

Priority Urgent

THE DEPARTMENT OF INTERNAL AFFAIRS

Te Tari Taiwhenua

## Local Government Briefing

Hon Rodney Hide  
Minister of Local Government

**Title:** Meetings with stakeholders to discuss Environment Canterbury report

**Date:** 23 February 2010

### Key issues

On 24 February 2010, you and the Minister for the Environment are meeting various stakeholders to discuss the report on Environment Canterbury's performance.

### Action sought

Note the contents of the attached aide memoire.

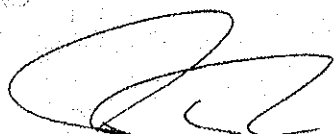
### Timeframe

Prior to meeting on 24 February 2010.

### Contact for telephone discussion (if required)

Name	Position	Telephone		Suggested first contact
		direct line	after hours	
Richard Marshall	Acting Manager (Regulatory Policy)	495 9474		
Danny Shaw	Policy Analyst	494 5703		✓

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DMS file reference: PLG-2500-3\_4 Doc 2043877DA  
Ministerial database reference: LGC2010000236



Marilyn Little  
Director Policy  
Local Government & Community Policy

## **Aide memoire for meetings with stakeholders to discuss the Environment Canterbury review report**

### **Purpose**

- This aide memoire provides information for your visit to Christchurch on Wednesday 24 February 2010. You are meeting with Environment Canterbury (ECan), Mayors and Chief Executives of Canterbury territorial authorities (TAs), stakeholders<sup>1</sup> and Ngāi Tahu to discuss the findings of the Canterbury review report.
- Together with the Minister for the Environment, you are hosting a series of meetings in meeting rooms 6 and 7, level 2 at the Christchurch Convention Centre on Kilmore Street. You will meet Ngāi Tahu at their offices on Hereford Street at 12.30pm. A run sheet for your visit is attached (Annex A).

### **Media interest**

- As you are aware, there has been a substantial amount of media interest in the findings of the report. TV One News has reported the location and day of these meetings as part of their 6pm News. It is likely there will be news and television crews on site, both when you arrive and on your departure.

### **Points to note**

#### **Background**

- The report made a number of key findings and recommendations.
  - ECan has not managed freshwater effectively. There is an "enormous and unprecedented" gap between what needs to be done to manage freshwater effectively and ECan's ability to do so.
  - The key indicator of ECan's failure, in relation to freshwater management, is that there is no operative region-wide planning framework under which decisions on water allocation and environmental management can be made which appropriately balance environmental, economic, social and cultural considerations.
  - The overarching resource management plan for the Region, the Natural Resources Regional Plan (NRRP), appears to be 'stuck'. This has led to uncertainty, increased costs, and time delays, not only for resource consent applicants, but also submitters, community and environmental groups as well as the public generally.
  - While ECan's consent processing performance has recently improved, significant issues remain with its consenting and planning directorate. There should be an independent "fit for purpose" review of this branch.

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<sup>1</sup> Stakeholders are primarily Chief Executives or delegates of companies interviewed for the report, including: Forest and Bird; Fish and Game; White Water New Zealand; Anderson Lloyd; Simpson Grierson; Pattle Delamore Partners; Central Plains Water; Ashburton – Valletta Groundwater Applicants; Canterbury Chamber of Commerce; Federated Farmers; Malvern Hills Protection Society; Irrigation New Zealand; Meridian Energy Ltd; Red Bus Company; and Local Government New Zealand.

- The Government should urgently reform Canterbury's water management structure. It should do this by legislating to create a new regional authority to manage all Resource Management Act 1991 water-related responsibilities.
- Aside from water, ECan is generally operating effectively.

**WITHHELD UNDER SECTION 9(2)(g)(i)**

***Issues of interest to Canterbury stakeholders***

- Because the report identified capacity and structural issues with ECan, stakeholders are likely to want to know whether Ministers are considering replacing elected representatives with commissioners, or considering structural reorganisation for ECan. Suggested responses to these and other possible questions are contained in the attached Questions and Answers (Annex B).

***ECan***

- Ecan are likely to note that, although the Review Group found shortcomings in freshwater management, other areas within the organisation are working effectively, such as biosecurity and land transport. The Review Group noted improved performance in planning and consenting. The component of the review which assessed ECan's performance against the Local Government Act (LGA) and other statutes found no major issues with ECan's wider performance. ECan may also suggest ways in which they can address the issues raised in the review report, including restructuring, implementation of the NRRP, increasing staff capability, working with TAs to implement the CWMS, and a Chief Executives Forum. The review found that while ECan's efforts to improve the situation are commendable, they will not be sufficient to satisfactorily resolve the issues in the region.

***Territorial authorities***

- The Mayors and Chief Executives of Canterbury's TAs may reinforce their concerns with ECan's performance, including issues with resource consent

<sup>2</sup> Ministers of Finance, Agriculture, Economic Development, Conservation, Environment and Commerce.

processing functions, development and regulation of plans and policies, administration of water allocation and monitoring, lack of consultation, poor decision-making and leadership, and a generally inflexible and confrontational approach to issues. The TAs may also raise suggestions for reorganisation of the region, including the creation of a Southern Super Council. You may wish to note that Ministers will take TAs' concerns into account in formulating a response to the report. However, a Southern Super Council is not something the Government is considering at this time.

*Ngāi Tahu*

- The report states that Ngāi Tahu consider ECan's consultation and engagement with them has been inadequate, given the significant demand placed on iwi consultation from both the Resource Management Act 1991 and LGA. The Review Group found that iwi engagement is not well resourced and given insufficient priority within ECan. The Review Group believe the relationship could be improved through a more proactive, strategic approach from ECan, and recommend measures for ECan to elevate its importance.

**Points to raise**

- The Government is looking to make quick and decisive decisions in response to the Review Group's recommendations. The Government is carefully considering the review's recommendation to appoint commissioners to replace ECan's elected representatives for a specified length of time.
- Although the review recommended establishing a Regional Water Authority to take over ECan's water management functions, the importance of getting the institutional frameworks correct is too critical to rush into such measures. If commissioners are appointed, it would be expected that they would make recommendations to the Government about this in due course.

**Noted**

**seen by the Hon Rodney Hide**

**Hon Rodney Hide  
Minister of Local Government**

**/ /2010**

Annex A

Run sheet for visit to Canterbury on 24 February 2010

Time	Details
8.00am	Meeting 1 – ECan. This meeting will be attended by Councillors and senior management from ECan (Chief Executive and Directors).
9.20am	ECan meeting attendees depart. Break
9.30am	Meeting 2 – TAs. This meeting will be attended by Mayors and Chief Executives of all TAs in the Canterbury Region. Morning tea will be served at 10am.
10.55am	Mayors and CE's depart.
11.00am	Meeting 3 – Stakeholders.
12.15pm	Depart Convention Centre. Walk to Ngāi Tahu (158 Hereford Street).
12.30pm	Meeting 4 – Ngāi Tahu.
1.15pm	Depart Ngai Tahu offices for Christchurch airport.

Proactively Released by the Minister of Local Government.

## Questions and Answers

*What is your response to the review's findings?*

- The conclusions of the Review Group are highly concerning and challenging, with implications that are nationally significant.
- The concerns cut across the RMA and LGA02, but cannot easily be remedied through either.
- Action is needed to ensure effective freshwater management, to develop the resource management planning and policy framework, and improve performance.
- We will need to work carefully through the findings and recommendations of the Review Group before making any proposals. These meetings will help to inform our thinking.

*What happens next? What options are being considered?*

- This meeting is an important part of the consultation with key stakeholders that will help to inform the Government's decisions and next steps.
- There are a range of options that could be considered, including the Review Group's recommendations and using powers under existing legislation.
- Once proposals have been developed these will be reported to Cabinet, where final decisions would be made.

*Are Ministers considering replacing ECan's elected representatives with commissioners?*

- The Government is carefully considering the Review Group's recommendation to appoint commissioners to replace ECan's elected representatives for a specified time.

*Are Ministers considering whether the whole organisation of ECan needs a major structural review?*

- The importance of getting the institutional frameworks correct for freshwater management in Canterbury is too critical to rush into a reorganisation of the structure of ECan.

*Will you be consulting with the local electorate before making any changes?*

- We are still considering next steps and this will be one of our considerations.

*When will a decision be made?*

- We appreciate that this will be a time of great uncertainty for ECan, and are mindful of the Review Group's recommendation for urgent intervention. We will be looking to respond as quickly as possible.

*Why did the Government commission a review?*

- The Minister for the Environment decided to investigate the performance of Environment Canterbury (ECan), under section 24A of the Resource Management Act 1991 (RMA), following poor performance in the 2007/2008 RMA Survey of Local Authorities.

- With Hon Nick Smith, I decided to broaden the review to include local government issues. This was in response to a joint delegation of Canterbury mayors seeking wider government intervention.

*Who carried out the review and what was their role?*

- It was conducted by the Review Group, comprised of Rt Hon Wyatt Creech (Chair), Doug Martin from MartinJenkins, Doug Low from Morrison Low, and Greg Hill.
- Their role was to assess the overall performance of ECan in discharging its responsibilities under the RMA, the Local Government Act 2002 (LGA02) and other related legislation.
- Their investigation was carried out in accordance with the Terms of Reference. The terms of reference were established by the Hon Nick Smith and I.

*How was the review conducted?*

- The Review Group carried out interviews with, and analysed documents from, ECan and external stakeholders.
- Stakeholders included environmental groups, territorial authorities, transport providers, energy providers, law firms, ECan, and representatives of Ngāi Tahu.

*What did the review find?*

- The review identified significant failings in the way that ECan is managing water in Canterbury and long-running institutional problems.
- In particular, investigators were struck by the "enormous and unprecedented" gap between what needs to be done to appropriately manage water and ECan's ability to do it.
- Canterbury does not have a fully operative overarching planning and policy framework for the region's natural resources, despite it being 19 years since the RMA was enacted. This has resulted in a piecemeal, fragmented and inefficient approach to the management of fresh water.
- The council historically has been evenly balanced; which is broadly reflective of a pro-environment – pro-development split of its constituency, and this partly explains ECan's inability to put in place a regional planning framework.
- There have been recent improvements in performance, but the Review Group felt that these would not be sufficient to resolve the backlog of outstanding issues.
- Aside from water, ECan is generally operating effectively.

*What did stakeholders say?*

- Most stakeholders interviewed were very frustrated with the long delays in the resource consent process and high processing costs.
- Territorial authorities in the region believed that ECan has failed to effectively and efficiently manage freshwater. They viewed this as an institutional failure.

*Why investigate ECan and not other regions/councils?*

- ECan often fails to meet statutory timeframes for processing resource consent applications – with only 29 per cent compliance in the 2007/2008 RMA Survey of Local Authorities.
- Concerns about ECan's performance and ability to plan, manage and regulate prompted all the mayors in the Canterbury region to send the Minister of Local

Government a joint letter emphasising the seriousness of the situation and the potential implications.

- In December 2009 the Auditor-General found that four ECan councillors had broken the law by debating and voting on proposed water charges when they had conflicts of interest as water consent holders or partners of consent holders.
- Water is a particularly significant issue in Canterbury. Approximately 60 per cent of ECan's council and committee meeting agenda items were related to freshwater management and the RMA (between April 2009 and January 2010).

*Why is water such an important issue?*

- Around 70 per cent of New Zealand's fresh water is in the Canterbury region.
- In recent years Canterbury's water resources have been coming under pressure. Demand for access to water is high and competition between different interests is increasing. At the same time, the ecological health of water resources is declining, there has been a loss of recreational opportunities, and the availability of water for use by agriculture is becoming less reliable.
- The region is nationally important for agricultural and horticultural production, both of which depend on water. [The region has around 2.62 million hectares in agricultural and horticultural production (at June 2008), and the second largest number of dairy cows of any region.]
- The current and potential economic value of irrigation in Canterbury is nationally significant. [A 2006 survey found that ECan has granted two-thirds of all irrigation consents nationwide – equivalent to 647,000 hectares.]
- Estimates are that it is feasible to increase the area of irrigable land in the region to around 1 million hectares, which could contribute an extra \$1.2 to \$2 billion per year to the economy. However, this requires a region-wide strategic approach which includes consideration of economic benefits.
- Canterbury has around 34 per cent of New Zealand's hydro-generation capacity and electricity generated in the region accounts for around 18 per cent of New Zealand's total generation.
- There are significant issues in relation to the Crown's Treaty obligations, with Ngāi Tahu expressing a very strong interest in the management of water as a Treaty partner.
- The cultural value of fresh water in the region is particularly high. Water resources are also significant for tourism and recreation.