



May 2024

Local Water Done Well: Overview of the Local Government (Water Services Preliminary Arrangements) Bill

This document provides an overview of recent policy decisions and key aspects of the Local Government (Water Services Preliminary Arrangements) Bill, as well as other matters that may be of interest to councils and other interested stakeholders.

It is based on provisions of the Bill as introduced in May 2024.

What the Bill covers

The Bill establishes the Local Water Done Well framework and the preliminary arrangements for the new water services system.

It lays the foundation for a new approach to water services management and financially sustainable delivery models that meet regulatory standards.

Key areas included in the Bill are:

- Requirements for councils to develop Water Services Delivery Plans (within 12 months of enactment)
- Requirements for councils to include in those Plans baseline information about their water services operations, assets, revenue, expenditure, pricing, and projected capital expenditure, as well as necessary financing arrangements, as a first step towards future economic regulation
- Streamlined consultation and decision-making processes for setting up water services council-controlled organisations (water services CCOs)
- Provisions that enable a new, financially sustainable model for Watercare.

In addition, the Government has tabled an amendment paper to the Bill which provides for interim changes to the Water Services Act. This amendment means the Te Mana o te Wai hierarchy of obligations in the National Policy Statement for Freshwater Management (NPS-FM) will not apply when Taumata Arowai sets wastewater standards.

Other legislation to implement Local Water Done Well

This is the second of three Bills that implement Local Water Done Well.

The first Bill, which was passed in February 2024, repealed the previous Government's water services legislation and restored continued council ownership and control of water services.

A third Local Water Done Well Bill will outline the enduring settings for the new water services system, including a comprehensive economic regulation regime. Cabinet decisions on this Bill are expected to be announced early in the second half of this year, with legislation introduced in December 2024.

Water Services Delivery Plans

What are they?

The overarching purpose of the Plans is for councils – individually or jointly – to publicly demonstrate their intention and commitment to deliver water services in ways that are financially sustainable, meet regulatory quality standards for water network infrastructure and water quality, and unlock housing growth.

What do they mean for councils?

Through the development of these Plans, councils will provide an assessment of their water infrastructure, how much they need to invest, and how they plan to finance and deliver it through their preferred service delivery model.

Ringfencing of water services and revenue from other council activities is a key feature of the Plans.

The Plans will be a way for councils to provide transparency to their communities about the costs and financing of water services, and empower them to make decisions about managing and delivering high-quality water services that reflect their local needs and circumstances.

The Plans can also be prepared jointly with other councils where those councils propose to join together to deliver water services through a new water services delivery organisation.

What information do they need to cover?

The Plans cover information across three key areas:

1. Financial and asset information	Information about each council’s financial and asset information and performance measures, pricing and other related policies, methodologies, and assumptions
2. Investment required	Planned levels of investment, approach to operations, and whether these are sufficient to deliver proposed level of service, meet infrastructure standards and meet regulatory standards
3. Service delivery arrangements	Councils’ proposed service delivery arrangements – including proposals for joint arrangements, across more than one council

To demonstrate financial sustainability, councils will have to show the revenue from delivering water services is adequate for long-term investment in delivering water services and that the council is financially able to meet all regulatory standards and requirements for delivering water services.

Guidance and information material regarding Water Services Delivery Plans will be shared with councils following the enactment of the Bill, to assist them in developing their Plans.

What is the process and timeline for producing a Plan?

Activity	Indicative timing / milestone
DIA releases Plan guidance Councils formally begin development of Plans	Q3-2024 Local Government (Water Services Preliminary Arrangements) Bill enacted
DIA/council check-in(s) to monitor progress	Throughout the 12-month timeframe for preparing the Plan (following Bill enactment)
Councils submit final Plan to DIA	Within 12 months (of Bill enactment)
DIA accepts the Plan meets statutory requirements or refers back to council(s) for further work	Following submission of Plan
Council publishes Plan on council website	Once Plan is accepted by DIA

What happens if council(s) don't submit a Plan?

There will be a series of check-ins by the Department of Internal Affairs throughout the Plan development process to ensure councils are on track in preparing and submitting an acceptable Plan.

During the Plan preparation process, councils may request, and the Minister of Local Government will be able to appoint, a Crown Facilitator who could provide additional assistance (at councils' expense). For example, the Crown Facilitator could assist and advise a council on how to prepare a Plan, or work across a group of councils to facilitate or negotiate a joint Plan (including providing a deciding role if requested and agreed by councils).

If a council fails to submit a Plan by the statutory deadline, the Minister of Local Government will be able to appoint a 'Crown water services specialist' to prepare a Plan on that council's behalf, and (if necessary) to direct the council to adopt and submit this Plan (a 'regulatory backstop' power). Again, any expenses associated with this appointee and the preparation of the Plan would be covered by the council.

Key information



Plans are one-off, transitional documents, to set a pathway forward to sustainability.



Plans can be developed by individual councils, or jointly where groups of councils are planning to jointly establish a water organisation.



Plans must include drinking water, wastewater and stormwater – but councils have flexibility about transferring stormwater in proposed new service delivery arrangements.



It will be up to councils to determine how best to engage with their communities as part of the Plan development process.



Plans have no regulatory function – LTPs continue to be councils' primary planning and accountability document.



Plans cover a 10-year timeframe, with detailed information provided on the first three years.

Steps towards future economic regulation

Economic regulation is a key feature of Local Water Done Well. It is intended to ensure consumers pay efficient, cost-reflective prices for water services, that those services are delivered to an acceptable quality, and that water services providers are investing sufficiently in their infrastructure.

Development of an economic regulation system for water services is being led by the Minister of Commerce and Consumer Affairs. Subject to Cabinet decisions, relevant provisions will be included in the third Local Water Done Well Bill intended to be passed in mid-2025 and implemented by the Commerce Commission after that point.

Through the Water Service Delivery Plans, councils will be asked to provide baseline information about their water services operations, assets, revenue, expenditure, pricing, and projected capital expenditure, as well as necessary financing arrangements.

The Plans do not have a regulatory purpose, but are a useful first step to disclose information on water services to support the future economic regulation regime, which is expected to be introduced from the middle of 2025 (through the third Local Water Done Well Bill).

All councils that have water service delivery responsibilities (either directly or through existing council-controlled organisations) will be subject to these requirements. As well as the Plans being published, information collected through them will be shared with the Commerce Commission, to help them with the development of the future regulatory regime.

The Bill also provides for some councils to be subject to an early form of information disclosure by the Commerce Commission, prior to the full economic regulation regime.

This will build on the information collected through the Plans, and is intended to be for councils that have more advanced asset/financial management practices, or those that moved quickly to establish new organisations and are ready for a faster track toward more detailed oversight.

Streamlined consultation and decision-making processes for establishing, joining or changing water services CCOs

Under Local Water Done Well, a range of structural and financing tools will be available to councils to use for water services including a new class of financially independent council-owned organisations.

These options will be included in the third Local Water Done Well Bill, with policy decisions expected to be announced early in the second half of this year.

Recognising that some councils may want to move quickly to start shifting the delivery of water services into more financially sustainable models, the Bill includes provisions that help streamline the process for establishing, joining or changing water services CCOs, as currently provided for under the Local Government Act.

The Bill sets out alternative consultation and decision-making arrangements that will enable councils to streamline this process, while continuing to provide the opportunity for community input. These streamlined arrangements are voluntary for councils to choose to use, as an alternative to some of the standard requirements in the Local Government Act.

The arrangements include provisions that:

- Clarify that councils can set up joint committees that can assess options, and prepare and consult on a proposal across multiple districts (instead of each council carrying out separate consultation), and to make recommendations to participating councils
- Set minimum decision-making and consultation requirements – so a council only has to identify and assess two options (status quo + preferred option) and only undertake one round of consultation
- Enable councils to consider the collective benefits/impacts of a proposal (across multiple districts), in addition to the interests of their individual districts – and to factor in the view of other participating councils.

A new, financially sustainable model for Watercare

The Bill includes provisions that enable Auckland Council to implement its preferred model for water services delivery.

The new model means the Council retains ownership and control over Watercare, but Watercare is provided with the necessary financial independence to access increased borrowing for investment in water services.

Key aspects of the model are:

- Auckland Council retains complete ownership and control of Watercare.
- The Council would not be able to provide financial support to Watercare in the event of any financial distress. This aspect of the model is critical to ensuring Watercare's borrowing is considered separate from Auckland Council for credit rating purposes.
- Existing provisions relating to loans entered into by councils (in the Local Government Act) will be extended to Watercare, stating that any loans entered into by Watercare must include disclosures they are not guaranteed by the Crown.
- A Crown monitor will be appointed to Watercare as a transitional measure, before the full economic regulation system for water services is implemented as part of Local Water Done Well. This recognises the importance of economic regulation to ensure appropriate and sustainable prices and service quality for consumers.

Changes to applying the Te Mana o te Wai hierarchy of obligations to wastewater standards

In addition, the Government has tabled an amendment paper to the Bill which provides for interim changes to the Water Services Act (WSA). This amendment would mean the Te Mana o te Wai hierarchy of obligations in the National Policy Statement for Freshwater Management (NPS-FM) will not apply when Taumata Arowai sets wastewater standards. The standards are in the early stages of development and are likely to be in place by mid-2025.

Under the Resource Management Act (RMA) a consent authority must not grant a consent for a public wastewater system that is contrary to a wastewater standard that has been prepared under the WSA. Once set, the wastewater standards will apply to new consents issued for public wastewater systems over time.

These changes are in addition to the Government's recently announced interim changes to the RMA that exclude the hierarchy of obligations in the NPS-FM from resource consent applications and resource consent decision making.

The RMA changes are being made through the recently introduced Resource Management (Freshwater and Other Matters) Amendment Bill as an interim measure and are intended to reduce regulatory burden while work to replace the NPS-FM to rebalance Te Mana o te Wai is underway, as signalled in the Government's coalition agreements.

Next steps

The Government will provide details early in the second half of this year on the broader range of structural and financing tools, including through the New Zealand Local Government Funding Agency (LGFA), which will be available to councils to ensure they can access the long-term debt required for investment in water services infrastructure.

These tools will be implemented through the third Local Water Done Well Bill that will establish the enduring settings for the new system. Policy areas to be included in the third Local Water Done Well Bill include:

- Setting long-term requirements for financial sustainability
- Providing for a range of structural and financing tools, including a new class of financially independent council organisations
- Planning, accountability and reporting frameworks for water services

Te Mana o te Wai

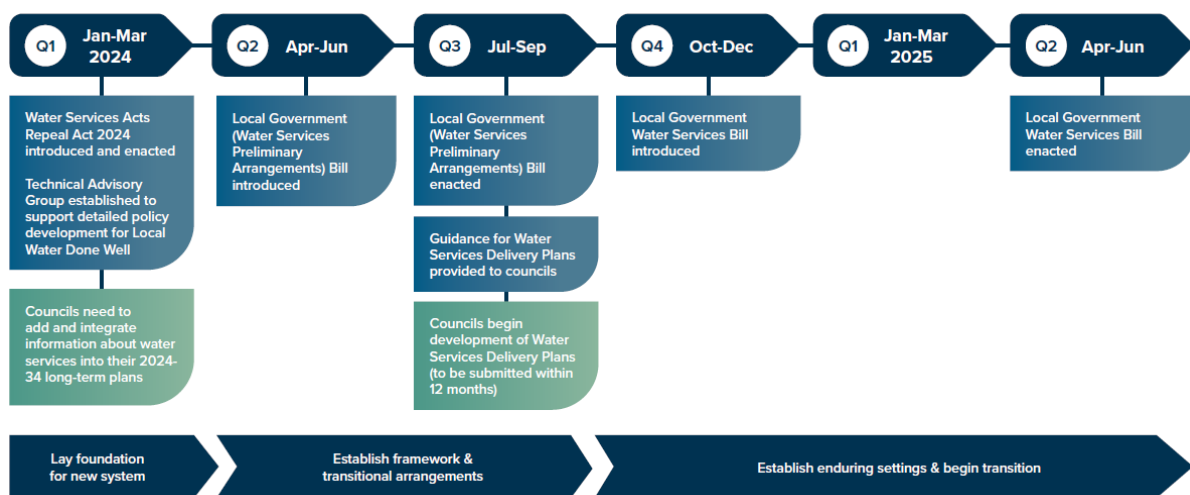
Te Mana o te Wai is a fundamental concept in the NPS-FM that recognises the connection between the health of a waterbody, health of the people, and health of the environment. It includes a hierarchy of obligations that prioritises the health and well-being of waterbodies and freshwater ecosystems over the health needs of people (such as drinking water), and the ability of people to provide for their social, economic and cultural well-being.

Te Mana o te Wai is embedded in the Water Services Act, the legislation for Taumata Arowai and the water services sector.

- Considering the empowering legislation for Taumata Arowai to ensure the regulatory regime is efficient, effective, and fit-for-purpose, and standards are proportionate for different types of drinking water suppliers
- Providing for a full economic regulation regime
- Considering additional Ministerial powers of assistance and intervention in relation to water services, and regulatory powers to ensure effective delivery of financially sustainable water services.

Indicative timeline

The below timeline provides an indicative outline of policy, legislation and related council activity. It is subject to parliamentary processes and timetables.



Further information

The Local Government (Water Services Preliminary Arrangements) Bill is available at www.legislation.govt.nz.

Questions? Contact waterservices@dia.govt.nz