)**; and 30
  - (b) may relate only to a provision or matter referred to in the submission of the person lodging the appeal.
- (6) **Sections 25 and 26** apply to an appeal under this section.

**25 Provisions of RMA applying to appeals under section 24** 35

- (1) Sections 300 to 307 of the RMA apply to an appeal under **section 24**, with any necessary modifications including, in particular, treating every reference to



the Environment Court or the Registrar of that court as if it were a reference to Environment Canterbury.

- (2) The High Court Rules apply if a procedural matter is not provided for by or under those sections.

**26 Appeal to Court of Appeal** 5

Section 66 of the Judicature Act 1908 applies, with any necessary modifications, to a decision of the High Court on an appeal under **section 24**.

**Part 4**

**Miscellaneous provisions and amendments to 2010 Act**

Subpart 1—Miscellaneous provisions 10

**27 Environment Canterbury must report to responsible Ministers on management of fresh water**

- (1) During the transition period, Environment Canterbury must report to the responsible Ministers on progress made in respect of the issues relating to the management of fresh water within the Canterbury region— 15

(a) for the 6-month period starting on the date of the first meeting of Environment Canterbury during the transition period; and

(b) for each following 6-month period.

- (2) Environment Canterbury must provide a report for each period as soon as practicable after the end of the period. 20

- (3) Each report must contain at least the following information:

(a) progress on the Canterbury Land and Water Regional Plan; and

(b) progress on any other plans relating to the management of fresh water within the Canterbury region; and

(c) progress on the implementation of the Canterbury Water Management Strategy. 25

**28 Governance arrangements if emergency before appointed members take office**

- (1) This section applies if, and only if, after the transition day,—

(a) an emergency exists; and 30

(b) the emergency exists before all the members appointed under **section 11(1)(a)** take office (the **initial appointed members**).

- (2) Until all the initial appointed members take office, the transitional governing body comprises the elected members only, and this Act applies accordingly, with any necessary modifications. 35

- (3) Despite **subsection (2)**,—
- (a) the members elected as chairperson and deputy chairperson (at the first meeting of Environment Canterbury after the transition day) hold office only until a chairperson and deputy chairperson are elected in accordance with **subsection (4)(b)**; and 5
- (b) a schedule of meetings must not be adopted beyond the date on which all the initial appointed members are expected to take office.
- (4) As soon as practicable after all the initial appointed members come into office, the transitional governing body must hold a meeting, the business of which must include— 10
- (a) the making and attesting of the declarations required by the appointed members under clause 14 of Schedule 7 of the Local Government Act 2002; and
- (b) the election of a chairperson and deputy chairperson; and
- (c) a general explanation, given or arranged by the chief executive, to the appointed members, of the matters in clause 21(5)(c) of Schedule 7 of the Local Government Act 2002; and 15
- (d) the fixing of the date and time of the next meeting of Environment Canterbury, or the adoption of a schedule of meetings.
- (5) For the purposes of **subsection (4)(b)**, this Act and the Local Government Act 2002 apply as if the meeting were the first meeting of Environment Canterbury following the 2016 election. 20
- (6) To avoid doubt, the chairperson and deputy chairperson appointed in accordance with **subsection (2)** hold office only until the meeting referred to in **subsection (4)** takes place, but may be reappointed to those positions at that meeting. 25

## 29 Matters relating to 2019 election

- (1) To avoid doubt, nothing in this Act prevents Environment Canterbury from taking any step that must be taken under the Local Electoral Act 2001 for the purposes of the 2019 election. 30
- (2) However, Environment Canterbury must review its representation arrangements in accordance with section 19I of that Act, irrespective of whether it would be mandatory for it to do so under the requirements of that section in relation to the 2019 election.

## Subpart 2—Amendments to 2010 Act 35

### 30 Amendments to 2010 Act

This subpart amends the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010.

- 31 Section 3 amended (Purpose)**  
In section 3(a), replace “new elected members come into office following the next election” with “the elected members of Environment Canterbury come into office in accordance with the Environment Canterbury (Transitional Governance Arrangements) Act **2015** following the 2016 election”. 5
- 32 Section 4 amended (Interpretation)**
- (1) In section 4(1), definition of **2016 election**, replace “ECan that (subject to section 11 of the Local Electoral Act 2001) must” with “local authorities required by section 10 of the Local Electoral Act 2001 to”.
- (2) In section 4(1), repeal the definitions of **next election** and **resumption day**. 10
- (3) In section 4(1), insert in its appropriate alphabetical order:  
**transition day** means the day after the day on which the official result of the 2016 election is declared under section 86 of the Local Electoral Act 2001 in relation to Environment Canterbury
- 33 Section 6 replaced (Expiry and repeal)** 15  
Replace section 6 with:
- 6 Repeal**  
This Act is repealed on the close of the day before the transition day.
- 34 Section 17 amended (Term of office)**  
In section 17(1), replace “resumption” with “transition”. 20
- 35 Section 23 and cross-heading repealed**  
Repeal section 23 and the cross-heading above section 23.
- 36 Section 26 amended (Provisions of Local Electoral Act 2001 that do not apply)**
- (1) After section 26(1)(a), insert: 25  
(ab) sections 19I and 19JB:  
(ac) sections 19Z, 19ZB, and 19ZD:
- (2) Repeal section 26(2).
- 37 Section 28 repealed (Continuation of committees and delegations)**  
Repeal section 28. 30
- 38 Section 35 amended (Notification of moratorium)**  
In section 35(c), replace “resumption” with “transition”.

**39 Section 46 amended (Part 9 of RMA does not apply except as otherwise stated)**

- (1) In section 46(1)(b) and (4), replace “resumption” with “transition”.
- (2) In section 46(4)(a), delete “; and”.
- (3) Repeal section 46(4)(b).

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**40 Section 55 replaced (Appeal to Court of Appeal)**

Replace section 55 with:

**55 Appeal to Court of Appeal**

Section 66 of the Judicature Act 1908 applies, with any necessary modifications, to a decision of the High Court on an appeal under section 53.

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**41 Section 60 and cross-heading repealed**

Repeal section 60 and the cross-heading above section 60.

**42 Schedule 2 repealed**

Repeal Schedule 2.

**Schedule 1**  
**Transitional, savings, and related provisions**

**s 4A**

**Part 1**  
**Provisions relating to Act as enacted**

5

*Water conservation applications made before transition day*

**1AA Process to apply for applications made before transition day**

- (1) **Subclause (2)** applies to a water conservation application made at any time before the transition day.
- (2) The application must continue to be processed in accordance with **clauses 1 to 6**. 10
- (3) Part 9 of the RMA applies to water conservation applications to which **this schedule and Schedule 2** apply to the extent that Part 9 is not inconsistent with, or modified by, **this schedule and Schedule 2**.

**1 Rejected applications**

15

- (1) This clause applies to an application—
  - (b) that the Minister for the Environment had decided under section 48(1)(b)(i) of the 2010 Act to reject; and
  - (c) in relation to which the applicant had not been notified of the Minister's decision under section 48(2)(a) of that Act before the transition day. 20
- (2) The rejection, and the application, must be treated, for all purposes, as a rejection of an application under section 202 of the RMA, and that section applies accordingly, with any necessary modifications.

**2 Applications where ministerial decision pending**

Part 9 of the RMA, without modification, applies to an application in relation to which the Minister for the Environment had not yet made a decision under section 48 or 58 of the 2010 Act before the transition day. 25

**3 Applications satisfying section 58 test**

- (1) This clause applies to an application to revoke or vary a water conservation order— 30
  - (b) that the Minister for the Environment had decided met the criteria in section 58 of the 2010 Act; and
  - (c) in relation to which the applicant had not been notified of the Minister's decision before the transition day.

Schedule 1	<b>Environment Canterbury (Transitional Governance Arrangements) Bill</b>	
(2)	The Minister may recommend to the Governor-General that the water conservation order to which the application relates be amended if both Environment Canterbury and the original applicant for the order (if that person can be located) agree to the amendment.	
(3)	The Governor-General may, by Order in Council made on the recommendation of the Minister under <b>subclause (2)</b> , amend the water conservation order accordingly.	5
<b>4</b>	<b>Applications where hearing required but not yet commenced</b>	
(1)	This clause applies to an application that, before the transition day, Environment Canterbury—	10
	(a) had received from the Minister for the Environment in accordance with the 2010 Act; but	
	(b) had not commenced a hearing into under subpart 3 of Part 3 of that Act.	
(2)	Environment Canterbury must, as soon as practicable,—	
	(a) return the application and any submissions received on it to the Minister; and	15
	(b) give public notice and a notice to the applicant and any submitters that the application—	
	(i) has been returned to the Minister; and	
	(ii) is to be dealt with under Part 9 of the RMA by a special tribunal.	20
(3)	When the Minister receives the application and any related submissions under <b>subclause (2)</b> , the Minister must—	
	(a) appoint a special tribunal under section 202 of the RMA to hear and report on the application; and	
	(b) forward the application and copies of any submissions received from Environment Canterbury to the special tribunal.	25
(4)	The special tribunal must, as soon as it is appointed, notify the applicant that the applicant may—	
	(a) revise the original application to take into account the matters that are relevant to the consideration of the application under Part 9 of the RMA; and	30
	(b) within 30 working days after the date of the notice, submit a revised application to the special tribunal.	
(5)	At the end of the 30-working-day period, the special tribunal must—	
	(a) comply with section 204 of the RMA in relation to the application or revised application, if one is received; and	35
	(b) serve on each person who made a submission on the application under subpart 3 of Part 3 of the 2010 Act—	

- (i) a notice that complies with section 204(2) of the RMA; and
- (ii) advice that, unless a new submission is received in accordance with that notice, the special tribunal will consider the submission as if it had been submitted under section 205 of the RMA (as that section applied for the purposes of section 51 of the 2010 Act). 5

**5 Applications at hearing stage to be completed under Schedule 2**

- (1) This clause applies to an application in relation to which—
  - (a) a hearing under subpart 3 of Part 3 of the 2010 Act had commenced before the transition day; but
  - (b) the process (including appeals) had not been completed before that day. 10
- (2) The application must be completed in accordance with **Schedule 2** of this Act.

*Proposed regional policy statements or plans notified before transition day*

**6 Proposed regional policy statements or plans notified before transition day**

- (1) **Subclause (2)** applies (and **Part 3** of this Act does not apply) to proposed regional policy statements or plans (as defined in section 61 of the 2010 Act) that were notified at any time before the transition day. 15
- (2) Sections 61, 62(1), 63 to 68 (and sections 54 and 55) and Schedule 1 of the 2010 Act continue, as if they had not been repealed, for the purposes of completing any decision or decisions (including any appeals) relating to the proposed regional policy statements or plans that have not been completed before the transition day. 20

## Schedule 2

### Process for completing water conservation applications partly heard before transition day

s 4A, Schedule 1 cl 5

- |          |   |    |
|----------|---|----|
| <b>1</b> | <b>Consideration of application by Environment Canterbury</b>   | 5  |
| (1)      | After considering the application and any submissions and other information relevant to the application, Environment Canterbury must determine whether to recommend that the Minister for the Environment should— |    |
|          | (a) reject the water conservation application; or   |    |
|          | (b) recommend to the Governor-General that a water conservation order be made under section 214 of the RMA, as applied by <b>clause 7</b> .   | 10 |
| (2)      | In considering whether to recommend to the Minister that a water conservation order be made, Environment Canterbury must, subject to Part 2 of the RMA,—  |    |
|          | (a) have particular regard to—  |    |
|          | (i) the matters set out in <b>subclauses (3) and (4)</b> ; and  | 15 |
|          | (ii) the vision and principles of the Canterbury Water Management Strategy; and   |    |
|          | (b) have regard to the matters specified in section 207(a) to (c) of the RMA.   |    |
| (3)      | Environment Canterbury may recommend to the Minister that a water conservation order be made to recognise and sustain—  | 20 |
|          | (a) outstanding amenity or intrinsic values that are afforded by waters in their natural state; or  |    |
|          | (b) where waters are no longer in their natural state, the amenity or intrinsic values of those waters that in themselves warrant protection because they are considered outstanding.                             | 25 |
| (4)      | Section 199(2) of the RMA applies to a water conservation order recommended by Environment Canterbury.  |    |
|          | Compare: 2010 No 12 s 50  |    |
| <b>2</b> | <b>Submissions, hearing, and report</b>   |    |
|          | Sections 205, 206, and 208 of the RMA (which provide for submissions, a hearing, and reporting in relation to an application) apply to the application as if—   | 30 |
|          | (a) every reference to a special tribunal were a reference to Environment Canterbury; and   |    |
|          | (b) the references in section 205(3)(d) and (5) of the RMA to the matters in sections 199, 200, and 207 of that Act were references to the matters referred to in <b>clauses 1(2) and 8(2)</b> ; and              | 35 |



- (c) section 208(2)(c) of the RMA excluded the reference to the regional council.

Compare: 2010 No 12 s 51

*Appeals on question of law only*

- 3 Jurisdiction of Environment Court excluded** 5
- The Environment Court has no jurisdiction under this schedule and no person may make a submission to the Environment Court in respect of a report prepared and notified by Environment Canterbury under **clause 2**.
- Compare: 2010 No 12 s 52
- 4 Right of appeal to High Court on question of law** 10
- (1) The persons listed in **subclause (2)** may appeal to the High Court, but only on a question of law, in respect of the whole or a part of a report of Environment Canterbury recommending that—
- (a) a water conservation order be declined; or
- (b) a water conservation order be made on the terms of the draft order included in that report. 15
- (2) The persons are—
- (a) the person who applied for the order to which the report relates;
- (b) a territorial authority whose district may be affected by the order;
- (c) a person who made a submission to Environment Canterbury on the application: 20
- (d) any other person granted leave to appeal by the High Court on the ground that the person could not reasonably be expected to know that the report of Environment Canterbury would affect the person or an aspect of the public interest that the person represents. 25
- Compare: 2010 No 12 s 53
- 5 Provisions of RMA applying to appeal procedure**
- (1) Sections 300 to 307 of the RMA apply to an appeal under **clause 4**, with any necessary modifications including, in particular, treating every reference to the Environment Court or the Registrar of that court as if it were a reference to Environment Canterbury. 30
- (2) The High Court Rules apply if a procedural matter is not provided for by or under those sections.
- Compare: 2010 No 12 s 54

**6 Appeal to Court of Appeal**

Section 66 of the Judicature Act 1908 applies, with any necessary modifications, to a decision of the High Court on an appeal under **clause 4**.

Compare: 2010 No 12 s 55

*Making or declining to make water conservation order* 5

**7 Application of sections 214 and 215 of RMA**

Sections 214 and 215 of the RMA apply, with any necessary modifications, to making or declining to make a water conservation order as if—

- (a) every reference to a report of a special tribunal under section 208 of the RMA were a reference to a report of Environment Canterbury under this schedule; and 10
- (b) the references to the Environment Court were omitted.

Compare: 2010 No 12 s 56

**8 Scope and effect of water conservation order made under this schedule**

- (1) A water conservation order made under section 214 of the RMA, as applied by **clause 7**, may impose restrictions or prohibitions on the performance of any of Environment Canterbury's functions under section 30(1)(e) and (f) of the RMA as those functions relate to water. 15
- (2) Restrictions or prohibitions imposed under **subclause (1)** may include, in particular, restrictions or prohibitions relating to— 20
  - (a) the quantity, quality, rate of flow, or level of the water in a water body:
  - (b) the maximum and minimum levels or flow or range of levels or flows, or the rate of change of levels or flows to be sought or permitted for the water body:
  - (c) the maximum allocation for abstraction or maximum contaminant loading consistent with the purposes of the order: 25
  - (d) the ranges of temperature and pressure in a water body.

Compare: 2010 No 12 s 57

*Delegations***9 New delegations by Environment Canterbury of functions, powers, and duties** 30

- (1) Environment Canterbury may delegate its functions, powers, and duties under this schedule (except the power to delegate) to—
  - (a) an employee; or
  - (b) a hearings commissioner appointed by Environment Canterbury. 35

(2) Section 34(7) to (10) of the RMA (which relates to delegations under that Act) applies, with any necessary modifications, to delegations made under **sub-clause (1)**.

(3) **Subclause (2)** does not limit clause 32 of Schedule 7 of the Local Government Act 2002. 5

Compare: 2010 No 12 s 59

**10 Continued delegations by Environment Canterbury of functions, powers, and duties**

For the purposes of completing an application to which this schedule applies,—

(a) any delegation made to a committee or other subordinate decision-making body of Environment Canterbury appointed under the 2010 Act continues on and from the commencement of this clause as if the delegation were made under **clause 9**; and 10

(b) the business or, if relevant, membership or change in membership of any such committee or other subordinate decision-making body is not affected by the repeal of that Act. 15

Compare: 2010 No 12 Schedule 2 cl 5

**Schedule 3****Vision and principles of Canterbury Water Management Strategy—  
Strategic Framework, November 2009****s 19A****Vision**

5

To enable present and future generations to gain the greatest social, economic, recreational and cultural benefits from our water resources within an environmentally sustainable framework.

*Fundamental principles***Primary principles**

10

**1 Sustainable management**

Water is a public resource which must be managed in accordance with sustainability principles and be consistent with the Resource Management and Local Government Acts.

**2 Regional approach**

- The planning of natural water use is guided by the following:
  - first order priority considerations: the environment, customary uses, community supplies and stock water:
  - second order priority considerations: irrigation, renewable electricity generation, recreation, tourism and amenity.
- A consistent regulatory approach to water is applied throughout the Canterbury region, recognising these principles.
- Both surface and groundwater are given equal importance.
- Further development of scientific knowledge of the region's water resources and the impacts of climate change are given priority.
- The actual or potential cumulative effects the taking and using water can have on waterways are recognised and managed within defined standards.
- A cautious approach is taken when information is uncertain, unreliable, or inadequate.
- The need for efficient use of water in existing and new infrastructure is recognised.
- There is strong emphasis on the integration of water and land management including protection of indigenous biodiversity and enhancement of water quality.

- Current and potential effects of land use intensification is an integral part of decision-making on water takes. This may mean amending regional and district plans.

### **3 Kaitiakitanga**

- The exercise of kaitiakitanga by Ngai Tahu applies to all water and lakes, rivers, hapua, waterways and wetlands, and shall be carried out in accordance with tikanga Maori.

### **Supporting principles**

#### **4 Natural character**

The natural character (mauri<sup>1</sup>) of Canterbury's rivers, streams, lakes, ground-water and wetlands is preserved and enhanced:

- natural flow regimes of rivers are maintained and, where they have been adversely affected by takes, enhanced where possible:
- the dynamic processes of Canterbury's braided rivers define their character and are protected:
- environmental flow regimes are established for every waterway where abstraction occurs:
- that restoration of natural character and biodiversity, is a priority for degraded waterways, particularly lowland streams and lowland catchments:
- the interdependence of waterways and coastal ecosystems is recognised.

#### **5 Indigenous biodiversity**

- Indigenous flora and fauna and their habitats in rivers, streams, lakes, groundwater and wetlands are protected and valued.
- The aims of the Canterbury Biodiversity Strategy are recognised and supported.

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<sup>1</sup> Mauri—the life force. In the environment, mauri is used to describe the intrinsic values of all resources and of the total ecosystem.

**6 Access**

- Public access to and along rivers, lakes, waterways and wetlands is maintained and, where appropriate, enhanced. Access may need to be limited in situations including where environmental risk, public safety, security of assets, cultural values, biodiversity and farm management require.

**7 Quality drinking water**

- All those living in Canterbury have access to high quality drinking water.
- The region's high quality aquifer-sourced drinking water is protected.
- Where Canterbury's drinking water is currently untreated and safe for drinking, it is maintained at that high standard.

**8 Recreational and amenity opportunities**

- Rivers, lakes, groundwater and wetlands provide opportunities for enjoyment, recreation and tourism.
- High quality water ensures contact recreation such as swimming, fishing, boating and other water sports are able to be enjoyed throughout Canterbury.
- Adequate environmental flows should ensure that recreational users and tourists can enjoy Canterbury rivers.
- Eco-tourism opportunities are recognised and encouraged.

**9 Community and commercial use**

Water resources are used sustainably to enhance quality of life:

- where water is abstracted, it is used effectively and efficiently:
- land use, industry, and business practices to not adversely impact on natural water quality:
- discharges to waterways are minimised and do not compromise quality:
- land use practices are monitored and best practice approaches are required:
- agricultural stock is excluded from all waterways in catchments where irrigated farming is practised and all lowland streams:
- where acclimatised wildlife in lowland streams cause contamination, they are appropriately managed:
- degraded waahi taonga are enhanced to restore tangata whenua cultural wellbeing.

**Environment Canterbury (Transitional Governance  
Arrangements) Bill**

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**Legislative history**

26 August 2015	Introduction (Bill 60–1)
13 October 2015	First reading and referral to Local Government and Environment Committee
15 February 2016	Reported from Local Government and Environment Committee (Bill 60–2)
10 March 2016	Second reading
5 April 2016	Committee of the whole House (Bill 60–3)