



**Te Kaunihera
o Te Hiku o te Ika**
Far North District Council

AGENDA

Supplementary Report Ordinary Council Meeting

Thursday, 12 December 2024

Time: 10:00am

Location: Te Ahu, Kaitiāia

Cnr State Highway 1 and Mathews Avenue

Membership:

Kahika - Mayor Moko Tepania - Chairperson

Kōwhai - Deputy Mayor Kelly Stratford

Cr Ann Court

Cr Felicity Foy

Cr Hilda Halkyard-Harawira

Cr Babe Kapa

Cr Penetaui Kleskovic

Cr Steve McNally

Cr Mate Radich

Cr Tāmāti Rākena

Cr John Vujcich

Te Paeroa Mahi / Order of Business

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8 NGĀ PŪRONGO TAIPITOPITO / INFORMATION REPORTS

8.1 LOCAL WATER DONE WELL

File Number: A5013301

Author: Tanya Proctor, Head of Infrastructure

Authoriser: Guy Holroyd, Chief Executive Officer

TAKE PŪRONGO / PURPOSE OF THE REPORT

To confirm Councils Local Waters Done Well delivery options to be consulted on following a workshop held on 4th December 2024.

WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

- Local Waters Done Well plans to address New Zealand's long-standing water infrastructure challenges.
- Key components of Local Water Done Well are ensuring fit for purpose service delivery models and financing tools, ensuring water services are financially sustainable and introduces greater central government oversight with economic and quality regulation.
- Councils are required to consult on at least two options, one of which shall be the status quo.
- A workshop held on 4th December 2025 provided an overview of delivery models.
- The five delivery models were considered and Council discussed an internal business unit or division, single council-owned, and multi-council owned water organisation, being those options that Council will consult on.

TŪTOHUNGA / RECOMMENDATION

That Council:

- 1. confirm the three water service delivery options to be consulted on are:**
 - a. Internal Business Unit ("status quo");**
 - b. Single Council-owned water organisation;**
 - c. Multi-Council owned water organisation; and**
- 2. request staff hold another workshop on the three options in January 2025 and provide a further report on the preferred option to the February 2025 Council meeting.**

TĀHUHU KŌRERO / BACKGROUND

Overview

Local Water Done Well aims to address significant underinvestment in waters infrastructure, ringfencing waters revenue. Councils must demonstrate baseline information about water services including operations, assets, revenue and expenditure, as well as necessary financing arrangements, as a first step towards economic regulation.

Requirements shall be demonstrated in Water Services Delivery Plans and are required by 3 September 2025.

Quality standards continue to be developed through wastewater environmental performance standards, national engineering design standards and changes to the Water Services Act 2021.

Legislation timeline

The Local Water Done Well legislation is being implemented in three stages, each with its own piece of legislation.

1. Repeal of previous water services legislation
2. Establish framework and preliminary arrangements for the new water services system and
3. Establish enduring settings

The previous legislation was repealed in February 2024 with the Water Services Preliminary Arrangements enacted on 2 September 2024. The introduction of a third Bill is due to be introduced by the reading of this report by Council.

Financial modelling

Initial financial projections were included in the workshop to inform potential service delivery models. In accordance with Water Service Delivery Plan requirements, engineering assessments will be required to validate Councils future waters infrastructure requirements.

Service Delivery Models

There are five proposed water service delivery models under Local Water Done Well. Councils can choose from a range of service delivery models including:

Internal business unit:

Water services delivered through internal business unit or division, with ring-fencing of revenue and expenditure. New planning and reporting framework for water service providers will apply.

Ownership	Part of Council No new organisation is established
Governance	Internal business unit responsible to Council through mechanisms under the Local Government Act 2002
Strategic direction	Council must prepare a Water Services Strategy
Accountability	Council must act consistently with statutory objectives Water business unit reports through to Council Council prepares separate annual reporting and audited financial statements Subject to economic regulation
Financing	Borrowing undertaken by Council eg: via Local Government Funding Agency with water activity groups meeting their share of financing costs
Balance sheet treatment	On balance sheet

Single council-owned water organisation

Council transfers assets and staff to a new company, appointing representatives of committee or can appoint directly to a governance board.

Ownership	Limited liability company 100% owned by Council Ownership arrangement and rights set out in constitution
Governance	Council appoints and removes board members Governed by independent, professional directors who are responsible for all operational and financial decisions
Strategic direction	Shareholding council issues Statement of Expectations Water organisation prepares Water Services Strategy
Accountability	Water organisation must act consistently with statutory objectives Reports regularly to shareholders on performance eg: quarterly Must produce annual reports containing audited financial statements Subject to economic regulation
Financing	Borrowing via Council or from Local Government Funding Agency directly supported by Council guarantee or uncalled capital
Balance sheet treatment	On balance sheet

Multi-council water organised

Multiple councils jointly own the water organisation with councils appointing representatives to a shareholder council or similar body. Councils will be responsible for jointly setting shareholder expectations, appointing a board and overseeing its performance. The Water Organisation Board will be responsible for operational and financial decisions consistent with the Statement of Expectations and statutory objectives.

Ownership	Limited liability company with share allocation agreed between shareholding councils. Councils jointly approve a constitution
Governance	Shareholder Council established to appoint and remove board members Governed by independent, professional directors who are responsible for all operational and financial decisions
Strategic direction	Parent councils jointly issue a Statement of Expectations Water organisation prepares a Water Services Strategy
Accountability	The water organisation must act consistently with statutory objectives Reports regularly to shareholders on performance eg: quarterly Must produce an annual report containing audited financial statements Subject to economic regulation
Financing	Borrows via Local Government Funding Authority if parent council provides a guarantee and satisfies Local Government Funding Authority lending requirements Can borrow from banks and/or capital markets without council support, subject to achieving investment grade credit rating

Balance sheet treatment	Contingent liability ie: impact on council credit rating depends on council and water organisation revenue and debt
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Mixed council/consumer trust owned water organisation

One or more councils own part of the shares with a consumer trust also owning part of the shares. The consumer trust then provides services to consumers. The shareholder councils will be responsible for setting a Statement of Expectations, appointing the board directors and for monitoring performance. The Water Company Board will be responsible for the operational and financial decisions consistent with the Statement of Expectations and any statutory objectives.

Ownership	Limited liability company owned by a consumer trust, with one or more councils owning the remainder of the shares Ownership arrangements and rights set out in constitution and/or shareholder agreement
Governance	Council(s) and the consumer trust appoint a shareholder council to appoint board directors Governed by independent, professional directors who are responsible for all operational and financial decisions
Strategic direction	Shareholders agree the process for issuing a joint Statement of Expectations Water organisation prepares a Water Services Strategy
Accountability	Water organisation must act consistently with statutory objectives Reports regularly to shareholders on performance eg: quarterly Must produce an annual report containing audited financial statements Subject to economic regulation
Financing	Borrows independently of local authorities eg: from banks or capital markets, subject to achieving sufficient credit-quality and track record
Balance sheet treatment	Contingent liability, likely no impact on council credit rating

Consumer trust owned water organisation

Council transfers responsibility for water services delivery to entity owned by a consumer trust. A consumer trust would be established to own shares of the water organisation and be responsible for appointing a board and monitoring performance. The water company board would be responsible for the operational and financial decisions consistent with the Statement of Expectations and statutory objectives.

Ownership	Limited liability company 100% owned by a consumer trust Councils would jointly approve a Constitution
Governance	Trustees would appoint and remove board members Governed by independent, professional directors who are responsible for all operational and financial decisions

Strategic direction	Trustees issue a Statement of Expectations Water organisation prepares a Water Services Strategy
Accountability	Water organisation must act consistently with statutory objectives Reports regularly to shareholders on performance eg: quarterly Must produce an annual report containing audited financial statements Subject to economic regulation
Financing	Borrows independently of local authorities eg: from banks or capital markets, is subject to achieving sufficient credit-rating quality and track record No council financial support to water services organisation
Balance sheet treatment	Off balance sheet

Consultation

Councils are required to undertake consultation as part of Water Service Delivery Plans. Status quo and a minimum of one other option is required to be consulted on. Council’s can consult on more than one option other than the status quo.

The workshop provided direction for consultation on the status quo, a single council owned water organisation and a multi-council owned water organisation.

Consultation will be co-ordinated where possible with Annual Plan consultation.

MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND NEXT STEPS

Staff will continue to work at pace on asset condition and engineering validation to confirm investment requirements as required in the Water Service Delivery Plans.


A briefing paper on the 4th December Workshop will be circulated to Te Kuaka Te Ao Māori Committee.

PĀNGA PŪTEA ME NGĀ WĀHANGA TAHUA / FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

A Local Water Done Well support package funding agreement has been signed with any surplus government funding redirected to support the delivery of Local Water Done Well work.

Financial modelling will continue through the consulting phase and final projections will accompany the February 2025 report.

ĀPITIHINGA / ATTACHMENTS

1. **LWDW - Workshop Presentation - 4 Dec 2024 - A5013271** [↓](#) 
2. **Overview-of-water-services-delivery-models-(August-2024) - A5017641** [↓](#) 
3. **Water-services-delivery-models-Guidance-for-local-authorities-(August-2024) - A5017642** [↓](#) 

Local Waters Done Well

4th December 2024



Agenda

1. Purpose of Workshop
2. Overview
3. Kevan Scott
4. Financial modelling
5. Waters standards
6. Next steps and timeline

Purpose

To confirm consultation options

Overview

- Local Water Done Well is being implemented in three stages, each with its own piece of legislation:
 1. Repeal of previous water services legislation
 2. Establish framework and preliminary arrangements for the new water services system
 3. Establish enduring settings

Key areas included in the Act are:

- Develop Water Service Delivery Plans by 3 September 2025
- Plans need to demonstrate future water services delivery arrangements, and an implementation plan
- Plans to include baseline information about operations, assets, revenue, expenditure, pricing, and projected capital expenditure and financing arrangements
- Streamlined consultation and decision-making processes for setting up future water services delivery arrangements



Far North District Council Local Water Done Well Elected Member Briefing

4 DECEMBER 2024

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Introduction

BIOGRAPHY

- NZ Army officer 1988-2007
 - Artillery officer
 - Bosnia, East Timor, Afghanistan
- MBA (Distinction) VUW
- NZ Treasury 2005 – 2010
- United Nations (New York) 2011-2013
- MBIE policy manager 2013-2016
- Management consultant 2016 -
 - GM Infrastructure then Strategy, Whakatane DC, Feb-Jul 2021
 - Head of Office of the Executive Directors, NTU, 2022-2023
 - Chief of Staff Entity A, 2023-2024
 - LWDW - Wellington region and Gisborne



Kevan Scott
 Director Scott Consulting



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Local Water Done Well

LEGISLATION

Local Government (Water Services Preliminary Arrangements) Act 2024

- Requires a binding WSDP by 3 September 2025
- Provides for simpler alternative consultation and decision-making methods
- New Commerce Commission arrangements
- Taumata Arowai oversight strengthened
- Minister may appoint a Crown Facilitator/Specialist

More legislation by December 2024

- New delivery models for water services
- Regulatory standards, planning and accountability requirements
- New financing options from LGFA
- A new approach for urban stormwater

WATER SERVICES DELIVERY PLANS

The WSDP must include:

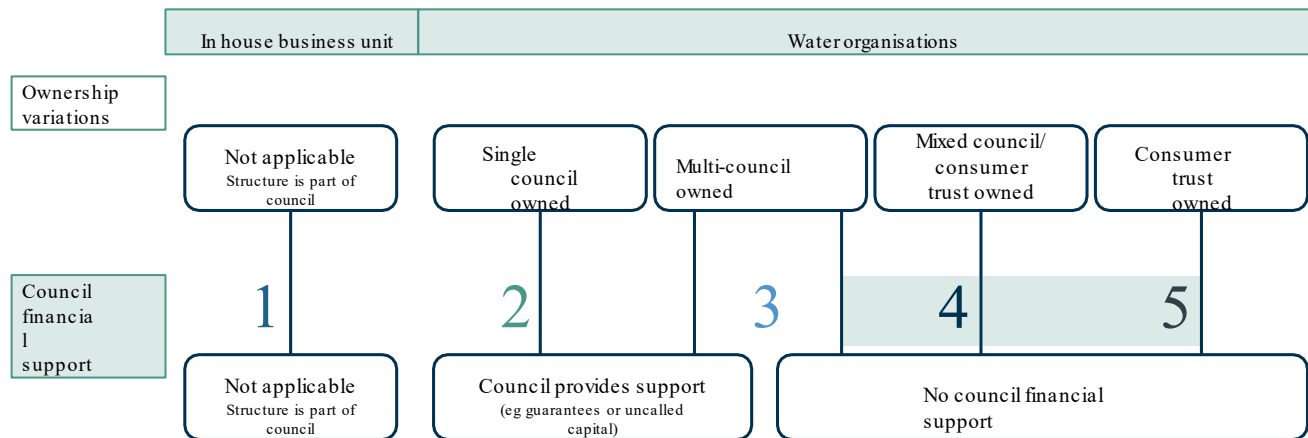
- Information disclosure: current delivery arrangements, state of assets and regulatory compliance, estimate of investment required to meet new regulatory standards (asset condition, public health and environmental regulation). This does not change regardless of the option that is adopted.
- Delivery model: description of proposed arrangements, assessment of revenue, investment and financing sufficiency and the implementation plan process, timelines and milestones.



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Water services delivery models

THE LONG-LIST



Water services delivery models

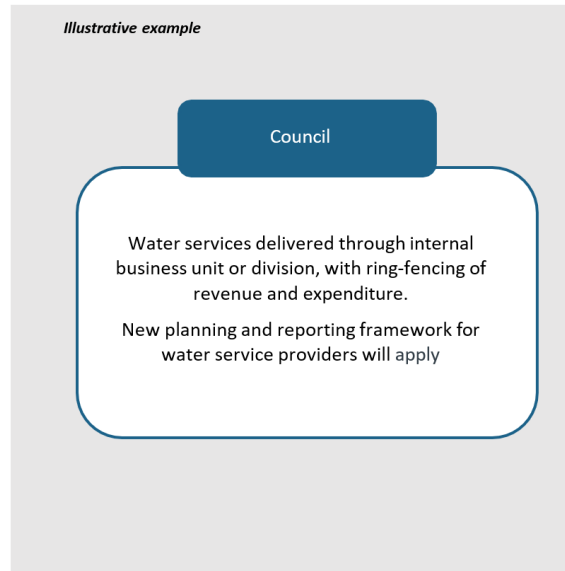
LONG-LIST OF OPTIONS

1	Internal business unit or division	<ul style="list-style-type: none"> • Status quo for many councils • Minimum requirements for water service providers will apply • New financial sustainability, ringfencing rules, and economic regulation will apply
2	Single council-owned water organisation	<ul style="list-style-type: none"> • New company established, 100% owned by the council • Financial sustainability rules will apply, but retains a financial link to the council • Councils with existing water council-controlled organisations will be required to meet minimum requirements
3	Multi-council owned water organisation	<ul style="list-style-type: none"> • New company established with multi-council ownership • Appointment of a Board through shareholder council (or similar body) is advisable but not a statutory requirement • Option to access Local Government Funding Agency finance with the provision of parent support or to create a more financially independent organisation
4	Mixed council/consumer trust owned	<ul style="list-style-type: none"> • Consumer trust established to own majority of shares • Mixed ownership, with one or more councils owning minority of shares • Structure enables financially independent organisation to be established while retaining minority council ownership
5	Consumer Trust owned	<ul style="list-style-type: none"> • Council transfers assets to consumer trust owned organisation • Consumers elect trustees to represent their interests in the organisation • Most financially independent of the available models



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1. Internal business unit or division



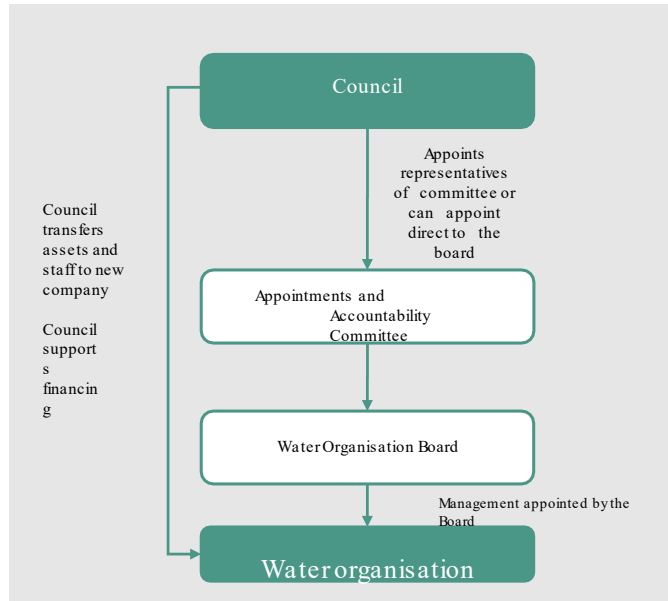
Strengths

- Simplest and easiest option to implement with the least disruption to council assets, facilities, activities, systems and processes, and staff.
- Lowest implementation costs.
- Council maintains direct control of water services operations, price setting, investment decisions and priorities.
- No disruption to current service delivery and operations.
- Current Mana Whenua / Tangata Whenua relationships and opportunities to engage in the decision-making process would be maintained.
- Flexibility to join any future joint delivery model is maintained.

Weaknesses

- Council would be required to meet the new requirements for financial sustainability and economic regulation using current financing arrangements.
- If the Council had a credit rating, it is likely this would be downgraded by one notch if the council is operating near its LGFA limit.
- Ring-fencing and financial sustainability requirements will drive upward pressure on rates as infrastructure investment increases, relative to alternative models.
- Governance and management focus diluted through other wider priorities and imperatives.
- Fewer opportunities are provided to achieve economies of scale and generate efficiency savings.

2. Single council-owned water organisation



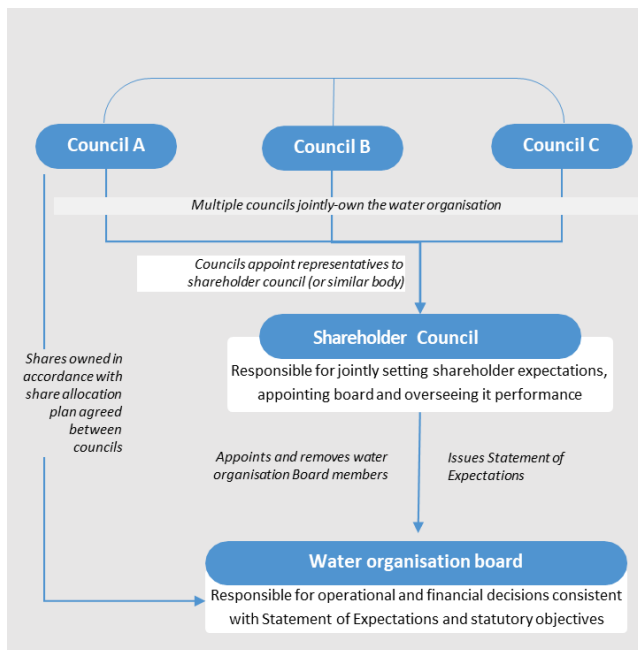
Strengths

- The LGFA council lending cap of 280% would apply to non-water debt/revenue only. LGFA lending to water organisations capped at 500% of water revenue (subject to council guarantee).
- Required revenue to debt ratio of above 10% leads to a price path that is less affordable than the in-house model.
- Asset-owning water organisation better supports alignment between investment requirements and funding decisions.
- Would be expected to have strengthened governance and management, subject to economic regulation, focussed solely on the provision of water services.
- Mana Whenua / Tangata Whenua relationships and opportunities to engage in the decision-making process would be maintained through opportunities to be involved in the board appointments process and through board membership.
- Council would continue to have significant influence over water services operations, price setting, investment decisions and priorities through its annual Statement of Expectations.
- Simplest of the non-inhouse options to implement.

Weaknesses

- Likely to be a credit rating impact (~1-2 notch downgrade) if the CCO lifts borrowing to the maximum allowed under LGFA covenants.
- Limited pool of suitable directors in region.
- Would lack the scale required to generate sufficient economies of scale to deliver significant efficiency savings.
- Establishment costs are relatively high.

3. Multi-council-owned water organisation



Strengths

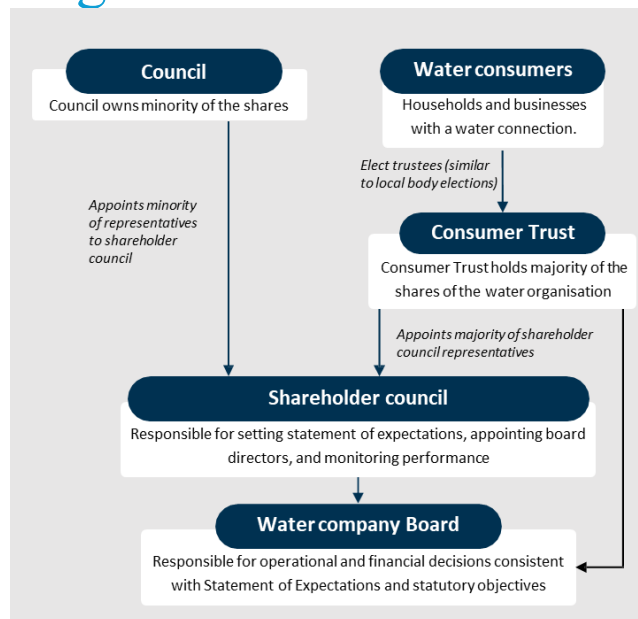
- LGFA lending to water organisations is capped at 500% of water revenue (subject to council guarantee) and does not count towards the council LGFA limit.
- If the council guarantees water related debt is treated as a contingent liability.
- Entity can also be totally off balance-sheet if not borrowing from LGFA.
- Pushes investment funding more onto long-term debt. This should lead to a more affordable price path for consumers.
- More likely to have the scale required to generate economies of scale sufficient to deliver significant efficiency savings and improve systems, processes and procedures.
- Asset-owning water organisation would support better alignment between investment requirements and funding decisions.
- Would be expected to have strengthened governance and management.
- Shareholding councils influence water services through a joint annual Statement of Expectations.

Weaknesses

- Complex option to implement with higher implementation costs than other options and challenging to establish within statutory timelines. At the present time it appears unlikely that a regional multi-council CCO will be established in the immediate future.
- Iwi / Māori relationships and opportunities to engage in the decision-making process would be more limited.
- More difficult to ensure that water services continue to be aligned with specific Council goals and strategies.



4. Mixed council/consumer trust owned water organisation



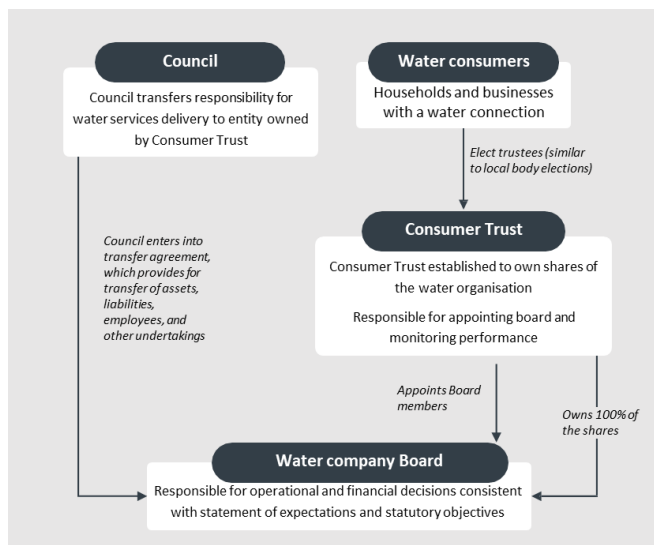
Strengths

- Provides total balance sheet separation from Council.
- Community ownership of water assets is clearly maintained.
- A dedicated water services trust would be expected to have strengthened governance and management, subject to economic regulation, focussed solely on the provision of water services.
- Mana Whenua / Tangata Whenua relationships and opportunities to engage in the decision-making process would be maintained through opportunities to be involved in the board appointments process and through board membership.
- Council would continue to have significant influence over water services operations, price setting, investment decisions and priorities through the combined Statement of Expectations.

Weaknesses

- Would not have access to debt funding from LGFA. Borrowing would be from commercial lenders and rates dependent on credit-quality and track record. It is not likely that a small regional water trust will be able to raise capital at competitive rates.
- It is very likely that the price path required to service this debt will not be affordable for consumers.
- Limited pool of suitable directors in region.
- Lacks the scale required to generate sufficient economies of scale to deliver significant efficiency savings.
- Establishment costs are relatively high.

5. Consumer trust owned water organisation



Strengths

- All borrowing is totally independent of Council and would not be reflected on the Council balance sheet or contingent liabilities. There would be no impact on the Council’s credit rating.
- Community ownership of water assets is clearly maintained.
- A dedicated water services trust would be expected to have strengthened governance and management, subject to economic regulation, focussed solely on the provision of water services.
- Mana Whenua / Tangata Whenua relationships and opportunities to engage in the decision-making process would be maintained through opportunities to be involved in the board appointments process and through board membership.

Weaknesses

- Would not have access to debt funding from LGFA. Borrowing would be from commercial lenders and rates dependent on credit-quality and track record. It is not likely that a small regional water trust will be able to raise capital at competitive rates.
- It is very likely that the price path required to service this debt will not be affordable for consumers.
- Council would have no influence over water services operations, price setting, investment decisions and priorities and there would be no opportunity to align these with Council goals and strategies.
- Limited pool of suitable directors in region.
- A relatively small water services consumer trust lacks the scale required to generate sufficient economies of scale to deliver significant efficiency savings.
- Establishment costs are relatively high.

Preliminary thoughts

- Our assessment is that in the short term there are essentially two viable options that the Council should work up in detail and take forward to community consultation: the modified status quo, and the establishment of a single council CCO.
- Council's preference between these options, will to a large part be driven by the final results of the financial modelling currently being conducted. If it transpires that it is possible to deliver an affordable price path for consumers whilst simultaneously meeting financial sustainability and regulatory compliance standards, then staying with the status quo becomes a compelling option.
- However, should the Council need to provide for investment sufficiency through borrowing above its own LGFA debt limit and be required to access the higher debt levels provided for water CCOs, then establishing a CCO becomes the better option.
- In the long term, maintaining the flexibility to join a regional CCO may remain a strong option. However, at this time it is very unlikely that this will occur within the next 9 months, and it may be prudent to wait and see how the reforms settle down over time rather than rushing to establish a joint entity now.
- The two consumer trust options are both very weak options that should not be considered further. Whilst they cement ownership of water assets within the community, they give Council little to no influence over the activities and priorities of the water organisation, they are likely to lead to unaffordable price increases for consumers, and they would make it very difficult to transition into a regional water services organisation at a later date.

Next steps

- Today – Elected Members discuss the options and provide feedback that will inform the development of a decision paper
- January 2025 – Council considers the decision paper and approves in principle a preferred approach to be consulted with the community in March/April 25.



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- National Wastewater Environmental Performance Standards for eg: discharge to land, air or water.
- A single standard approach is consistent with international best practice.
- The new approach will assist with standardisation of treatment and cost efficiencies in design, build and operations.
- Provide us with greater certainty of costs.
- National Engineering Design Standards are proposed, contributing to greater efficiencies for design, approval, procurement, construction, maintenance. This would also support standard construction contracts and common technical reference for industry training and skills.
- Interim changes to the Water Services Act, which 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.



Collate asset data

Engineering validation

Financial validation

Consultation on two options

Prioritisation, H&S, Compliance, Discharge to Land

Water Service Delivery Plans

August 2024



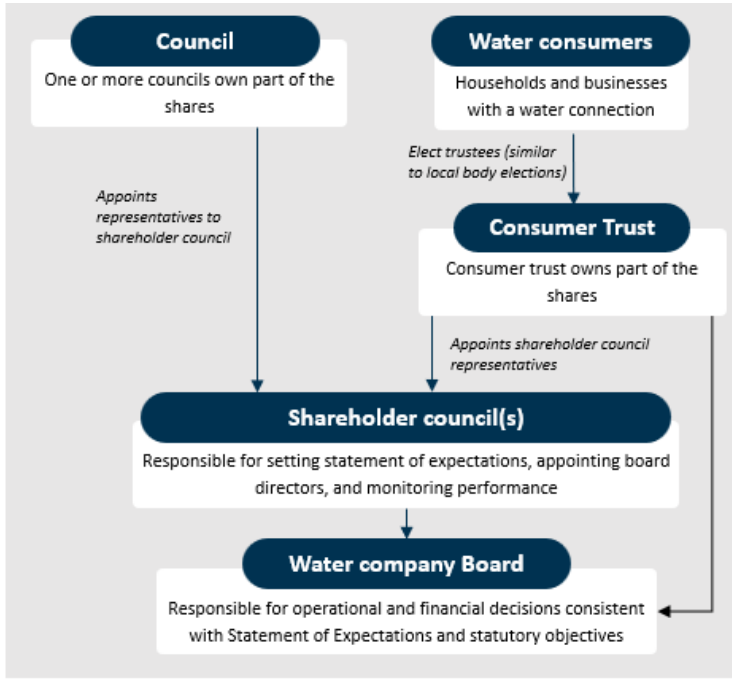
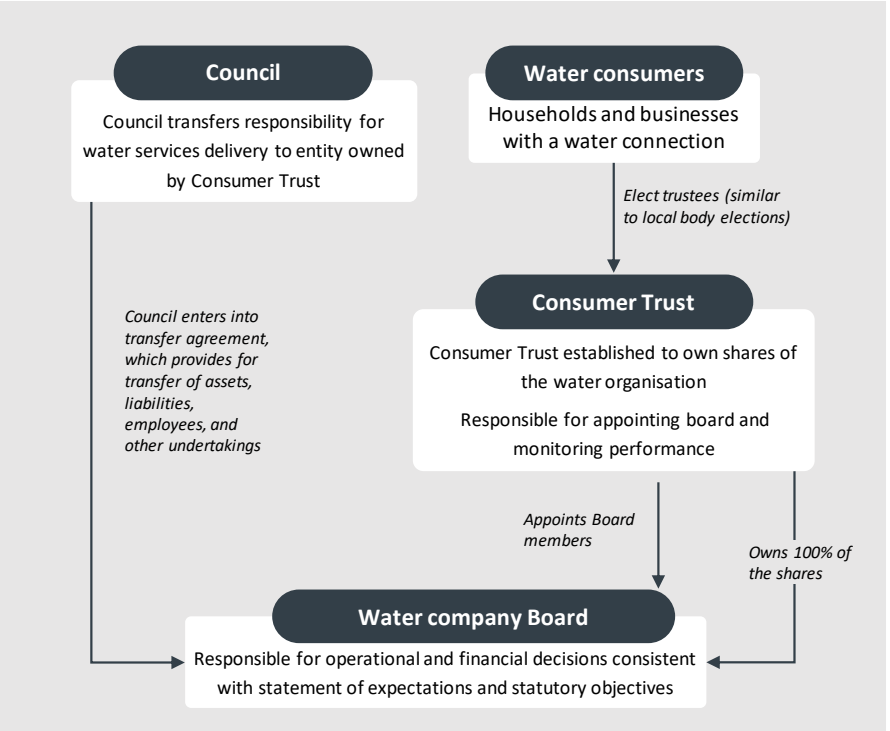
LOCAL WATER DONE WELL

Overview of water services delivery models – illustrative examples

This document provides an overview of the proposed water services delivery models available under Local Water Done Well. It is based on Cabinet decisions announced by the Minister of Local Government in August 2024, and is subject to change through the Parliamentary process. Further detailed information is available in the *Water services delivery models: Guidance for local authorities* available on the Department of Internal Affairs’ website.

Features	Internal business unit or division of council	Single council-owned water organisation	Multi-council owned water organisation	
Structure				
Ownership	<ul style="list-style-type: none"> Part of council No new organisation is established 	<ul style="list-style-type: none"> Limited liability company 100% owned by council Ownership arrangements and rights set out in constitution 	<ul style="list-style-type: none"> Limited liability company with share allocation agreed between shareholding councils. Councils jointly approve Constitution 	
Governance	<ul style="list-style-type: none"> Internal business unit responsible to Council through mechanisms under the Local Government Act 2002 	<ul style="list-style-type: none"> Council appoints and removes board members Governed by independent, professional directors who are responsible for all operational and financial decisions 	<ul style="list-style-type: none"> Shareholder Council established to appoint and remove board members Governed by independent, professional directors who are responsible for all operational and financial decisions 	
Strategic direction	<ul style="list-style-type: none"> Council must prepare a Water Services Strategy 	<ul style="list-style-type: none"> Shareholding council issues Statement of Expectations Water organisation prepares Water Services Strategy 	<ul style="list-style-type: none"> Parent councils jointly issue Statement of Expectations Water organisation prepares Water Services Strategy 	
Accountability	<ul style="list-style-type: none"> Council must act consistently with statutory objectives Water business unit reports through to council Council prepares separate annual reporting and audited financial statements Subject to economic regulation 	<ul style="list-style-type: none"> Water organisation must act consistently with statutory objectives Reports regularly to shareholders on performance (e.g., quarterly) Must produce annual report containing audited financial statements Subject to economic regulation 	<ul style="list-style-type: none"> Water organisation must act consistently with statutory objectives Reports regularly to shareholders on performance (e.g., quarterly) Must produce annual report containing audited financial statements Subject to economic regulation 	
Financing	<ul style="list-style-type: none"> Borrowing undertaken by council (e.g., via LGFA in most cases) with water activity groups meeting their share of financing costs 	<ul style="list-style-type: none"> Borrowing via council or from Local Government Funding Agency directly supported by council guarantee or uncalled capital 	<ul style="list-style-type: none"> Borrows via LGFA if parent council provides guarantee and satisfies LGFA lending requirements 	<ul style="list-style-type: none"> Can borrow from banks and/or capital markets without council support, subject to achieving investment grade credit rating (challenging for some regions)
Balance sheet treatment	<ul style="list-style-type: none"> On balance sheet 	<ul style="list-style-type: none"> On balance sheet 	<ul style="list-style-type: none"> Contingent liability (impact on council credit rating depends on council and water organisation revenue and debt) 	<ul style="list-style-type: none"> Contingent liability (unlikely to impact council credit rating)

Overview of water services delivery models – illustrative examples (continued)

Features	Mixed council/consumer trust owned water organisation	Consumer trust owned water organisation
Structure	 <p>The diagram shows a flow from Council and Water consumers to a Shareholder council(s), which then oversees the Water company Board. Council appoints representatives to the Shareholder council, while Water consumers elect trustees who also appoint representatives to the Shareholder council. The Shareholder council is responsible for setting expectations and appointing the board, which then makes operational decisions.</p>	 <p>The diagram shows Council transferring responsibility to a Consumer Trust, which then oversees the Water company Board. Water consumers elect trustees who appoint board members. The Consumer Trust owns 100% of the shares and is responsible for appointing the board, which makes operational decisions. Council enters into a transfer agreement providing for assets, liabilities, and employees.</p>
Ownership	<ul style="list-style-type: none"> Limited liability company owned by a consumer trust, with one or more councils owning the remainder of the shares Ownership arrangements and rights set out in constitution and/or shareholder agreement 	<ul style="list-style-type: none"> Limited liability company 100% owned by consumer trust Councils jointly approve Constitution
Governance	<ul style="list-style-type: none"> Council(s) and consumer trust appoint a shareholder council to appoint board directors Governed by independent, professional directors who are responsible for all operational and financial decisions 	<ul style="list-style-type: none"> Trustees appoint and removes board members Governed by independent, professional directors who are responsible for all operational and financial decisions
Strategic direction	<ul style="list-style-type: none"> Shareholders agree the process for issuing a joint Statement of Expectations Water organisation prepares Water Services Strategy 	<ul style="list-style-type: none"> Trustees issue Statement of Expectations Water organisation prepares Water Services Strategy
Accountability	<ul style="list-style-type: none"> Water organisation must act consistently with statutory objectives Reports regularly to shareholders on performance (e.g., quarterly) Must produce annual report containing audited financial statements Subject to economic regulation 	<ul style="list-style-type: none"> Water organisation must act consistently with statutory objectives Reports regularly to shareholders on performance (e.g., quarterly) Must produce annual report containing audited financial statements Subject to economic regulation
Financing	<ul style="list-style-type: none"> Borrows independently of local authorities (e.g., from banks or capital markets), subject to achieving sufficient credit-quality and track record No council financial support to water services organisation 	<ul style="list-style-type: none"> Borrows independently of local authorities (e.g., from banks or capital markets), subject to achieving sufficient credit-quality and track record No council financial support to water services organisation
Balance sheet treatment	<ul style="list-style-type: none"> Contingent liability (likely no impact on council credit rating) 	<ul style="list-style-type: none"> Off balance sheet

Water services delivery models: Guidance for local authorities

LOCAL WATER DONE WELL

August 2024

Te Kāwanatanga o Aotearoa
New Zealand Government



Te Tari Taiwhenua
Internal Affairs

Introduction

Background

A key feature of Local Water Done Well is providing councils with the flexibility to determine the optimal structure and delivery method for their water services. To support this, the Government is progressing legislation to expand the range of local government water service providers by enabling the establishment of new, financially separate water organisations.

These new water organisations are intended to enable enhanced access to long-term borrowing for water infrastructure – supporting infrastructure development, while managing costs for consumers.

Councils will continue to be able to deliver water services directly (such as through inhouse business units), however they will also be able to establish new water organisations that are more financially and operationally independent of councils.

These models also make it easier for councils who wish to enter joint arrangements to achieve cost savings, improve efficiency and affordability.

Councils will be able to design their own alternative delivery arrangements, as long as these arrangements meet the minimum requirements set out in legislation.

Councils will also have choices about which water services are provided through different service delivery arrangements. For example, they may wish to provide drinking water and wastewater services through a water organisation but retain stormwater services in-house.

This guidance document

This guidance document focuses on the service delivery models and arrangements that will be available to local authorities to deliver water services. It provides further detail on proposals to expand the range of service delivery models available to councils, including by providing for new, financially separate water organisations that councils (and consumer trusts) can own.

In this guidance, the term '**water services provider**' means all forms of local government provider, and including councils that continue with direct (in-house) delivery as well as new water organisations. The term '**water organisation**' refers only to separate organisations that councils may establish to provide water services and does not include councils with direct (in-house) delivery.

This guidance document has five sections:

- Section 1: Minimum requirements of all water services providers and requirements for specific delivery models
- Section 2: Service delivery models available to councils
- Section 3: Governance and accountability arrangements
- Section 4: Financing and credit rating implications
- Section 5: Other powers and authorities available to water organisations.

This guidance document aims to help inform local authorities on service delivery models. It should be read alongside other Local Water Done Well information. The guidance is informed by policy decisions that were announced by the Minister of Local Government in August 2024, and therefore are still subject to change through the Parliamentary process when the Local Government Water Services Bill is introduced to Parliament in December 2024.

More detailed information can also be found in the associated Cabinet papers that have been proactively released on the Department of Internal Affairs' website.

For further information about Local Water Done Well, visit www.dia.govt.nz/Water-Services-Policy-and-Legislation

Questions? Contact waterservices@dia.govt.nz



01 Minimum
requirements

Minimum requirements for all service delivery models

The legislation will look to establish a framework for water services delivery that includes:

- a set of minimum requirements that apply to water service providers
- additional legislative requirements that apply to water organisations, focusing on the ownership, governance and structural arrangements for these organisations, and
- further provisions that would apply only to consumer trust-owned (and mixed council/trust owned) water organisations.

Regardless of the model chosen, all water service providers must meet minimum requirements set out in the legislation.

These minimum requirements are designed to promote efficiency, improve the governance and management of financially sustainable water services, and ensure accountability within the sector.

The requirements will likely include that all water services providers:



Will be subject to economic, environmental and water quality regulation – further information on economic, environmental and water quality regulation is available in the related factsheets: Economic regulation of water services (refer to the economic regulation factsheet for more information), Drinking water quality regulation, and Standards to help reduce water infrastructure costs.



Will be subject to a new planning and accountability framework for water services, including the need to produce stand-alone financial statements for water supply, wastewater, and stormwater – further information outlined in the factsheet: Planning and accountability for local government water services.



Must be financially sustainable – legislation will include an enduring objective for water service providers to be financially sustainable, including a requirement for the ringfencing of water services, an expectation of revenue sufficiency, and accommodating for maintenance, renewals and growth.



Must act consistently with statutory objectives – legislation will set out a list of statutory objectives that will apply to all water service providers. There will also be several additional statutory objectives that apply to water organisations.



Will be subject to restrictions against privatisation – legislation will include prohibitions on losing control, selling or disposing of significant infrastructure. Further, water services assets cannot be used as security.

Additional requirements for water organisations

In addition to the minimum requirements that apply to all water services providers, the legislation will also look to include additional requirements that apply to water organisations – affecting their ownership, governance, and structural arrangements.

These requirements will apply to all water organisations, including any existing council-controlled organisations and council-controlled trading organisations that deliver water services.

These features are not relevant where councils continue with direct service delivery.

The following additional requirements apply to water organisations:



Current council staff and elected members cannot be appointed to boards.



Water organisations **must be companies**.



Activities of water organisations will be **limited to the provision of water services** and directly-related activities.



Only councils or consumer trusts can be shareholders of a water organisation.



Board appointments must be competency-based and have the appropriate mix of skills, knowledge, and experience.



There will be a range of protections against privatisation.

Requirements for trust-owned water organisations

Water organisations that involve consumer trusts as owners will require additional provisions to ensure that ownership interests cannot be transferred.

This option requires significant controls on the consumer trust as it would have the effective control of water services and assets.

Legislation will set out bespoke requirements that apply to consumer trust-owned (and mixed council/trust-owned) water organisations, to ensure alignment with requirements that apply to councils through other legislation.

For water organisations that involve consumer trusts:



Consumer trusts must **represent consumers** and their interests.



Consumer trusts will be responsible for **appointing and removing Boards and overseeing their performance.**



Trust deeds must include **restrictions on transfer of shares.**



Trustees must be **elected by consumers.** Trustees are responsible for appointing, monitoring, and removing Board members (subject to competency and independence requirements), as well as approving or issuing a statement of expectations (depending on mixed or full ownership).



Consumer trusts will have to **comply with all requirements in legislation** or general law relating to trusts, such as having a trust deed.



Consumer trusts may be a **minority or majority shareholder** of a water organisation with territorial authorities, or it may own 100% of the shares.



Trusts will be **restricted from modifying the objects in its trust deed** or selling its shareholding, except to another territorial authority or consumer trust shareholder of another water organisation.

Protections against privatisation

Under Local Water Done Well, the Government has committed that water services will remain in public ownership.

Councils and water organisations will not be able to privatise water services.

Legislation will likely include the following statutory protections:

- Only local authorities and/or consumer trusts will be permitted to own shares in a water organisation.
- Provisions that prevent:
 - water infrastructure assets from being used as security for any purpose
 - divestment of ownership or other interest in a water service except to another local government organisation or water organisation, and
 - loss of control of, sale, or other form of disposal of the significant infrastructure necessary for providing water services in its region or district, unless, in doing so, the local authority or water organisation retains its capacity to meet its obligations
- Shares in water organisations cannot give any right, title or interest in the assets, security, debts, or liabilities of the entity, and would not be able to be sold or transferred.
- Water organisations that involve consumer trusts will require additional provisions to ensure ownership interests cannot be transferred.

Exemptions from certain requirements

Exemptions can be considered on a case-by-case basis

The Government has agreed to enable exemptions from certain requirements. This will provide councils with the flexibility to identify and establish the delivery arrangements that work best for them. The exemptions framework acknowledges that there may be certain circumstances where there may be justification in waiving certain requirements.

Legislation will include a process where councils can apply for exemptions to the following requirements, on a case-by-case basis:

- water organisations must be companies
- activities of water organisations will be limited to the provision of water services, and directly-related activities, and
- only councils or consumer trusts can be shareholders of a water organisation, while noting that the legislation will look to ensure that no form of privatisation is permitted.

Councils who wish to apply for exemptions from the above requirements will be required to submit applications to the Secretary for Local Government, who will assess the application and provide advice to the Minister of Local Government. Exemption approvals would be granted through an Order in Council, on the recommendation of the Minister of Local Government.

Applications for exemptions must meet certain conditions

Exemptions will only be granted where the council’s proposal for water services:

- meets the legislative objectives of Local Water Done Well
- maintains the core requirements that are non-negotiable bottom lines for all water organisations, including that the proposal does not involve any form of privatisation
- will provide water services that are financially sustainable, and
- satisfy the Minister of Local Government that the financial sustainability of water services would be put at greater risk if the exemption was not granted.



02 Service delivery models

Councils can choose from a range of service delivery models

The choices available to councils include:

- whether to deliver water services in-house or establish a water organisation
- whether to deliver services on a stand-alone basis or establish a joint arrangement with other councils
- how to structure ownership and governance arrangements for any water organisation, and
- how to set up water organisations to facilitate access to long-term borrowing for water infrastructure

Councils that already deliver water services via a council-controlled organisation or council-controlled trading organisation will be able to continue to use these arrangements. However, the council-controlled organisation or council-controlled trading organisation will be subject to all of the new statutory requirements that will apply to water organisations and changes are likely to be required to meet these requirements. Councils will be able to design their own alternative delivery arrangements, as long as these arrangements meet the requirements for water service providers.

This guidance provides further detail on the following illustrative examples outlined below. Other delivery models are permissible provided they meet certain minimum requirements or if a council obtains an exemption.

Illustrative examples of service delivery models

	In house business unit	Water organisations			
Ownership variations	<div style="border: 1px solid black; border-radius: 10px; padding: 5px; text-align: center;"> Not applicable <small>Structure is part of council</small> </div>	<div style="border: 1px solid black; border-radius: 10px; padding: 5px; text-align: center;"> Single council owned </div>	<div style="border: 1px solid black; border-radius: 10px; padding: 5px; text-align: center;"> Multi-council owned </div>	<div style="border: 1px solid black; border-radius: 10px; padding: 5px; text-align: center;"> Mixed council/ consumer trust owned </div>	<div style="border: 1px solid black; border-radius: 10px; padding: 5px; text-align: center;"> Consumer trust owned </div>
Council financial support	1	2	3	4	5
	<div style="border: 1px solid black; border-radius: 10px; padding: 5px; text-align: center;"> Not applicable <small>Structure is part of council</small> </div>	<div style="border: 1px solid black; border-radius: 10px; padding: 5px; text-align: center;"> Council provides support <small>(eg guarantees or uncalled capital)</small> </div>		<div style="border: 1px solid black; border-radius: 10px; padding: 5px; text-align: center;"> No council financial support </div>	

Overview of service delivery models

1	Internal business unit or division	<ul style="list-style-type: none"> • Status quo for many councils • Minimum requirements for water service providers will apply • New financial sustainability, ringfencing rules, and economic regulation will apply
2	Single council-owned water organisation	<ul style="list-style-type: none"> • New company established, 100% owned by the council • Financial sustainability rules will apply, but retains a financial link to the council • Councils with existing water council-controlled organisations will be required to meet minimum requirements
3	Multi-council owned water organisation	<ul style="list-style-type: none"> • New company established with multi-council ownership • Appointment of a Board through shareholder council (or similar body) is advisable but not a statutory requirement • Option to access Local Government Funding Agency finance with the provision of parent support or to create a more financially independent organisation
4	Mixed council/consumer trust owned	<ul style="list-style-type: none"> • Consumer trust established to part-own a water organisation • One or more councils own the remainder of the shares • Structure enables financially independent organisation to be established while retaining some council ownership
5	Consumer Trust owned	<ul style="list-style-type: none"> • Council transfers assets to consumer trust owned organisation • Consumers elect trustees to represent their interests in the organisation • Most financially independent of the available models

1. Internal business unit or division

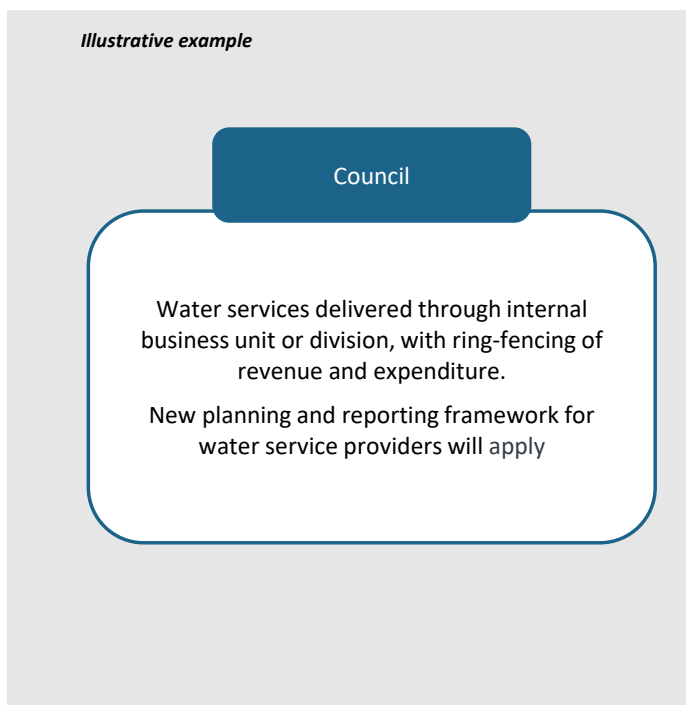
Under this option, water services would be delivered directly by the council ‘inhouse’ through an internal business unit or division, with planning and budgeting integrated into council planning and budgeting processes. This option will be subject to new ring-fencing and financial sustainability requirements, and economic regulation.

This option represents a continuation of the existing inhouse service delivery model used by many councils.

Revenue continues to be generated through a combination of general and targeted rates and financial/development contributions.

Water service delivery is fully integrated into council strategy, planning, and service delivery.

Key features	
Ownership	<ul style="list-style-type: none"> • 100% council owned as a business unit or division within the organisation • No new organisation is established
Governance	<ul style="list-style-type: none"> • Internal business unit or division responsible to the elected council members, with other usual council governance oversight
Strategy	<ul style="list-style-type: none"> • Councils will need to prepare a Water Services Strategy
Accountability	<ul style="list-style-type: none"> • Water division reports to council per established internal processes • Water service delivery will be accountable to the public through usual local democracy practices • Water-focused annual report and stand-alone financial statements on water will be completed to enhance current requirements
Borrowing	<ul style="list-style-type: none"> • Borrowing undertaken by council with water activity groups meeting their share of financing costs (on internal and any external borrowing)



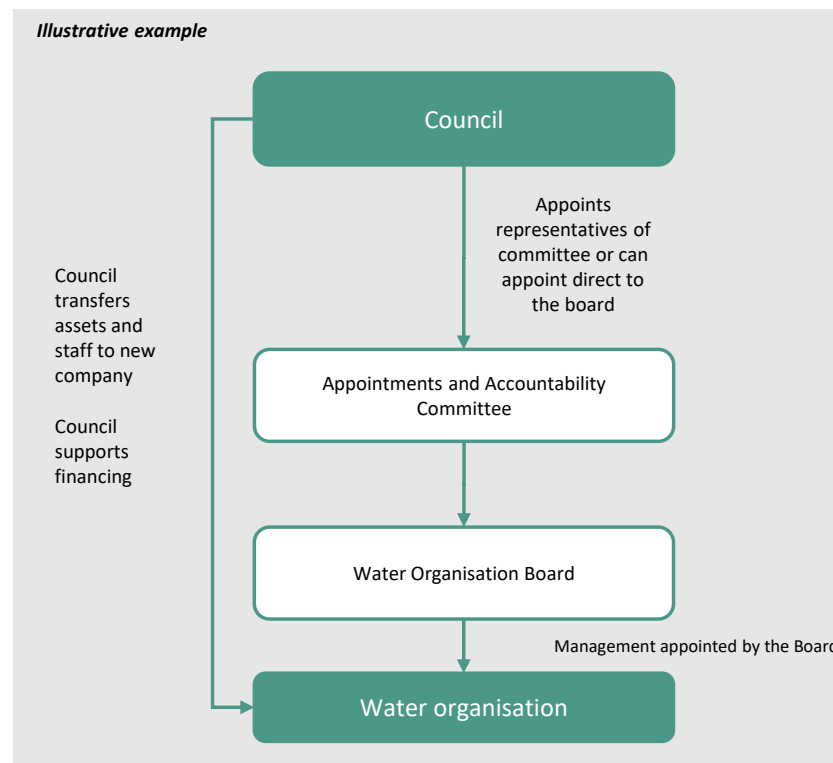
2. Single council-owned water organisation

New company established to deliver water services, with ownership by a single council. Council can transfer or retain ownership of assets, subject to transfer of asset use rights.

The council has flexibility to design governance and appointment arrangements, including to consider whether and how they involve mana whenua, consumers or community representatives (for example via an appointments and accountability body). The council can also choose to appoint board members directly without roles for other groups.

The council would provide financing to the water organisation or provide financial support to enable it to borrow from Local Government Funding Agency

Key features	
Ownership	<ul style="list-style-type: none"> Limited liability company, 100% owned by the council Ownership rights spelled out in a constitution, subject to compliance with legislation
Governance	<ul style="list-style-type: none"> Appointments made directly or via an Appointments and Accountability Committee (or similar body) Board comprised of independent and professional directors
Strategy	<ul style="list-style-type: none"> Shareholding council issues Statement of Expectations Water organisation prepares Water Services Strategy and consults the council
Accountability	<ul style="list-style-type: none"> Water organisation reports regularly to shareholding council on performance (for example quarterly) Water organisation prepares annual report containing audited financial statements, including reporting on actual performance, and other matters outlined in the water services strategy. Water organisation required to act consistently with statutory objectives
Borrowing	<ul style="list-style-type: none"> Borrowing via council or from Local Government Funding Agency directly supported by council guarantee or uncalled capital



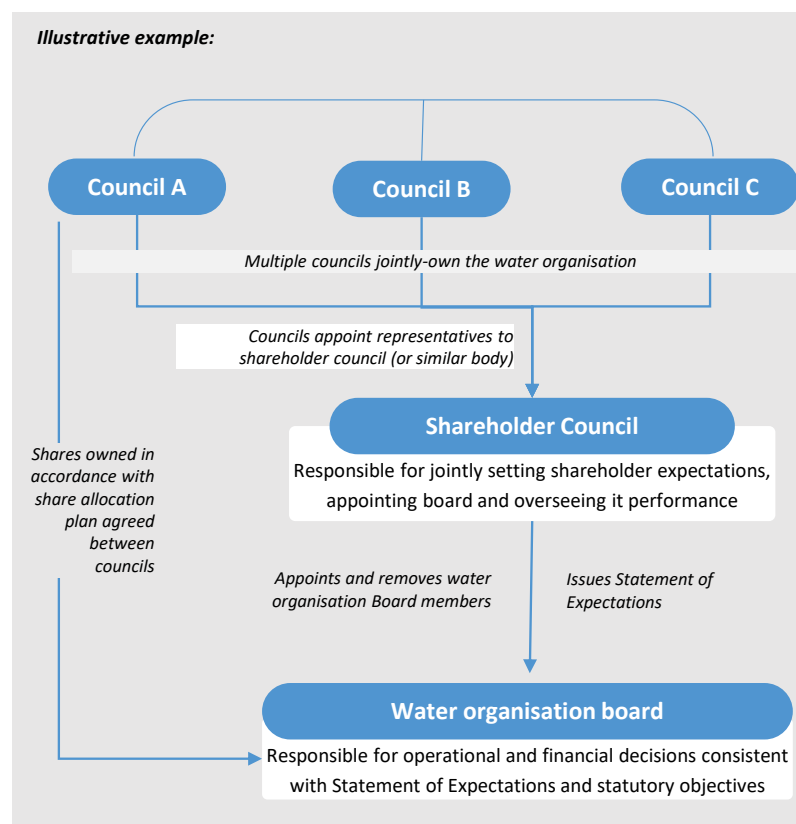
3. Multi-council-owned water organisation

Under this option, two or more councils would establish a jointly-owned water organisation.

Councils will have flexibility to establish shareholder rights and interests through a company constitution and/or shareholder agreement, subject to compliance with the legislation.

Financing options and credit rating impacts will be dependent on whether shareholding councils choose to provide financial support or not.

Key features	
Ownership	<ul style="list-style-type: none"> Limited liability company owned by two or more councils Ownership arrangements and rights set out in a constitution and/or shareholder agreement, subject to compliance with the legislation
Governance	<ul style="list-style-type: none"> Councils agree how to appoint and remove directors, for example through a shareholder council or similar Board comprised of independent and professional directors
Strategy	<ul style="list-style-type: none"> Shareholding councils agree the process for issuing a combined Statement of Expectations Water organisation prepares Water Services Strategy and consults shareholding councils
Accountability	<ul style="list-style-type: none"> Water organisation reports regularly to shareholding councils on performance (for example quarterly) Water organisation prepares annual report containing audited financial statements, including reporting on actual performance and other matters outlined in the Water Services Strategy. Water organisation required to act consistently with statutory objectives
Borrowing	<ul style="list-style-type: none"> Borrowing arrangements and credit rating implications dependent on whether shareholding councils provide financial support



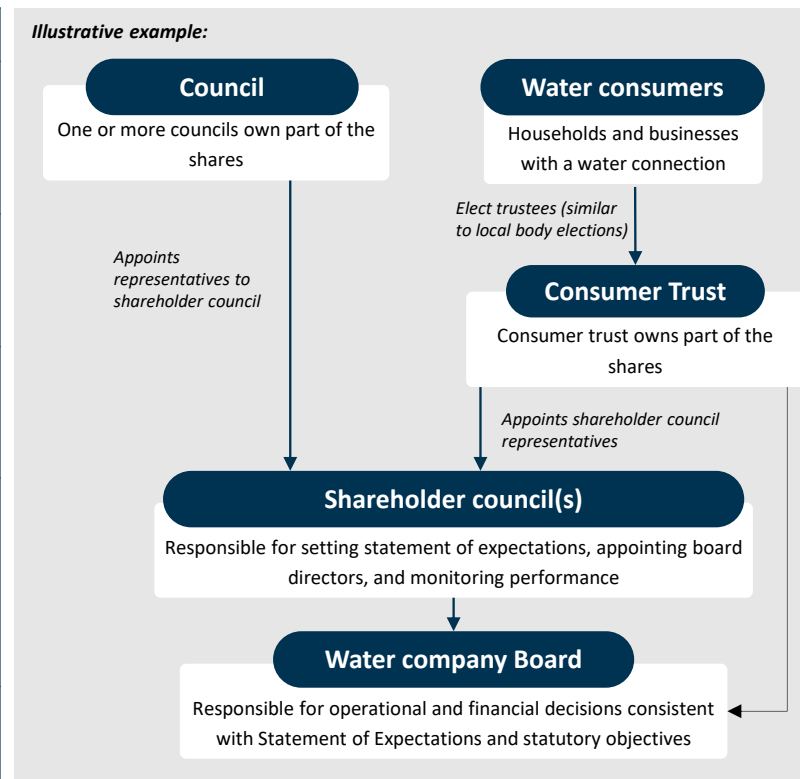
4. Mixed council/consumer trust owned water organisation

Under this option, a consumer trust would be established to part-own a water organisation, with one or more councils owning the remainder of the shares.

Councils will have flexibility to establish shareholder rights and interests through a company constitution and/or shareholder agreement upon establishment, subject to compliance with the legislation.

Water consumers elect trustees to the Consumer Trust. That consumer trust is then represented on the shareholder council (along with council representatives) and/or appoints board members directly. Certain restrictions apply to Consumer Trust to protect against privatisation.

Key features	
Ownership	<ul style="list-style-type: none"> Limited liability company owned by a consumer trust, with one or more councils owning the remainder of the shares Ownership arrangements and rights set out in constitution and/or shareholder agreement, subject to compliance with legislation
Governance	<ul style="list-style-type: none"> Councils and consumer trust appoint a shareholder council to appoint directors Water organisation governed by independent, professional board of directors
Strategy	<ul style="list-style-type: none"> Shareholders agree the process for issuing a combined Statement of Expectations Water organisation prepare Water Services Strategy and consults shareholders
Accountability	<ul style="list-style-type: none"> Water organisation reports regularly to shareholders on performance (for example quarterly) Water organisation prepares annual report containing audited financial statements, including reporting on actual performance and other matters outlined in the water services strategy. Water organisation required to act consistently with statutory objectives
Borrowing	<ul style="list-style-type: none"> Borrowing would be independent of local authorities (for example banks) and subject to water organisation achieving sufficient credit-quality and track record

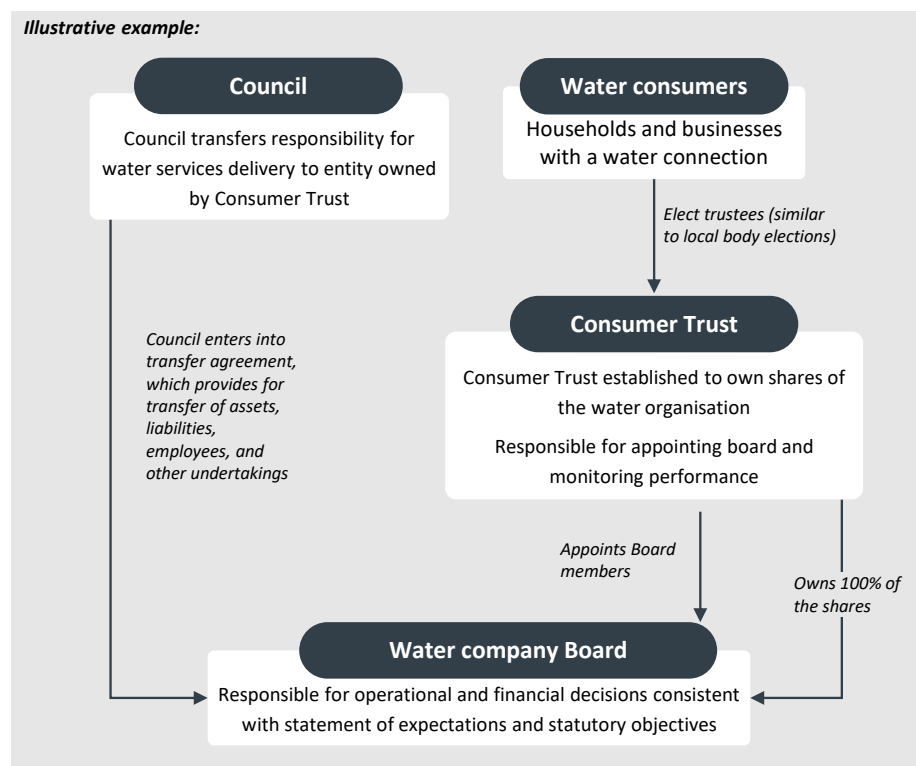


5. Consumer trust owned water organisation

Under this option, one or more councils would establish a wholly consumer trust-owned water organisation, and transfer water assets and responsibility for water services delivery to it.

The council would have no ongoing involvement, as the company board is wholly appointed through the Consumer Trust. Water consumers elect trustees to the Consumer Trust, similar to local body elections.

Key features	
Ownership	<ul style="list-style-type: none"> Limited liability company solely owned by a newly established consumer trust Trust deed is subject to certain minimum requirements to protect against privatisation
Governance	<ul style="list-style-type: none"> Trustees appoints company directors Water organisation governed by independent, professional board of directors
Strategy	<ul style="list-style-type: none"> Trustees issue Statement of Expectations Water organisation prepares Water Services Strategy
Accountability	<ul style="list-style-type: none"> Water organisation reports regularly to trustees and consumers on performance (for example quarterly) Water organisation prepares annual report containing audited financial statements Water organisation required to act consistently with statutory objectives
Borrowing	<ul style="list-style-type: none"> Borrowing would be independent of local authorities (for example banks) and subject to water organisation achieving sufficient credit-quality and track record



Summary of features of service delivery models

	1. Internal business unit or division	2. Council-owned water organisation	3. Multi-council-owned water organisation	4. Mixed ownership/ consumer trust owned water organisation	5. Consumer Trust owned water organisation
Ownership	Wholly council-owned as a business unit or division	Wholly council-owned as a separate water services organisation	Ownership shared across two or more councils	Consumer trust part-owns water organisation, with one or more councils owning the remainder of the shares	Wholly-owned by consumer trust as a separate water organisation
Governance	Internal business unit or division, responsible to Council through established mechanisms under Local Government Act 2002	Councils (and potentially other groups) appoint Appointments and Accountability committee (or can appoint board directly). Council or committee oversee board performance	Councils appoint members to a Shareholder Council, which appoints Board and oversees performance	Councils and trustees appoint a shareholder council to appoint directors	Trustees appoint directors and oversees performance
Strategy	Councils must prepare Water Services Strategy	Parent council issues Statement of Expectations. Water organisation prepares Water Services Strategy.	Shareholders agree process for issuing combined Statement of Expectations. Water organisation prepares Water Services Strategy	Shareholders agree process for issuing combined Statement of Expectations. Water organisation prepares Water Services Strategy	Trustees issue Statement of Expectations. Water organisation prepares Water Services Strategy
Accountability	Water-focused annual reports and financial statements	Reports to owners quarterly, prepares audited annual report, acts consistent with statutory objectives	Reports to owners quarterly, prepares audited annual report, acts consistent with statutory objectives	Reports to owners quarterly, prepares audited annual report, acts consistent with statutory objectives	Reports to owners quarterly, prepares audited annual report, acts consistent with statutory objectives
Borrowing	Council borrows, with water activity groups meeting their share of financing costs (on internal and external borrowing)	Borrowing via council or direct from Local Government Funding Agency with council financial support (guarantee or uncalled capital)	Borrowing direct from Local Government Funding Agency (with financial support from parent councils) or from banks	Borrows independently of local authorities, subject to water organisation achieving sufficient credit-quality and track record	Borrows independently of local authorities, subject to organisation achieving sufficient credit-quality and track record

Miscellaneous

Long-term contracting

Current arrangements under the Local Government Act 2002 enable local government organisations to enter contracts and joint local government arrangements with one another without restriction.

Legislation will ensure that water organisations are also considered to be local government organisations, with the maximum length of contracts to be extended to fifty years.

Extending the limit to fifty years may enable certain types of public-private partnerships, such as ‘build, design and operate’ contracts, for high capital expenditure assets. The development costs of the asset could be recovered over a longer period or match the economic life of the asset, which can lead to low costs per annum for providing this infrastructure.

Long-term contracting will be an option for all of the delivery models.

Local Government Official Information and Meetings Act 1987

Parts 1 to 7 of the Local Government Official Information and Meetings Act 1987 will apply to water all water service providers. All meetings would be open to the public except for commercially confidential matters or other matters specified in the Act.

Ombudsman

Water service providers would also be subject to the jurisdiction of the Ombudsman.



03 Governance and
Accountability

Constitutions and accountability framework

Councils establish constitutions

While constitutions will not be required, they are good governance practice, and it is therefore expected that councils will establish constitutions for water organisations, with content requirements expected to include:

- minimum board size
- rights and process to appoint and remove Directors and Board members, and
- Board member requirements.

There are no restrictions on what can be included within a company constitution provided it meets the requirements of relevant legislation.

To ensure financial separation from councils is maintained, amendment of key features of the constitutions will require agreement by super-majority (75%) of shareholders.

Shareholder council (or similar body)

Shareholding councils may also wish to provide for the establishment of a shareholder council (or similar body) to represent council interests in the entity. This body would support the coordination of multiple council interests and could play a key role in developing shareholder expectations, appointing board directors and overseeing performance.

Establishment of a shareholder council (or similar body) is not a statutory requirement but is advisable to avoid multiple interfaces between the water organisation and its owners.

Members of a shareholder council could be appointed by councils and/or trustees of consumer trusts. Unlike boards, there would be no statutory restrictions on who could be appointed to a shareholder council. The process of appointing a shareholder council could be set out in a shareholder agreement.

Accountability framework

Legislation will provide for a new planning and accountability framework for water services comprising three core components:

- **Statement of Expectations** – to be prepared by shareholders or their representatives (such as shareholder’s council), setting out shareholders’ general expectations, strategic outcomes, and priorities, including any general guidance to the Board.
- **Water Services Strategy** – this is the primary strategy and planning document for the water organisation, and will set out its strategic priorities, how it will meet regulatory requirements, service standards and financial performance objectives, and will contain projected financial statements and its long-term infrastructure strategy
- **Annual report** – this is the primary accountability document, through which the water organisation is required to report on performance against expectations, service standards and financial performance objectives. The annual report must contain audited financial statements.

The requirements for a Water Services Strategy and Annual Report apply to all water services providers, including local authorities providing services through an internal business unit or division of council.

Statements of Expectations and annual reporting

Shareholders are required to prepare a statement of expectations

Shareholders must prepare a statement of expectations every three years. Any matters contained in the Statement of Expectations must support and align with the legislation and any applicable regulatory requirements.

Water organisations are required to give effect to this Statement, provided it is consistent with its purpose, the water organisation’s statutory objectives and other applicable statutory requirements.

Where a water organisation is owned by multiple councils, councils will be responsible for agreeing a process for preparing a joint statement of expectations. This process will not be prescribed in legislation.

An example of this may be the water organisation choosing to prioritise investment in safe drinking water in several jurisdictions (driven by quality regulation) as a higher priority over another jurisdiction where the council would like to invest in wastewater assets.

The purpose of the Statement of Expectations will include:

- stating the expectations, priorities, and strategic direction for the water organisation, and
- informing and guiding the decisions and actions of the board of the water organisation.

Legislation will require the Statement of Expectations to include information on:

- shareholders expectations and strategic priorities for the water organisation
- outcomes the shareholders expect to be achieved through the delivery of water services, and
- any specific requirements and/or obligations that relate to Treaty settlements or other arrangements that are in place with local iwi.

The Statement of Expectations may also include other matters the shareholders may wish to include, including requirements relating to:

- performance expectations
- process for collecting and responding to customer feedback on an organisation’s services, and
- community engagement on specific matters of interest.

Annual reporting

Legislation will require water services providers to prepare and adopt an annual report on water services within three months of the end of each financial year

The annual report would include similar content to council annual reports under the Local Government Act, such as:

- an audited statement comparing the capital expenditure budgeted with the amount spent
- an audited statement that compares the level of service achieved in relation to each water activity with the performance target(s) for the activity
- audited financial statements, including GAAP compliant standalone financial statements for each of water supply, wastewater and stormwater.

In addition, for water organisations, the constitution may specify additional reporting requirement for the company to deliver to the company’s shareholders, for example quarterly or half-yearly reports on the company’s operations.

Water Services Strategy

All providers must prepare a water services strategy

Legislation will include requirements for a Water Services Strategy, which would apply to all forms of water services provider. The purpose of the Water Services Strategy will likely include elements such as to:

- state publicly the activities and intentions of the water services provider, and the objectives and outcomes to which those activities will contribute
- provide transparency about the regulatory requirements and other expectations that apply to the provider (including for financial sustainability), how it proposes to meet those requirements and expectations, and the associated costs and levels of investment needed, and
- provide a basis for the accountability of the provider for its performance.

Process for approving

Strategies are prepared by local authorities or water organisations in accordance with the purpose and objectives set out in legislation (and needs to give effect to regulatory requirements and any statement of expectations)

Where service delivery is through a separate water organisation, shareholder council(s) and any other parties named in the constitution may comment on the draft Water Services Strategy, and the Board must consider these comments before preparing a final version

The Board must approve and deliver to shareholders a final Water Services Strategy before the first financial year to which it relates, and publish it on the council and water organisation websites

Information on water services will not be included in councils' long-term plans. All relevant strategy and planning information related to water services included in the strategy.

Contents of the strategy

Water services providers will prepare a Water Services Strategy every three years covering strategic, operational and financial planning information. This is likely to include matters such as:

- how it intends to give effect to the Statement of Expectations
- its objectives and outcomes, including performance targets and measures
- factors impacting the provider, including population, land use, costs
- the significant activities or work the provider proposes to undertake
- proposed levels of service, including planned changes
- the key risks affecting levels of service, revenue setting and debt availability
- how the provider proposes to obtain feedback from customers
- planned water charges and financing strategy
- forecast financial statements, including forecasts of capital and operating expenditure to meet additional demand, improve the level of service, and replace existing assets
- funding impact statements, identifying the sources and application of funding for each of drinking water, wastewater and stormwater
- significant infrastructure issues over the next 30 years, the principal options for managing those issues, and indicative estimates of the projected capital and operating expenditure associated with management of water infrastructure assets.

The content required to be included in a Water Services Strategy and the process for developing it would be set out in legislation.



04 Charging, borrowing and related matters

Powers to charge customers and debt collection

Charging customers

Legislation will include provisions that enable Boards of water organisations to:

- assess, set and collect water services charges, including charges for any or all of the following:
 - water supply, wastewater, and stormwater (where applicable)
 - the initial connection to one or more of the above services
 - contributions to the capital costs of infrastructure needed to service additional demand on the network, and
 - meeting the costs that the water organisation incurs in performing and exercising its functions.
- determine how charges are assessed and invoiced, when they are due, and how they will be paid or collected.

The Legislation will include a framework to enable water organisations to identify which ratepayers should be charged for water services – which will be based on a modified version of the existing framework in the Local Government (Rating) Act 2002.

Legislation will provide for councils to share relevant billing information with water organisations to enable water companies to contact and bill their customers. Councils will be able to charge a reasonable fee for this service.

When a new water organisation is set up, there may be a transitional period until the organisation has a billing system in place. In this case, councils and water organisations can enter into a voluntary 'pass-through' billing agreement.

The legislation will also enable water organisations to use the development contributions regime in the Local Government Act 2002. This will give water organisations the ability to directly charge developers who place new or

additional demand on water infrastructure, to help recover the capital expenditure that is necessary to service that growth over the long term.

Debt collection powers

Water organisations will not have the same rates collection powers as local authorities and will instead rely on commercial debt practices to collect overdue amounts. This is similar to the situation for Watercare and other regulated utilities.

Powers of receivers

The Local Government Act 2002 and Receiverships Act 1993 contain longstanding provisions that allow a receiver to be appointed where a council defaults on a debt. Among other things, a receiver may collect rates to repay the debt.

New water organisations that borrow independently of Local Government Funding Agency will have similar provisions to ensure receivers can act appropriately in the event that a water organisation defaults on a debt.

New legislation will:

- allow the receiver to assess and collect for a given financial year both the amounts owed by the water organisation for that year and the reasonable costs incurred in collecting that amount
- prohibit the receiver from having any interest or security in water services infrastructure assets, and
- allow the receiver to collect the amount through water services charges assessed on consumers.

In the event of financial distress, relevant provisions of the Corporations (Investigation and Management) Act 1989 will also apply.

Borrowing and credit rating implications

Local Government Funding Agency

The Local Government Funding Agency will be able to provide financing to new water organisations guaranteed by its shareholders in the same way as council-guaranteed council-controlled organisations.

The Government is developing options to enable the Local Government Funding Agency to lend to new water organisations, with the aim to provide confidence to councils in suitable financial solutions.

Borrowing from Local Government Funding Agency, with the support of shareholding councils will provide a transitional step towards water organisations borrowing independently in the future.

This transition path allows time for water organisations to develop sufficiency in their revenue gathering and develop an operating track record.

Foreign currency borrowing

Legislation will explicitly allow water organisations to borrow in foreign currency. This acknowledges that many organisations will need to borrow significant amounts to meet infrastructure costs, expected to exceed the amount of New Zealand-based lending available.

Water organisations will also be allowed to enter into incidental arrangements, such as derivatives and hedges, which allow water organisations to reduce their exposure to currency risk.

Credit rating implications

The impact on local authority credit ratings of establishing a water organisation will depend on a range of factors, including key features of the proposed model adopted, ownership, and financing arrangements (including provision of any council support). Councils who are considering establishing a water organisation should obtain their own advice on the rating and financial implications prior to deciding to establish a water organisation.

With support from Crown Infrastructure Partners and its commercial advisors, the following table has been prepared as an illustrative guide of the hypothetical rating treatment based on certain scenarios and assumptions. Crown Infrastructure Partners is available to answer any questions you have about this indicative rating evaluation, including the assumptions underpinning it.

Model	Council support	Indicative rating treatment	Financing mechanism
Internal business unit or division	N/A	On balance sheet*	LGFA
Single-council water organisation	N/A	On balance sheet*	LGFA
Multi-council water organisation (with council support)	Parent council provides guarantee	Contingent liability*	LGFA
Multi-council water organisation (with no council support)	No support from parent	Contingent liability*	Banks and/or capital markets
Mixed ownership	No support from parent	Contingent liability*	Banks and/or capital markets
Consumer Trust-owned	No support from parent	Off balance sheet	Banks and/or capital markets

* Impact on council credit rating depends on council and/or water organisation revenues and debt.

Distributions, taxation and related arrangements

Distributions

Local authorities will be able to decide whether to permit water organisations to make distributions or pay dividends to shareholders, and in what circumstances, when they establish a water organisation. Should councils wish to prevent a water organisation from making distributions to shareholders, this can be provided for in the company constitution. Economic regulation will, in certain circumstances, include a focus on the appropriateness of water charges and revenues, including considering the appropriate return on capital.

Tax status of water organisations

Most new water organisations will be exempt from income tax. This is because water organisations are not primarily engaged in commercial activities with a profit-making objective and will be owned by councils or consumer trusts.

If a water organisation is wound up, there will be a requirement that assets must be transferred to another water organisation or to a council on wind-up. This ensures that a taxable consumer trust or private shareholder would not receive any of the water organisation's assets (including any untaxed accumulated gains).

Exemptions from minimum requirements, outlined earlier, may affect a water organisation's tax status if they no longer meet the criteria for the income tax exemption. If a water organisation has a shareholder that is not tax exempt (such as a consumer trust that does not have charitable status) it may not be granted tax exempt status.

Rateability of land and assets owned by water organisations

Land transferred to water organisations will be rateable. Legislation will require land owned by water organisations, and assets that are owned by the organisation but located on or under land the organisation does not own, should be rateable. This aligns with the way that land and assets of other network providers, such as electricity and telecommunications companies, are rated.

Councils may elect to remit those rates if they decide that the water organisation, which they will likely be shareholders in, should not have to pay them.

Civil Defence Emergency Management cost-sharing arrangements

Legislation will ensure that Civil Defence Emergency Management cost-sharing arrangements with the Crown would apply directly to water organisations. This will ensure financial separation of water organisations and allow them to directly seek partial reimbursement from the Crown for emergency expenses.

Modernised powers and stormwater services

Modernised powers to carry out work on land and control connections

Legislation will include modernised provisions relating to water infrastructure and service including:

- Powers for water service providers to control connections to water services and infrastructure. These are powers that enable councils to approve connections by private individuals or businesses to water supply, wastewater and/or stormwater infrastructure, and include the ability to set design or engineering requirements.
- Powers for water service providers to carry out work on land in relation to water services infrastructure. These are powers that are required by all kinds of utility providers (water, telecommunications, electricity, and gas) to ensure infrastructure can be constructed or maintained, particularly where it is on private property or underground.
- An updated approach to the bylaws relating to water services. The current system of bylaws will be replaced or supplemented with new, fit-for-purpose statutory provisions, including requirements for management plans and enforcement rules. This will enable more effective and consistent management, while still addressing local issues and needs.

These changes will allow water services providers to control and protect drinking water catchments and manage trade waste. The legislation will include transitional provisions to provide for how local authorities and water services providers will transition to the new system over time.

Arrangements for the management and delivery of stormwater services

Councils will retain legal responsibilities for the management of stormwater services, but that can choose to:

- continue to deliver stormwater services in-house and contract aspects of stormwater service delivery to a new water organisation
- transfer aspects of stormwater service delivery (this might include stormwater network assets*) to a water organisation, and
- contract aspects of stormwater service delivery to a third-party provider, via long-term contract or public-private partnership.

Councils can determine the levels of service and performance targets for the delivery of stormwater management services. Water service organization identify the costs of delivering stormwater management services that meet the expected levels of service and meet performance targets.

Councils may continue to collect revenue through rates from residents and businesses for stormwater management services. Revenue for the delivery of stormwater management services would need to be identified separately within council's accounts (ring fenced). Depending on the stormwater services or assets that are transferred to a new water organisation, how revenue is collected may be allocated between councils and the water organisation.

* Councils will need to consider this on a case-by-case basis as part of any transfer arrangements, including whether or not it is appropriate to transfer any assets as well as determining appropriate funding mechanisms.