

ENVIRONMENT **PRO**

# New twist in Canterbury's battle for water

ECan's much-criticised work-around to bypass a Supreme Court decision is being allowed to continue

by David Williams 12 hours ago

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In 2019, Canterbury had almost two-thirds of the country's irrigated land, at 467,000 hectares, much of it for dairy farming. Photo: David Williams

"The transition to the new system starts now," Chris Bishop declared in a speech last year, [stopping councils notifying new plans or plan changes](#) unless they met certain exemption criteria. "We don't want you to waste your limited resources on tinkering unnecessarily with plans under the RMA when very soon, you should instead be spending that time preparing for the RMA's replacement."

But this month, Canterbury's regional council ECan has been granted an exemption to continue work on controversial plan change 8 that critics say is aimed at circumventing a 2023 Supreme Court decision.

The exemption decision was posted on the Ministry for the Environment's website, which describes ECan's proposed package of changes as more enabling, and says plan change 8 will "provide a pathway for consent holders to change the use of water takes".

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Councillors will be briefed on Wednesday next week.

ECan chair Deon Swiggs says it gives the council "the opportunity to openly discuss the issues we're trying to address" and to consider its next steps if councillors choose to proceed.

"Importantly, if a decision is made to progress plan change 8, it will go through a full public consultation process, ensuring the wider community has a chance to be heard on these important matters."

Irrigation NZ chief executive Karen Williams says allowing the plan change to continue "provides greater clarity for consent holders to take and use water or request a change in how it can be used".

But former ECan councillor Greg Byrnes describes the plan change as a "dog poo rolled in gutter", considering part of the justification for the change was to make it easier to build wetlands.

"In theory it sounds kind of good but my sad interpretation of it is we're going to see more intensification; we're going to see more dairying as a result of it."

### ► ECan's proposed plan change 8, summarised

The origins of plan change 8 can be found in the Supreme Court's [2023 decision](#) on consents owned by Chinese-owned water-bottling company Cloud Ocean.

The case was won by Aotearoa Water Action, formed five years earlier to fight consent decisions made by ECan.

The council had decided the consents acquired by Cloud Ocean, and another company Rapaki Natural Resources (which became Southridge Holdings), could be used for water bottling, despite the fact they'd been granted to a wool scour and freezing works at Belfast, a suburb 10km north of Christchurch's centre.

However, a particular rule in Canterbury's regional plan rule tied take and use together. The Supreme Court found it "problematic" that water granted for one purpose could effectively be banked for another.

In 2024, ECan started targeted consultation on draft plan change 8 which, it said, would "allow applications for a change in use for consented water", among other amendments. The change was described as minor and technical.



Peter Richardson hoped Aotearoa Water Action's court win would be an inspiration. Photo: David Williams

Aotearoa Water Action (Awa) convenor Peter Richardson, a Christchurch lawyer, disagreed, saying it could be significant as it would sweep aside the Supreme Court decision, and [entrench the over-allocation of water](#) in Canterbury.

Conversely, another part of the draft plan change was to limit further agricultural intensification, prompting farm groups to cry foul. DairyNZ's submission to ECan said: "Plan change 8 as drafted proposes to introduce provisions that will effectively [halt all expansion](#) of dairy farm land and dairy support."

After two rounds of targeted feedback, in which Awa was involved (although it was [left off](#) the initial list), ECan made further tweaks. But plan change 8 was stopped in its tracks by Bishop's announcement last year.

The Ministry for the Environment advised ECan some parts of the plan change might meet the exemption criteria, and, in December last year, a majority of councillors agreed not to progress putting clamps on agricultural intensification.

Richardson, of Awa, says his organisation will take part in the formal stage of the plan change, involving submissions and hearings. While the change may have some minor benefits, like quickly facilitating water for washing dairy yards, he's concerned the main focus in deciding consents will be on the take rather than the use of water.

While it's hard to say with confidence the practical effects of the plan change, he adds: "You could imagine that with the current emphasis, which is still fairly, and squarely on increased dairy production on the plains, this will help to facilitate that in some way."

As reported last year, approval is being given for [thousands more dairy cows](#), including in some areas of Canterbury with poor water quality.

Richardson characterises the plan change as a missed opportunity to deal with water allocation.

"It simply gives existing operators the right to treat their consents as a property right, and to basically use them for whatever purpose they see fit."

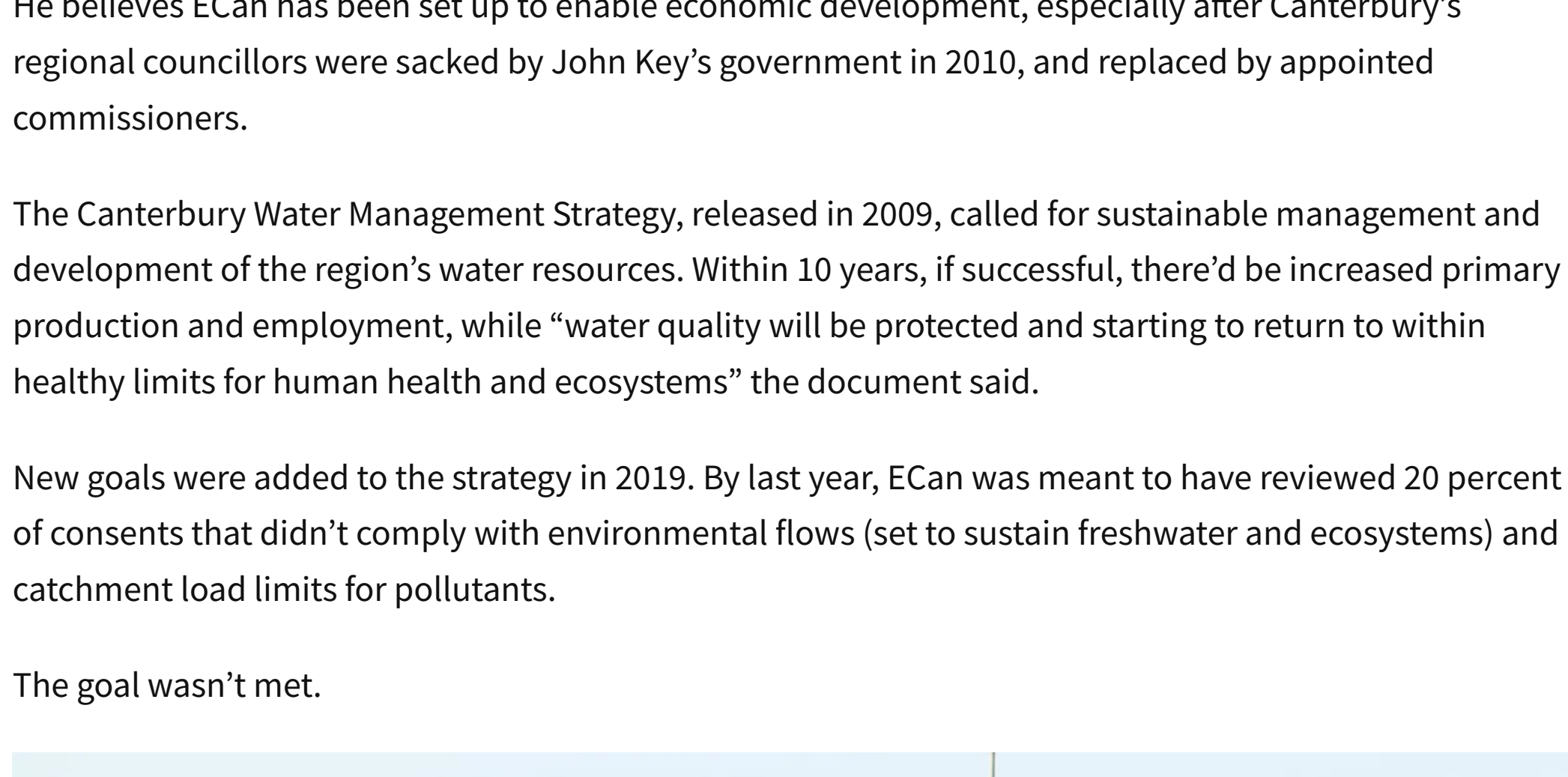
Byrnes, the former ECan councillor, who's standing in the upcoming general election in Christchurch Central for the Alliance, fears plan change 8 would make Canterbury's bad situation worse. "What it will do is continue the intensification of farming. Fundamentally, what it's doing is commodifying consents."

He believes ECan has been set up to enable economic development, especially after Canterbury's regional councillors were sacked by John Key's government in 2010, and replaced by appointed commissioners.

The Canterbury Water Management Strategy, released in 2009, called for sustainable management and development of the region's water resources. Within 10 years, if successful, there'd be increased primary production and employment, while "water quality will be protected and starting to return to within healthy limits for human health and ecosystems" the document said.

New goals were added to the strategy in 2019. By last year, ECan was meant to have reviewed 20 percent of consents that didn't comply with environmental flows (set to sustain freshwater and ecosystems) and catchment load limits for pollutants.

The goal wasn't met.



According to Fonterra's website, its tanker drivers travel a combined total of 93 million kms per year. Photo: David Williams

According to Stats NZ data, between 2002 and 2022 Canterbury's area of irrigated agricultural land farmed dominantly for dairying increased from 90,000 hectares to 274,000 hectares.

ECan's annual survey of groundwater wells, released last August, assessed 301 wells with nitrate-nitrogen data stretching back 10 years, of which 42 percent were "very likely increasing" and 20 percent were "likely increasing".

Williams, the Irrigation NZ chief executive, says environmental progress is being delivered through existing scheme and farm practices, including through building wetlands and improving water management.

"Continuing with plan change 8 enables that work to carry on, while allowing the framework to be refined over time."

Federated Farmers backs making wetland conversions easier to consent, and is "largely supportive" of decoupling the take and use of water consents.

Vice president Colin Hurst, the lobby group's freshwater spokesperson, says it's also pledged that proposals to restrict agricultural intensification have been dropped.

"They would have made it more expensive and difficult for dairy farms to operate, which would devastate many farming operations and have significant economic implications for the Canterbury region."

However, the South Canterbury farmer takes issue with an attempt, through the plan change, to restrict irrigation consents "by making them dependent on past use within the previous few years".

"For irrigation, that will almost certainly underestimate need in a dry year. The last few years may not be representative of need in a dry year at all."

ECan councillor John Sunckell, a dairy farmer at Leeston, south-west of Christchurch, says: "The simplification of water use, in regard to establishing wetlands and infrastructure projects, along with allowing changes to water use, if ultimately agreed to, will be significant for the environment, infrastructure and the economy."

### DAVID WILLIAMS

David Williams is Newsroom's environment editor, South Island correspondent and investigative writer. [More by David Williams](#)

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2 Comments

### Andrew Mackintosh

7 hours ago

It is so clear that there is too much dairy farming on the Canterbury Plains, and yet with farmers on Ecan council, this continued enablement will lead to continued degradation. This is regulatory capture at its worst. Farming industry regulating the farming industry.

Reply

### Peter Trolove

3 hours ago

As one who submitted at the 2012 Hearing of Trustpower's application to amend the Rakaia River NWCO 1988 I was so disturbed by the inadequacy of the "expert opinion" offered by the applicant's hired witnesses that I have since spent my time researching and observing the outcomes:

The lake Coleridge Project presented to the 2012 Hearing now operates in a substantially revised form

The further consents required for the LCP and water accounting have never been issued leaving the sale of 5millions of "stored water" with inadequate oversight.

The revised LCP uses virtual water storage in the inaccessible depths of the lake (dead storage) using a computer model in lieu of physical infrastructure to recover this component of "stored water".

Past ECan hydrologist Wilco Terink's position became untenable when his comprehensive analysis (The Rakaia Water Balance May 2021) found "creep", non compliance of multiple consents, and insufficient data for compliance monitoring and enforcement.

His replacement has developed an "indicative model" that is not designed for and is not fit for regulatory purposes.

On CPW's website the FAQ section tells us that CPW is only using 2% of the available water - CPW's estimate of the entire annual volume of water that flows down the Rakaia River!

ECan has been in the Environment Court fighting to distance itself from accountability for protecting the values identified in the RWCO (Clause 3).

Clause 9A of the amended RWCO is dependent on the provision that the values identified in Clause 3 are sustained and protected. They have not been.

All of these values have become massively degraded since the "irregular" revised LCP became operative in 2015: the wildlife habitat, fisheries, recreational fisheries, and more recently jet boating.

ECan's management of this region's water is unacceptable to say nothing of its declaration of a Nitrate Emergency caused largely by irrigation.

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