



# COUNCIL WORKSHOP

## Three Waters Reform

### Agenda

---

**Wednesday, 15 September 2021 (following Council meeting – 10.30am)**

**Council Chambers, Hauraki House, William Street, Paeroa**

---

	<b><u>Pages</u></b>
1. Presentation by Kevin Lavery, Director of Tuhura Partners. (approximately 10.30am)	
2. Council Report Governance Regulation Planning 3 Waters 2021 - 3029056	<b>2</b>
3. 3-Waters Workshop Report with Appendices - 3029089	<b>21</b>

# FOR INFORMATION | NGĀ MŌHIOTANGA



---

TO	Mayor and Councillors
AUTHOR	Langley Cavers Chief Executive
FILE REFERENCE	Document: 3026281 Appendix A: Indicative contents of the Statement of Strategic and Performance Expectations, and Statement of Intent Appendix B: Ministry for the Environment - Te Mana o te Wai factsheet information Appendix C: TasWater Industry Model Appendix D: Scottish Water Industry Model
PORTFOLIO HOLDER/S	Councillor Harris and Smeaton, the Mayor and Deputy Mayor Water and Wastewater portfolio, Policy portfolio
MEETING DATE	Wednesday, 15 September 2021
SUBJECT	<b>Representation, Regulation and Planning in the proposed Three Waters Reform Model</b>

## 1 PURPOSE | TE ARONGA

This report provides information on the three outstanding issues identified in the Three Waters Reform programme where the Government seeks potential solutions. It outlines the proposed New Zealand Three Waters governance model, integrated planning, opportunities for consumer and community input, and the role of the regulators.

Summaries of the TasWater and Scottish Water models are attached for your information.

Staff request Elected Members consider the 'outstanding issues' and any potential concerns and solutions with the Three Waters model so these can be raised with Government and LGNZ at the end of September 2021.

## 2 BACKGROUND | TE KŌRERO Ā MUA

### 2.1 Feedback process

Te Tari Taiwhenua Internal Affairs (DIA), Local Government New Zealand (LGNZ) and Taituarā are seeking feedback on the potential impacts of the proposed Three Waters Reform and how it could be improved. They want councils to identify local impacts and issues of local concern, and possible variations to the proposed reform package.

During the eight week feedback period (1 August - 30 September 2021) councils have been specifically asked to provide solutions to **three outstanding issues**<sup>1</sup> previously raised by

---

<sup>1</sup> [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/three-waters-guidance-for-councils-august-and-september-2021.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/three-waters-guidance-for-councils-august-and-september-2021.pdf) page 5.

councils and on which the Government has said there is room for flexibility to come up with solutions that meet local needs:

1. Ensuring all communities have both a voice in the system and influence over local decisions. This includes assurance that water service entities will understand and respond appropriately to communities' concerns, needs and wants.
2. Effective representation on the new water service entities' oversight boards so there is strong strategic guidance from, and accountability to, the communities they serve, including iwi/mana whenua participation.
3. Making sure councils' plans for growth, as reflected in spatial plans, district plans or LTPs, are appropriately integrated with water services planning.

After feedback from local government, LGNZ added two more issues to the list:

- rural water supplies, and
- transient populations on funding allocation.

These matters will not be addressed in this report as they do not relate to the Hauraki District Council.

## 2.2 Other Reform Programmes

In addition to the Three Waters Reform programme, the Government is reforming New Zealand's resource management system. The water service entities will need to operate within any new resource management system, including as a participant in regional spatial planning processes and as holders of resource consents. This is outlined in more detail under integrated planning below.

The Government also announced a Future for Local Government Reform programme. The draft report and recommendations are to be issued for public consultation on 30 September 2022; with the final report being presented to the Minister and Local Government New Zealand in April 2023.

## 2.3 The Government's Three Waters Proposal

The Government is proposing to:

- establish four statutory, publicly-owned water services entities that own and operate three waters infrastructure on behalf of local authorities,
- promote iwi/Māori rights and interests through joint strategic influence and oversight arrangements,
- establish independent, competency-based boards to govern,
- set a national policy direction for the three waters sector, including integration with any new spatial/resource management planning,
- establish an economic regulation regime,
- develop an industry transformation strategy.

The Hauraki District Council is in Entity B, with 22 territorial authorities in total, as shown on the map of the North Island.

DIA notes the key design features of the proposed service delivery model are:

- local authorities maintain ownership of water services entities,
- protects against privatisation by the water entities,
- councils will have less direct control,

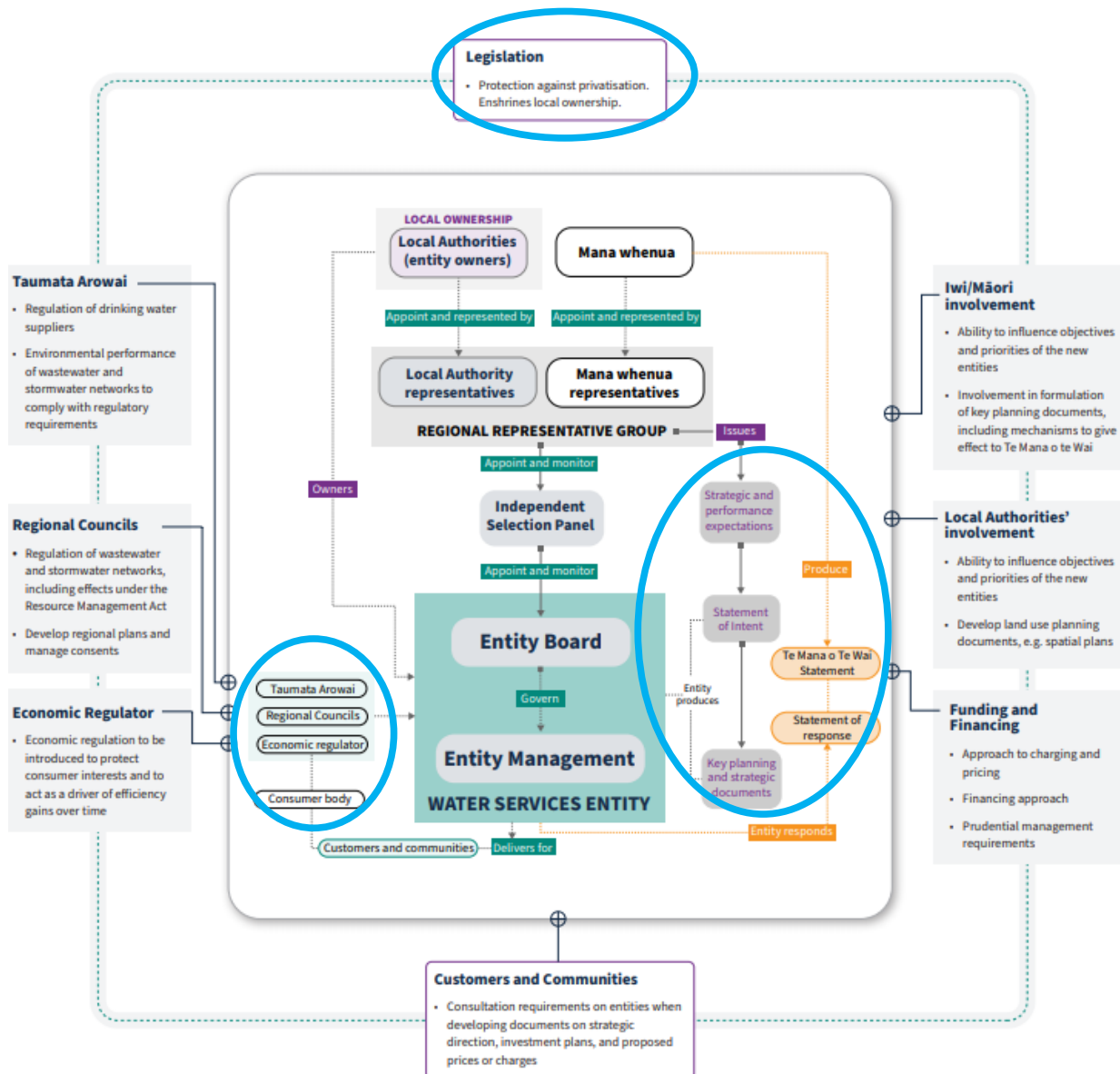


- allows for influence of local authorities and mana whenua over strategic and performance expectations,
- provides the necessary balance sheet separations from local authorities, and
- an integrated regulatory system.

As noted, a key outcome or bottom-line is separating the assets and debt relating to three waters activities (balance sheet separation) from Councils and consolidating this into a combined water entity with increased borrowing capacity than that afforded to Councils. This will increase the capacity for three waters investment, and lower the debt-to-income ratio of the residual Council entities, enabling greater borrowing capacity for other Council activities.

Figure 1 below shows the proposed service delivery model for the water service entities.

**Figure 1: A new system for three waters service delivery in NZ<sup>2</sup>**



<sup>2</sup> [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/three-waters-reform-programme-overview-a3-30-june-2021.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/three-waters-reform-programme-overview-a3-30-june-2021.pdf)

The regulators are circled on the left of the model; Taumata Arowai, Regional Councils and the economic regulator. There will also be a consumer forum for each entity and possibly an overarching Water Ombudsman.

The key strategic documents produced by the Regional Representation Group, Mana Whenua and the entity are circled on the right.

The strategic direction, asset management planning, and investment decisions of the entity will be influenced to varying degrees by the regulators, local authorities and Mana Whenua via their governance, planning and regulatory tools. Ultimately, these documents and standards must 'give effect to' or 'be in accordance with' central government legislation and secondary legislation such as; regulations, national policy statements and national environmental standards.

The community will also have a degree of direct influence through the consumer forums and the opportunity to provide feedback on the entities' asset management plans and funding and pricing plans.

The resource management system reform means entities will have to be a party to the development of regional spatial strategies and reflect this in their asset management plans accordingly. The influence regional planning (regional spatial strategies, and Natural and Built Environment Plans) will have on the water service entities asset management planning will be significant.

More detail about the proposed governance model, integrated planning, individual consumer and community voice, and the regulators is provided below.

### 3 PROPOSED GOVERNANCE MODEL

#### 3.1 The proposed model

The ownership and governance model has councils listed in legislation as owners, without shareholdings or financial interests. The water services entities will each have a board, but will be a body corporate-type structure rather than a company or Crown entity-type structure. The boards of statutory entities are generally comprised of members, rather than directors (which are a feature of companies). Members are subject to different duties and frameworks to those prescribed by the Companies Act 1993, and the supporting legislation will set out the specific duties and framework that applies to the members of the entity.

The information below on governance is sourced from Cabinet papers.<sup>3</sup> The key features of the model are listed below.

#### **The Regional Representative Group**

- Up to 12 members with half the members from local authorities and half from mana whenua will sit on the Regional Representative Group.
- Local authority representatives will be collectively appointed by the elected members of the local authorities and must be elected members, chief executives, or appropriately qualified senior managers of a local authority that constitute the water services entity.
- Local authority representatives must comprise an appropriate distribution of metropolitan, provincial and rural local authorities and represent a geographic spread across the area covered by the entity. Legislation will include appointment process, term and related requirements.
- Mana whenua representatives will be appointed through a kaupapa Māori approach.

---

<sup>3</sup> [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/cabinet-paper-two-and-minute-designing-the-new-three-waters-service-delivery-entities-30-june-2021.002.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/cabinet-paper-two-and-minute-designing-the-new-three-waters-service-delivery-entities-30-june-2021.002.pdf)  
[cabinet-paper-three-and-minute-protecting-and-promoting-iwi-maori-rights-and-interests-30-june-2021.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/cabinet-paper-three-and-minute-protecting-and-promoting-iwi-maori-rights-and-interests-30-june-2021.pdf) (dia.govt.nz)

- It is proposed representatives would likely vote on decisions that require a Representative Group decision and will typically have a single vote each, however [Cabinet paper 2](#) notes it may be appropriate for a local authority that represents a large population base to have a larger proportion of the local authority voting rights. The paper authorised the Minister of Local Government to approve further policy proposals during the legislation drafting process.
- The Regional Representative Group will appoint and monitor an Independent Selection Panel to appoint and monitor the Entity Board.
- The Regional Representative Group will issue a Statement of Strategic and Performance Expectations to the water services entity and monitor the entity against that Statement. The Statement should guide the entity in its formation of key strategic and planning documents e.g. asset management plans.

[Cabinet paper 3](#) notes a kaupapa Māori process will take time and, therefore, a transitional approach is proposed, which would be guided by the appointment of an independent Crown/Māori Relationship Lead within the boundary of each new water services entity, and through the potential appointment of a Ministerial Group to guide representative processes.

It was also noted that feedback from the engagement with iwi/Māori indicates that kaitiakitanga is more likely to be exercised at a hapū/whānau level with respect to the provision of water services, and the water services entities will need the ability to connect governance with delivery on the ground at a hapū/whānau level.

### **The Independent Selection Panel**

- The panel will include no more than four members, including the chair. Members will be independent of the entity's Representatives.
- Collectively (across the Panel) members must be respected in the field of governance, understand network infrastructure industries and have knowledge of the Treaty of Waitangi and Te Ao Māori.
- The panel will develop a charter for its operations and functions and appoint board members, utilising a skills matrix that outlines the experience, qualifications and skills expected of members of an entity board.
- An Appointment and Remuneration Policy (for the board) must be developed for presentation to the Regional Representative Group.
- It will undertake an annual review of the board's performance.
- It is proposed that the Representative Groups may remove a panel member via a super-majority vote.

### **The Board**

- The board of each water services entity will have no more than 10 members.
- The panel must ensure composition of the board adds value to the entity, and members have the skills and commitment to adequately meet the entity's objectives and discharge its responsibilities and duties.
- The board will develop a charter outlining the functions and operations of the board to present to the panel and Representatives on an information only basis.
- The board will prepare a Statement of Intent in response to the Regional Representative Group's Statement of Strategic and Performance Expectations and any Government Policy Statement issued.
- The board/entities **must** publically consult on their strategic direction, investment plans and prices/charges.
- Prioritisation methodology for infrastructure investment must be developed. There is no approval of the prioritisation methodology by the Regional Representative Group needed, but the methodology **could** be influenced by the Strategic and Performance Expectations.
- The board appoints (and can remove) the chief executive officer.
- There is a proposal for each entity to establish a consumer forum to assist with effective and meaningful engagement.

- Representative Groups can request a board member is removed and/or assessed by the panel.

Further detail on board member responsibilities (individual and collective) will be included in legislation, as the general provisions in existing legislation (such as the Companies Act 1993) would not apply to the new statutory entities.

The proposed governance model will achieve balance sheet separation as local authorities do not have a financial (or equity) interest in the entity and are not involved in day-to-day running of the entity. This was confirmed by Standard & Poors.

### 3.2 Key governance tools

The entity is responsible for decisions relating to the prioritisation of investment and will need to balance growth requirements with the Strategic and Performance Expectations, Te Mana o te Wai Statements, Statement of Intent and the requirements of other stakeholders. However, these documents must **be consistent with** any directions provided in a Government Policy Statement. In addition, investment decisions must be integrated with regional spatial planning (spatial planning is discussed under the integrated planning section of this report).

Central government has stated it has a strong interest in how the entities set objectives. Cabinet paper 2 states the **Government Policy Statement** will provide high-level strategic direction to the water service entities, convey any Government expectations in relation to Māori interests, and provide certainty about the outcomes the new entities are expected to deliver. For example, over time this could include Government expectations for addressing inequalities and/or extending supplies to under-served communities. However, it would not be pitched at an operational level or concern specific projects.

The **Statement of Intent** is the primary accountability document for the board. It sets out how the entity will deliver the objectives and priorities **in accordance with** the Government Policy Statement and Statement of Strategic and Performance Expectations. Minimum requirements would be outlined in legislation.

The entities **30-year Asset Management Plans** (AMPs) will need to be prepared in accordance with the Statement of Intent and will be approved by the Board. The AMP will input into the economic regulator's decision for setting the price quality path, and as part of that process, the economic regulator may commission independent reviews of the AMP to lift the quality of asset management practice over time. The Regional Representative Group will have the ability to comment on the AMP and comments **must be considered** by the entity. Local authorities will not have an approval right or right to direct the entity on any investment or major project.

Each entity will prepare a **Funding and Pricing Plan** (FPP), which will be reviewed each year. An FPP shows how the entity intends to fund and finance its business activities over a 10 year period. The FPP will be approved by the board, and is required to be in accordance with the Statement of Intent. The Regional Representative Group will have the ability to comment on the FPP, but will not have an approval right over the form of the FPP.

Each entity will be required to produce an **audited annual report** complying with generally accepted accounting practice and published on their website.

In Cabinet paper 2 it states a **Statement of Strategic and Performance Expectations** would set the specific objectives and priorities that the board of the entity would **'take into account'**. The duty 'take into account' indicates that a decision maker must weigh the matter with other matters being considered and in making the decision, effect a balance between the matter at issue and be able to show he or she has done so. This is not as directive as 'give effect to' or 'be in accordance with' which mean it must be put into practice or complied with.

A Statement of Strategic and Performance Expectations would have to **be in accordance with** any directions provided in a Government Policy Statement.

An entity board and entity **must** respond to the Statement of Strategic and Performance Expectations and report against it annually to the Regional Representation Group.

The **Te Mana o te Wai Statement** is prepared by Mana Whenua and the board **must** respond to it through a Statement of Response. The Government notes these statements would be an enabling mechanism, which provide iwi/hapū/whānau with the ability to communicate their expression of Te Mana o te Wai.

Local government and mana whenua will play a role in setting the strategic direction, performance expectations, and oversight of the entities. However, with independent competency-based boards governing the new entities' day-to-day management of three waters service delivery, and strong direct influence for consumers into the entities, the Government is proposing that Councils will have a significantly reduced level of direct control.

The Regional Representative Group's **Statement of Strategic and Performance Expectations** and Mana Whenua's **Te Mana o te Wai Statement** will be crucial documents for local authority and Mana Whenua influence on setting the strategic direction and performance expectations of the entity. Indicative contents for both the Statement of Strategic and Performance Expectations, and Statement of Intent are outlined in Appendix A of this report and [Cabinet paper 2](#). However, both documents will have to be in accordance with the National Policy Statement. This means the Government is ultimately setting the high-level direction.

Of note, there will likely be the ability for the Crown to retain the option to intervene as a last resort measure, when other processes and systems have failed, to ensure any issues are rectified appropriately.

## 4 INDIVIDUAL CONSUMER AND COMMUNITY VOICE

DIA notes the reform proposals aim to make it easier for individual consumers and communities to directly influence the entities themselves, through ongoing engagement, reporting and transparency obligations. This will be done through the following mechanisms:

- mana whenua and local authority representatives on the Regional Representative Group to act on behalf of their communities,
- the opportunity for individuals to provide feedback on key business documents; investment prioritisation methodology, asset management plans and funding and pricing plans, and to report on how consumer and community feedback was incorporated into final decision making,
- through one of the four consumer forums.

Each entity will be required to establish a consumer forum to assist with effective and meaningful engagement. Consumer forums will assist with the communication and engagement on the technical aspects of the key water services entity business documents, and ensure a range of consumer interests are being considered by the entity. The forums will also help provide for the views and interests of consumers and community members on key business documents by undertaking research. It is proposed each forum would consist of an elected chair and community representatives with appropriate experience and expertise. DIA notes the exact functions of the forum would not be prescribed in legislation, to enable flexibility over time for the water services entity (and the economic regulator) to refine the most effective form and use for the forum.



Cabinet paper 2 notes the new entities will need to have direct and ongoing engagement with communities, given councils will no longer have direct control over the strategic decisions that affect the provision of water services to their communities. Again, the Regional Representative Group being able to issue a **Statement of Strategic and Performance Expectations** is seen as a key mechanism for the inclusion of more local and regionalised priorities and objectives to guide entities' behaviours and decisions, alongside national direction. For example, it could set out how the entities are to engage with and account for the range of community interests within their entity's geographic area.

## 5 INTEGRATED PLANNING

The oversight and governance framework will be supplemented by other relevant documents and processes including local government planning instruments such as proposed regional spatial strategies, Te Mana o te Wai Statements and other iwi documents,<sup>4</sup> and Government Policy Statements.

To support that collaboration, DIA notes the water services legislation **will create a reciprocal obligation on the new water service entities** to:

- identify and make provision for infrastructure to service demand for new strategic capacity to meet all new housing development and the domestic requirements of commercial and industrial customers, and
- ensure that those strategic assets are delivered in support of committed development so as to minimise the likelihood of redundant assets.

DIA has proposed a range of mechanisms for discussion including:

- the requirement to identify and align regulatory strategies (and responses) and land use/growth planning,
- an expanded role for Taumata Arowai to support a catchment-based approach to development and delivery of infrastructure and services,
- a Regulatory Charter to describe expectations and requirements on regulators to develop a collective view on longer term strategic priorities,
- a Government Policy Statement for Three Waters to provide national direction to the new water entities.

The government has indicated through the Resource Management Reform, long-term spatial strategies in each region will be developed to identify areas that:

- will be suitable for development,
- need to be protected or improved,
- will need new infrastructure and other social needs such as hospitals and schools,
- are vulnerable to climate change effects and natural hazards such as earthquakes.

The Council recently submitted on the Natural and Built Environments Act Exposure Draft, which is part of the Resource Management Reform programme. In the submission the Council noted its concern with the loss of local democratic input and decision-making;

'with regard to the NBA exposure draft in particular, having one sole representative on a planning committee that prepares and makes decisions on plans applying to our district will

---

<sup>4</sup> [cabinet-paper-three-and-minute-protecting-and-promoting-iwi-maori-rights-and-interests-30-june-2021.pdf \(dia.govt.nz\)](#) notes other documents include Iwi Management Plans, Cultural Impact Statements, and/or Statements of Mana Whenua.

severely limit our ability to provide for the wellbeing of our communities. It is also not clear whether the planning committee is accountable to the councils it represents'.<sup>5</sup>

In its submission the Council also noted its support for greater involvement of Iwi in the resource management system, particularly around plan development and iwi management plans. However, Council raised the issue of the capacity of Iwi and local authorities to participate fully due to competing demands on their time and noted increased resourcing will be required to allow for increased iwi participation and leadership.

Mana Whenua should be adequately resourced to develop Te Mana o te Wai Statements and other iwi documents. It is a requirement on the water entities to provide this capacity.

Under the proposed Three Waters governance model Councils will have a significantly reduced level of direct control on the water service entities, however regional spatial strategies and land-use plans will have to be integrated with the water service entities asset management and investment decisions. Therefore, it is essential that councils are actively and effectively involved in developing regional spatial strategies and natural and built environment plans.

## 6 THREE WATERS REGULATORS

The Three Waters Reform programme will expose council water suppliers to three main areas of regulatory focus and likely significantly raise compliance pressures. These include:

- Taumata Arowai ensuring stringent compliance with drinking water safety standards,
- Taumata Arowai working alongside Regional Council regulators to provide national oversight on the performance of wastewater and stormwater networks,
- economic regulation to provide water consumers with assurance of fair and affordable pricing, and ensure transparency, efficiencies and appropriate levels of investment across three waters services.<sup>6</sup>

As noted in the report above, the Government is also looking at options to strengthen the accountability of the water service entities to the communities that they serve, for example through a water ombudsman.

### 6.1 Taumata Arowai and drinking water standards

Taumata Arowai became a Crown entity in March 2021 and takes over from the Ministry of Health as the dedicated new drinking water regulator when the Water Services Bill is enacted (expected later this year). Taumata Arowai will, amongst other things:

- enforce current drinking water standards,
- monitor results of the supplier's source water quality monitoring and provide results to regional councils on an annual basis,<sup>7</sup>
- have the power to make drinking water standards and compliance rules and set aesthetic values and acceptable solutions or verification methods,<sup>8</sup>
- monitor drinking water supplier complaints and assist consumers who have concerns about the quality of their water supply where they feel it has not adequately addressed them,<sup>9</sup> and

<sup>5</sup> HDC submission on the Natural and Built Environments Act Exposure Draft (2994320)

<sup>6</sup> <https://www.dia.govt.nz/Three-Waters-Reform-Programme#latest-information>

<sup>7</sup> Clause 42, Water Services Bill

<sup>8</sup> Clauses 46-52, Water Services Bill

<sup>9</sup> Clause 38-40 Water Services Bill

- have the power to appoint 1 or more operators to act in place of the supplier if there is non-performance by the drinking water supplier, and recover costs from the supplier.<sup>10</sup>

Before making 'standards/rules' Taumata Arowai must ensure public consultation has been carried out. This will give councils and other interested parties an opportunity to provide feedback.

The Water Services Bill will also provide Taumata Arowai with a set of regulatory tools that will be used to ensure that drinking water safety standards are achieved. Taumata Arowai will have the power to:

- put in place directions and compliance orders to ensure that unacceptable risks to public health are resolved in a timely way e.g. require the treatment of drinking water,
- undertake remedial action and recover the costs,
- issue infringement fees and prosecute where reckless or wilful behaviour creates risk to public health.

These tools will be applied proportionately to the risk, scale and complexity of a supply. Details will be specified by regulations made under the Water Services Bill (when enacted).

The drinking water standards currently remain unchanged, however this could change in the future. In the new regulatory environment, suppliers will be required to meet the current standards. At present many do not. In many cases to comply with these standards may require additional infrastructure investment. Councils will not be able to defer crucial upgrades on the grounds of costs. Under the proposed Three Waters Reform councils will not have control over operational investment decisions of the water service entity. Whereas water standards and regulations will likely have a lot of influence over investment decisions.

## 6.2 Taumata Arowai, Regional Councils and Wastewater and Stormwater

The Water Services Bill notes Taumata Arowai must monitor and report on the infrastructure performance of wastewater and stormwater networks and network operators for the purposes of:

- providing transparency about network and operator performance,
- compliance with applicable standards,
- and identifying actions to avoid, remedy, or mitigate any adverse effects on the environment.<sup>11</sup>

The purpose is to identify best practices that relate to the design, management, and operation of wastewater and stormwater networks. DIA notes that reporting on network performance in this way will potentially require substantial additional investment in these networks.<sup>12</sup>

Taumata Arowai must also develop, publish, and maintain infrastructure performance measures for wastewater and stormwater networks in consultation with network operators and regional councils.

The regulatory approach to managing the environmental effects of wastewater and stormwater is provided under the Resource Management Act 1991, and regulations made under that Act. Regional councils will continue to make environmental regulations that affect wastewater and stormwater networks and monitor and manage water take and discharge consents. The National Policy Statement for Freshwater Management 2020 provides national direction which

---

<sup>10</sup> Clause 82 Water Services Bill

<sup>11</sup> Sections 136-140, Water Services Bill

<sup>12</sup> <https://www.dia.govt.nz/Three-Waters-Reform-Programme>

regional councils translate into action on the ground through their regional policy statement and regional plans and city and district councils through their district plans.

Clause 14 of the Water Services Bill states a person (includes a company in law) must **give effect to** Te Mana o te Wai, or the vital importance of water, when exercising or performing a function, power, or duty under the Act. As prescribed in the National Policy Statement for Freshwater Management, Te Mana o te Wai imposes a hierarchy of obligations prioritising the health and well-being of water first. The second priority is the health needs of people (such as drinking water) and the third is the ability of people and communities to provide for their social, economic and cultural well-being. The hierarchy does not mean, however, that in every case the water needs to be restored to a pristine or pre-human contact state before the other needs in the hierarchy can be addressed. There is more information on Te Mana o te Wai in **Appendix B**.

There is also a National Environmental Standard (NES) for Sources of Human Drinking Water, which is overseen by the Ministry for the Environment. Revisions to the NES are underway for wastewater discharges and overflows.<sup>13</sup>

The Resource Management Act Reform and subsequent consenting regimes, the implementation of the National Policy Statement for Freshwater Management by Regional and District Councils, and the elevation of Te Mana o te Wai creates uncertainty around acceptable future discharge characteristics, from which appropriate treatment processes, and the necessary capex investment and operating practices, may be determined.

### 6.3 Economic regulation (subject to further decisions by Government)<sup>14</sup>

Ministers have agreed that the three waters sector will be subject to economic regulation that will ensure there is good service quality for the consumer, the right level of investment, and drive efficiency gains – including a requirement to meet depreciation, protection against inefficiencies and the removal of opportunities for monopoly/excessive pricing. Economic regulation will provide greater transparency about the costs and performance of three waters services and infrastructure and strengthen accountability for performance.

While final decisions are yet to be taken on economic regulation, due to the need for sector and public consultation, DIA note the regime is likely to involve:

- Individualised price quality paths – plus information disclosure requirements for the proposed new water service entities and a form of information disclosure for councils that opt out of the proposed water service entities.
- Minimum service quality standards (in addition to the standards set by Taumata Arowai).
- The appointment of an independent and credible economic regulator (e.g. the Commerce Commission) to administer the regime.

A discussion paper on three waters economic regulation is due to be published later this year. Mechanisms that the Government anticipate will be considered through the paper include:

- the design of an appropriate dispute resolution process,
- the establishment of a consumer advocacy council (as mentioned in the governance and community voice section above) to provide expert advocacy on behalf of consumers,
- options to protect consumers who are vulnerable due to their age, health, disability, or financial position,
- an ability for a regulator to mandate service quality codes,
- the process for setting prices, including requirements for pricing transparency.

<sup>13</sup> Information Memorandum Standard and Poors Three waters reform programme.

<sup>14</sup> <https://www.dia.govt.nz/Three-Waters-Reform-Programme>

Economic regulation falls within the portfolio of the Minister of Commerce and Consumer Affairs. Preparation of advice will be led by the Ministry of Business, Innovation and Employment, in consultation with the Department of Internal Affairs and the Treasury.

## 7 OUTSTANDING ISSUES, CONCERNS, PROPOSED SOLUTIONS

The three 'outstanding issues' are listed below for further discussion:

1. Ensuring all communities have both a voice in the system and influence over local decisions. This includes assurance that water service entities will understand and respond appropriately to communities' concerns, needs and wants.
2. Effective representation on the new water service entities' oversight boards so there is strong strategic guidance from, and accountability to, the communities they serve, including iwi/mana whenua participation.
3. Making sure councils' plans for growth, as reflected in spatial plans, district plans or LTPs, are appropriately integrated with water services planning.

There may be more local concerns and issues the Council wants to raise at the workshop.

As a starting point, we should take the position that the current overall governance model is going to be put in place. Your feedback can then focus on what you want to see changed with this model, which could mitigate your concerns.

**Key points** from the report that relate to the 'outstanding issues' are summarised below for consideration:

- Under the proposed Three Waters governance model Councils will have a significantly reduced level of direct control on the water service entities.
- There are 22 councils in Entity B and local authorities will have a maximum of six representatives on the Regional Representative Group.
- Individual consumers and communities can influence the entities through the following mechanisms:
  - mana whenua and local authority representatives on the Regional Representative Group to act on behalf of their communities,
  - the opportunity for individuals to provide feedback on key business documents; investment prioritisation methodology, asset management plans and funding and pricing plans, and the board to report on how consumer and community feedback was incorporated into final decision making,
  - through consumer forums.
- The Regional Representative Group's Statement of Strategic and Performance Expectations and Mana Whenua's Te Mana o te Wai Statement will be crucial documents for local authority and Mana Whenua influence on setting the strategic direction and performance expectations of the entity.
- The Regional Representative Group's Statement of Strategic and Performance Expectations must be in accordance with Government Policy Statement, as must the Boards Statement of Intent.
- Local Authorities will not have an approval right, or right to direct, the asset management plans or the pricing/charging decisions of the entity.
- When an entity makes decisions on three waters investment, they will be required to give effect to the strategic priorities set out in the Government Policy Statement.
- Water standards and regulations will likely have a lot of influence over investment decisions.
- Regulators must comply with legislation and secondary legislation; regulations, national policy statements and national environmental standards.
- Regional spatial strategies and natural and built environment plans will be integrated with the water service entities asset management and investment decisions.

Based on these key points staff note that:

- For all intense purposes the water entities are essentially Crown Organisations that get the majority of their direction from the crown via National Policy Statements and National Environmental Standards.
- Only having 5 or 6 local authority Representatives on the Regional Representative Group will make it difficult to reflect the views of 22 local authorities. This could be an issue for both Māori and non-Māori representation. Should a local authority representative be elected for a pre-determined sub-regional area? For example, East-South Waikato.
- For local authorities to have meaningful input into the Regional Representative Group decision-making processes they will need to have good communication with the Representatives and a way to provide input. What will the process be for providing Council input? Should it be done every second or third year so the process is more meaningful in terms of an engagement process? This could be costly.
- Staff do not want to recommend a time consuming and/or expensive process for providing council input into the Regional Representative Group, if it is better to focus on other ways to add value, such as through spatial planning and input into the regulators processes.
- It is essential that councils are actively and effectively involved in developing regional spatial strategies and natural and built environment plans as a way to reflect local issues and ambitions in planning mechanism and Threes Waters investment.
- Local government and the community need to have meaningful input into the regulators processes through meaningful stakeholder engagement processes.
- LGNZ, on behalf of local government, should be consulted and have meaningful input into the development of a Government Policy Statement.
- The entity must prepare a Statement of Intent and in doing so 'take into account' the Regional Representative Group's Statement of Strategic and Performance Expectations and must respond to Mana Whenua's Te Mana o te Wai Statement. Maybe the Statement of Intent should be made 'in accordance with' the Statement of Strategic and Performance Expectations and the Te Mana o te Wai Statement.

## 8 NEXT STEPS | TE ARA KI MUA

Council feedback will be raised with Government and LGNZ at the end of September 2021.

Government decisions on entity boundaries, governance and transition and implementation arrangements will occur after the eight week-process ends. The government intends to introduce the 'Water Services Entity Bill' into Parliament in late 2021.

On the assumption that the reform goes ahead, it is anticipated that councils will continue to deliver water services until at least early 2024 and council involvement in transition will be required throughout.

### Approval

<b>Prepared by</b>	Charan Mischewski <b>Strategic Planner</b>	Adrian de Laborde <b>Group Manager Service Delivery</b>
<b>Approved by</b>	Langley Cavers <b>Chief Executive</b>	

## APPENDIX A: Indicative contents of Statement of Strategic and Performance Expectations, and Statement of Intent

	Statement of Intent
<p><i>Purpose: sets out the priorities and expectations from Governors to inform the development of the entity's Statement of Intent</i></p>	
<ul style="list-style-type: none"> <li>• Guidance to entity on general expectations and strategic priorities from Governors for the entity, with examples potentially including:               <ul style="list-style-type: none"> <li>○ Promote and improve iwi/Māori outcomes</li> <li>○ Collaborate on the optimal delivery solution for a particular sub-regional area</li> </ul> </li> <li>• Priority areas can supplement general and strategic priorities, with examples potentially including:               <ul style="list-style-type: none"> <li>○ Deliver core responsibilities</li> <li>○ Take/maintain a customer centred approach</li> <li>○ Support local authorities' response to growth</li> <li>○ Support local authorities' response to environmental challenges</li> </ul> </li> <li>• Enhanced planning and financial modelling</li> <li>• Expectations around priorities and supplemental statements can be more specific around objectives, operating principles or regional outcomes but must be consistent with any legislative or GPS positions</li> </ul>	<ul style="list-style-type: none"> <li>• Objectives and strategic priorities</li> <li>• Consistency of SOI with primary and secondary objectives</li> <li>• Nature and scope of the activities to be undertaken</li> <li>• An outline of significant work programmes/key projects</li> <li>• Prioritisation methodology for infrastructure investment</li> <li>• Consumer and community engagement</li> <li>• Performance targets or other performance measures by which the performance of the entity may be judged in relation to its objectives, as may be more particularly described in the asset management plan</li> <li>• Performance and risk management approach</li> <li>• Financial information, including forecast results for the current annual period, actual results from the prior year, and budgets for the following three years</li> </ul>

## APPENDIX B: Ministry for the Environment Te Mana o te Wai information

<https://environment.govt.nz/assets/Publications/Files/essential-freshwater-te-mana-o-te-wai-factsheet.pdf>

### Concept

Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community.

Te Mana o te Wai is relevant to all freshwater management and not just to the specific aspects of freshwater management referred to in this National Policy Statement.

### Framework

Te Mana o te Wai encompasses 6 principles relating to the roles of tangata whenua and other New Zealanders in the management of freshwater, and these principles inform the National Policy Statement for Freshwater Management and its implementation.

The 6 principles are:

- (a) Mana whakahaere: the power, authority, and obligations of tangata whenua to make decisions that maintain, protect, and sustain the health and well-being of, and their relationship with, freshwater.
- (b) Kaitiakitanga: the obligation of tangata whenua to preserve, restore, enhance, and sustainably use freshwater for the benefit of present and future generations.
- (c) Manaakitanga: the process by which tangata whenua show respect, generosity, and care for freshwater and for others.
- (d) Governance: the responsibility of those with authority for making decisions about freshwater to do so in a way that prioritises the health and well-being of freshwater now and into the future.
- (e) Stewardship: the obligation of all New Zealanders to manage freshwater in a way that ensures it sustains present and future generations.
- (f) Care and respect: the responsibility of all New Zealanders to care for freshwater in providing for the health of the nation.

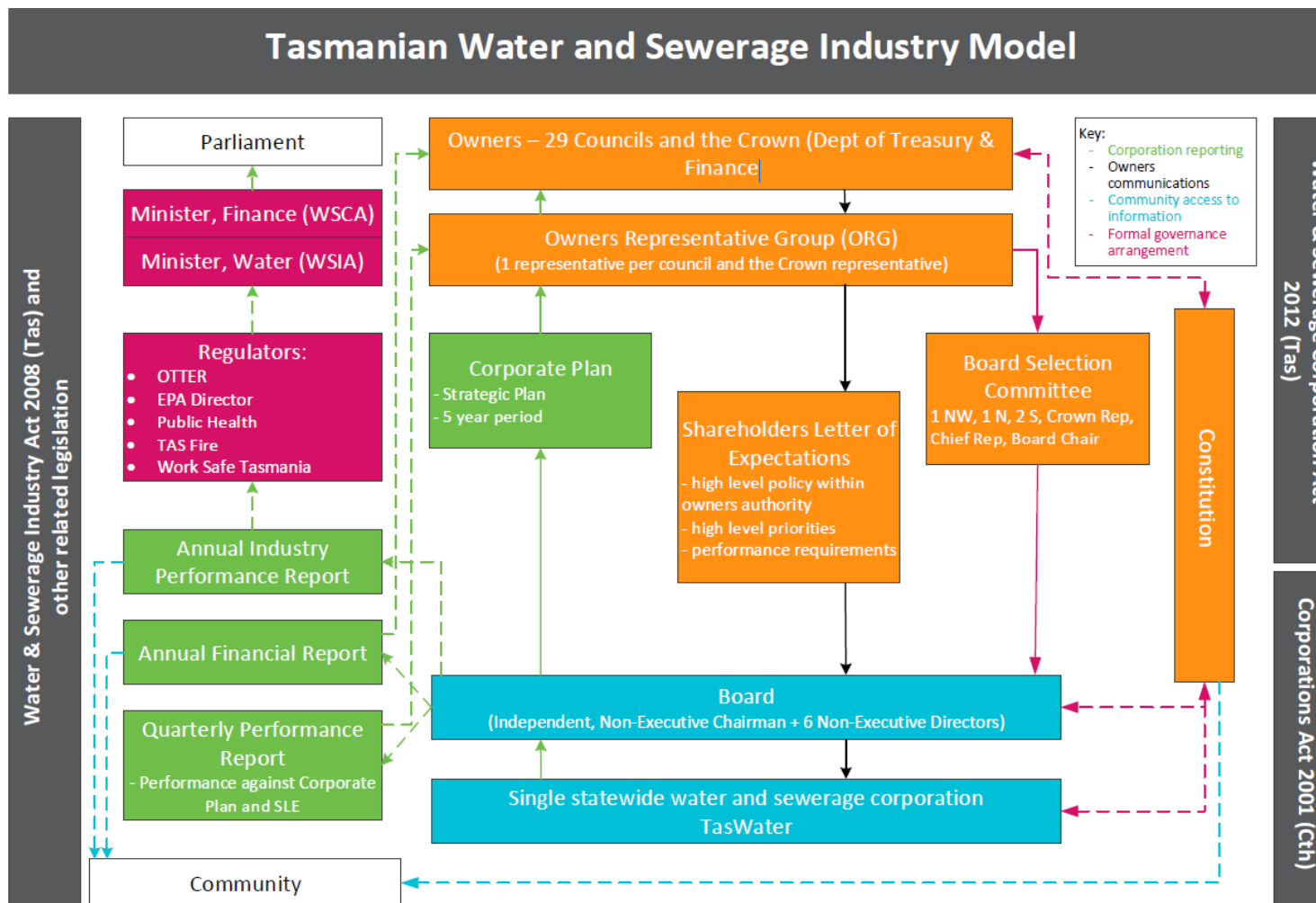
There is a hierarchy of obligations in Te Mana o te Wai that prioritises:

- (a) first, the health and well-being of water bodies and freshwater ecosystems,
- (b) second, the health needs of people (such as drinking water),
- (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

The hierarchy does not mean, however, that in every case the water needs to be restored to a pristine or pre-human contact state before the other needs in the hierarchy can be addressed.



## APPENDIX C: TasWater Model



## Summary of Tasmanian Model

### TasWater Governance Model

TasWater is owned by 29 Councils and the Crown. The key features of the model include:

- One representative per Council on the Owners Representative Group (ORG) and the Crown representative.
- A Committee of the ORG, the Board Selection Committee, appoints the Board members. The Committee has a geographic spread of members e.g. North, South and Northwest.
- Shareholders (the councils) develop a Letter of Expectation and a Constitution to be complied with by TasWater.
- The Shareholder Letter of Expectation states TasWater shall participate in reviews, and provide input into the continuous improvement and implementation of any regional or municipal planning strategies which may affect, or be affected by, the Corporation's area or activities, e.g. regional land use strategies, infrastructure plans and strategic plans of councils.
- TasWater develops a 5 yearly Strategic Corporate Plan to be sent to the ORG.
- TasWater must also produce Annual Financial Report and quarterly performance report that is sent to the ORG.

In this model every council has a representative on the ORG and some of those members form the Committee that appoints the Board. There is more council control in this model, however there is no provision for separate indigenous representation on the ORG.

### TasWater Regulators

The Regulator's (OTTER, EPA and Public Health) functions are to:

- administer the licensing system for water and sewerage entities;
- establish and administer the Customer Service Code;
- regulate prices, terms and conditions for water and sewerage services;
- monitor the performance of the water and sewerage industry and report on the performance of regulated water and sewerage entities, and
- provide input, as requested, into regulatory policy issues.

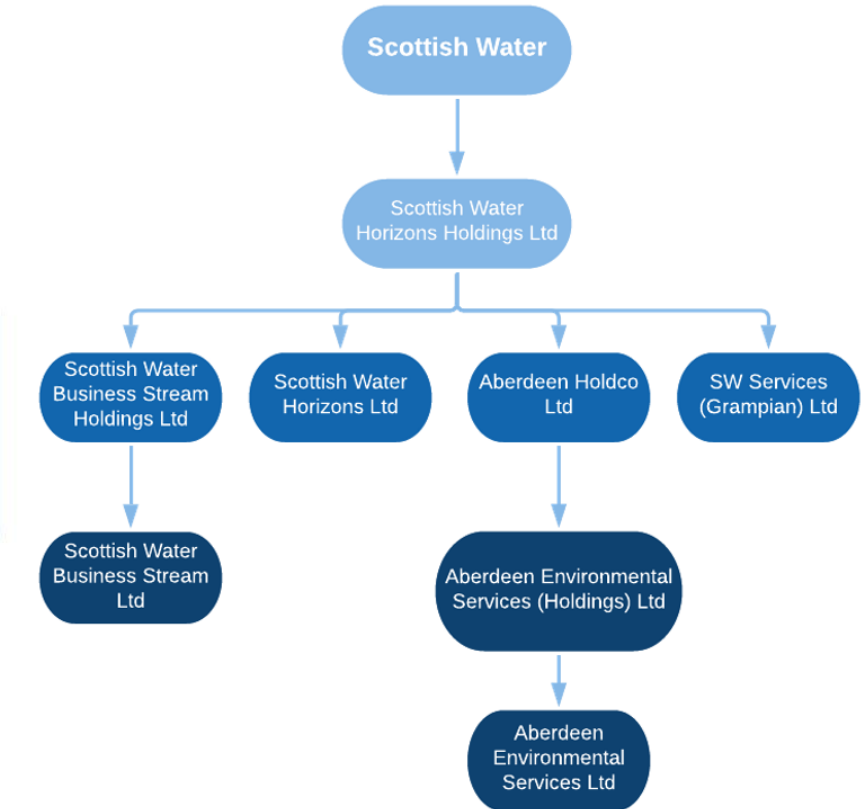
The Water and Sewerage Industry Act 2008 includes administrative penalty provisions whereby the Regulator may impose financial penalties on licensed providers of water and sewerage services who fail to comply with the Act.

Water and sewerage licensees must have their own procedures to handle customer complaints, consistent with recognised Australian Standards. If a customer is dissatisfied with the way a complaint has been handled, the complaint may be lodged with the Ombudsman.<sup>15</sup>

---

<sup>15</sup> <https://www.economicregulator.tas.gov.au/water>

## APPENDIX D: Scottish Water Model and Business Model



## Summary of Scottish Water

### Scottish Water Governance Model

Scottish Water is a public company accountable to Scottish Ministers and Parliament.<sup>16</sup> The key features of the model include:

- The Scottish Parliament holds Scottish Water and Ministers to account and regularly calls executives to its committees to give progress updates.
- The Scottish Government/Ministers set the objectives for Scottish Water, set charging principles, and appoint the Chair and Non-executive Members to the board of Scottish Water.
- The Board comprises of the Chair, three Executive and seven Non-Executive Members.
- Scottish water delivers the investment priorities of Ministers within the funding allowed by the Water Industry Commission for Scotland, the economic regulator. The Commission sets charges and reports on costs and performance.<sup>17</sup>

This model keeps the assets in public ownership, but has a much simpler governance model. The Government sets national strategic direction and the Board delivers on that direction.

### Scottish Water Regulators

Below are the key features of the Scottish regulatory system for water and wastewater (Scottish Water):

- The Water Industry Commission for Scotland is the economic regulator and sets price limits based on lowest overall reasonable cost of achieving Ministers' Objectives and reports on costs and performance.
- The Drinking Water Quality Regulator (DWQR) is responsible for protecting public health by ensuring compliance with drinking water quality regulations. DWQR also advises ministers on future investment in drinking water quality.
- Like Taumata Arowai, DWQR has a role to ensure drinking water is not only safe, but pleasant to drink. Working with Citizens Advice Scotland, DWQR assists consumers who have concerns about the quality of their water supply where they feel Scottish Water has not adequately addressed them. This is also tasked to Taumata Arowai.
- Amongst other regulatory tools, DWQR has emergency powers to require the water supplier to carry out works that ensure the quality of water supplied is safe for public consumption.<sup>18</sup>
- Scottish Environment Protection Agency is responsible for ensuring that Scottish Water meets environmental requirements, and advises ministers on future investment in environmental improvements.<sup>19</sup> This is similar to the role of the NZ regional councils, except it is one entity making the regulations.
- The Scottish Public Services Ombudsman investigating complaints about public services in Scotland, including Scottish Water.
- The Delivery Assurance Group (DAG) which the government chairs and operate, ensures the industry is delivering on the objectives that ministers set.

---

<sup>16</sup> <https://www.gov.scot/policies/water/>

<sup>17</sup> <https://www.scottishwater.co.uk/about-us/who-we-are/scottish-water-structure>

<sup>18</sup> The Water Industry (Scotland) Act 2002

<sup>19</sup> <https://www.gov.scot/policies/water/water-industry-governance/>

## FOR INFORMATION | NGĀ MŌHIOTANGA



---

TO	Mayor and Councillors
AUTHOR	Langley Cavers Chief Executive
FILE REFERENCE	Document: 3020165 Appendix A - 2020 Indicative Reform Programme Appendix B - Government's Case for Change Appendix C - Funding to invest in the future of local government and community wellbeing Appendix D - Private Water Schemes Appendix E - Morrison Low Report
PORTFOLIO HOLDER/S	Councillor Ross Harris
MEETING DATE	15 September 2021
SUBJECT	<b>Workshop – 3 Waters Reform</b>

## EXECUTIVE SUMMARY | TE WHAKARĀPOPOTANGA

Over the past four years the central and local government have been considering the issues and opportunities facing the system for regulating and managing the three waters (drinking water, wastewater, and stormwater) – Three Waters Reform. The background is provided in Appendix A including information on Taumata Arowai (which became a new Crown entity in March 2021 and will become the dedicated water services regulator later this year).

The Government has concluded that the [case for change](#)<sup>1</sup> to the three waters service delivery system has been made (Appendix B) and during June and July 2021 it released information and made announcements on:

- the direction and form of Three Waters Reform, including proposed new Water Service Entities (four and their indicative boundaries), their governance arrangements and public ownership,
- individual (WICS) Council data based on the information supplied under the RFI process,
- a package of investment (\$2.5b) for councils to invest in the future for local government, urban development, and the wellbeing of communities, ensuring no council is worse off as a result of the reforms, and funding support for transition,
- an eight-week process for councils to understand the implications of the reform announcements, ask questions and propose solutions and for Government to work with councils and mana whenua on key aspects of the reform (including governance, integrated planning and community voice).

Hauraki District Council has been placed in Entity B and our better off funding allocation is \$15.12M.

---

<sup>1</sup> [Transforming the system for delivering three waters services \(dia.govt.nz\);  
https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/transforming-the-system-for-delivering-three-waters-services-the-case-for-change-and-summary-of-proposals-30-june-2021.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/transforming-the-system-for-delivering-three-waters-services-the-case-for-change-and-summary-of-proposals-30-june-2021.pdf)

While the Government and LGNZ consider that a national case for change has been made, each council will ultimately need to make a decision based on its local context *if* the process to join one of the proposed entities remains voluntary.

This report provides Council with the staff analysis of the information provided and assesses the Government's proposal and currently available service delivery options. In preparing it council staff have used various sources including; Local Government New Zealand, Taituarā, and Te Tari Taiwhenua Internal Affairs [guidance](#)<sup>2</sup> and our risk framework and policy to assist Council to understand the information that has been provided to date and enable Council to prepare for future decisions and consultation and engagement with communities. Key risks considered are documented in the report.

In summary,

- Our Council specific information does not appear to be correct, however nationally the information appears to be generally in the right direction. The Group Manager Business Support has undertaken some modelling, combined with the WBOP Consortium modelling, which shows at best the Reform is neutral for us. The benefits are in the intangibles i.e. staff career path enhancement, staff resilience, staff retention etc. No consideration has been given to the effect on our communities economically and socially in the medium to long term.
- Given the peer reviews of the modelling and underlying assumptions (which always carry a degree of uncertainty) limited further analysis of this work has been done and staff have focussed on the options and their implications for Council and the community.
- **Option A - Government proposal:** The 'greater financial capability, efficiency, affordability and community/water benefits (as published by Government) of delivering three waters' to the community by the proposed new Water Services Entities may result in lower future costs to consumers if they can be realised.

Our analysis suggests there could be reduced risk to council with non-compliance with standards and processes, lower costs for delivery, and procurement. Council would also not be responsible if a non-council supplier couldn't meet standards, although the risk to HDC is considered minor.

There are risks that need to be mitigated including integration with spatial, growth and local planning and transparent prioritisation, households' ability to pay, and Council's financial sustainability. There are several risks associated with transition to this model, most of which are outside of Council's control and are noted in the transition section of the report.

- **Option B (Status Quo) - Delivery of three water services by Council:** The potential benefits of this option include greater Council control and more certainty over local infrastructure integration (planning and delivery) with land use plans and council objectives. Council however faces reasonable risks over the short term, including potentially higher costs, in meeting the new environmental requirements and achieving compliance. The ability of non-Council water supplies to meet standards and requirements also poses a small risk to Council and the community. The other risk to Council is resilience and lack of capacity. If some Councils opted in to the reforms and the Council did not, it may be difficult to retain staff.

---

<sup>2</sup> <https://www.lgnz.co.nz/assets/Three-Waters-Guidance-for-councils-over-the-next-eight-weeks-FINAL.pdf>

- While the causes of most of these risks are not within Council's control, we will be able to mitigate them effectively; however, the mitigation options will result in greater investment. These costs are already modelled in the Council's current LTP and associated 30 Year Infrastructure Strategy. There is potential that these increased costs may place an additional burden on our communities, however the recent consultation through the LTP did not indicate this.
- **Option C - Regional or sub-regional aggregation of three waters services in a Council Controlled Organisation [asset owning]:** While councils would still need to be satisfied that the changing regulatory environment was adequately provided for, including ensuring there was sufficient funding to meet legal and regulatory obligations due to scale, this option better addresses the risk that the size of investment required to meet new standards and community expectations is greater than forecast by individual councils.
  - It enables an organisation to focus on the group's three water challenges and prioritise investment decisions across the region, which should lead to better environmental and community outcomes.
  - It provides for greater strategic, management and operational capacity and capability, workforce development and planning.
  - It enables efficiencies in planning, programming, procurement and delivery and as a result should reduce household costs and increase affordability.

However, there are integration risks with spatial, growth and local planning and uncertainties around the future costs to households. These however exist for all the above options, including Option A.

Under all options except the Government proposal, Council bears the responsibility of meeting the new water standards, environmental requirements and achieving compliance. There are also implications and challenges for non-Council supplies to meet drinking water quality requirements, with the risk that these supplies might default to Council in the future, however, this is considered to be a low risk for HDC.

We have been requested to provide feedback without consideration to the other Government reforms (Resource Management, Future of Local Government) and this approach poses concerns for staff. The interrelated nature of these 3 matters is considered significant and as such staff believe they should be considered collectively.

Managing transition risks if Council chose Option A are likely to pose a greater challenge for Council (and others in its grouping) than the risks associated with the alternative options. If the Government's proposal were to proceed, effective management of the transition by Council, Government and partners will be critical.

The law currently prohibits Council's deciding to opt-in to the Government's current proposal (given section 130 of the Local Government Act 2002 and what we know about this option at present). Current decision-making requirements, including the need to take account of community views and strategic nature of the assets involved, would also preclude Council deciding to opt-in at this time without consultation.

The Council could consider alternative arrangements that involve asset transfers, divestment, change in ownership and or the setting up of a Council Controlled Organisation (CCO), a Council Controlled Trading Organisation (CCTO) or Council Organisation (CO) to deliver water services in the future under s17A and s130 of the Local Government Act 2002. These are the models for both WaterCare (Auckland) and Wellington Water.

There are a number of issues, concerns and uncertainties for the Government and councils to work through before a robust Council decision (and decision-making process) can be produced, including whether legislative change will enable or require the Water Services Entity or CCO approach to be adopted. Therefore, there is no expectation that councils will make a decision to opt-in (or out) or commence community engagement or consultation over the eight-week period.

Councils have been specifically asked to provide solutions to three outstanding issues during the next eight weeks:

- ensuring all communities have both a voice in the system and influence over local decisions
- effective representation on the new water service entities' oversight boards, including preventing future privatisation
- ensuring integration between growth planning and water services planning.

Staff are of the opinion that the Governance and Regulatory arrangements for the Government's delivery model are absolutely crucial to the wellbeing of our communities and as such have prepared a separate report on this workshop agenda to address these matters and the three outstanding issues.

The government has subsequently asked Councils to also consider the following matters:

- rural water supplies
- the impact of transient populations on funding allocations.

These have no relevance to HDC and as such are not considered further.

Staff request Elected Members consider the issues that arise from the Government's proposal and any potential solutions so these can be raised with Government and LGNZ before the end of September 2021.

Government decisions on entity boundaries, governance and transition and implementation arrangements will occur after the eight week-process ends (30 September 2021).

On the assumption that the reform goes ahead, it is anticipated that councils will continue to deliver water services until at least early 2024 and council involvement in transition will be required throughout.

**Note:** We are still receiving / have yet to receive information on the proposal that is significant and crucial on substantive details, such as how the economic regulator will operate, and has not – and will not – be provided for some time. We acknowledge that it makes it very difficult for the Council to make an informed decision or to provide informed feedback without this crucial information.

The quote 'the Government is making this plane as they fly it' is appropriate.

## 1 PURPOSE | TE ARONGA

This report updates the Hauraki District Council on:

- the Government's 30 June 2021 and 15 July 2021 Three Waters Reform announcements, which change the reform process previously outlined in 2020,
- the specific data and modelling Council has received to date,



- the implications of the revised Three Waters Reform proposal for Council and alternative service delivery options,
- next steps (including uncertainties).

## 2 BACKGROUND | TE KŌRERO Ā MUA

Since the 1990's local government and others have given consideration to the delivery of three waters. Following the serious campylobacter contamination of a drinking water source in 2016 and the Government's Inquiry into Havelock North Drinking Water, central and local government have focussed on the issues and opportunities facing the system for regulating and managing the three waters (drinking water, wastewater, and stormwater).

The focus has moved from how to ensure safe drinking water to include improving the environmental performance and transparency of wastewater and stormwater networks and to deal with funding and affordability challenges, particularly for communities with small rating bases or high-growth areas that have reached their prudential borrowing limits.

The Government's stated direction of travel has been for publicly-owned multi-regional models for delivery of the three waters (with a preference for local authority ownership). The Department of Internal Affairs (DIA), in partnership with the Three Waters Steering Committee (which includes elected members and staff from local government) commissioned specialist economic, financial, regulatory and technical expertise to support the Three Waters Reform Programme and inform policy advice to ministers.

The initial stage (Tranche 1 - MOU, Funding Agreement, Delivery Plan and RFI process) was an opt in, non-binding approach. It did not require councils to commit to future phases of the reform programme, to transfer their assets and/or liabilities, or establish new water entities. The 2020 indicative reform programme and then anticipated next steps are attached as Appendix A.

Councils completed the significant RFI process over Christmas and New Year 2020/21 and the Government has used this information, evidence, and modelling to make preliminary decisions on the next stages of reform and has concluded that the case for change has been made. Their case for change is attached as Appendix B.

It must be noted that Councils were not given the opportunity to check or amend this data when errors were identified. The case for change has been made.

## 3 Government's June and July 2021 announcements and information releases

In June 2021 a suite of information was released by Government that covered estimated potential investment requirements for New Zealand, scope for efficiency gains from transformation of the three waters service and the potential economic (efficiency) impacts of various aggregation scenarios.<sup>3</sup>

In summary the modelling indicated a likely range for future investment requirements at a national level in the order of \$120 billion to \$185 billion, an average household cost for most councils on a standalone basis to be between \$1,910 and \$8,690 by 2051. What it did not indicate is that approximately \$110 billion investment for maintenance, operation and capital investment in 3-waters was already included in the 30 year infrastructure strategies by

<sup>3</sup> This information, including peer reviews and the Minister's briefing can be accessed at: <https://www.dia.govt.nz/Three-Waters-Reform-Programme> and [release-of-second-stage-evidence-base-released-june-2021](#).

Councils for 3-waters. This amount is included in the \$120billion to \$185 billion i.e. it is not in addition to.

It also estimated these average household costs could be reduced to between \$800 and \$1,640 per household and efficiencies in the range of 45% over 15-30 years if the reform process went ahead. An additional 5,800 to 9,300 jobs and an increase in GDP of between \$14b to \$23b in (Nett Present Value, NPV terms over 30 years) were also forecast. While these numbers can be disputed endlessly, the general direction is likely correct – regardless of how marginal it might be – and staff believe we should not focus on this overly. Section 4 discusses this further.

As a result of this modelling, the Government **has decided** to:

- establish four statutory, publicly-owned water services entities that own and operate three waters infrastructure on behalf of local authorities,
- establish independent, competency-based boards to govern these entities,
- set a clear national policy direction for the three waters sector, including integration with any new spatial / resource management planning processes,
- establish an economic regulation regime
- develop an industry transformation strategy.

The proposed safeguards against privatisation by the entities can be found on page 26 of the DIA's [summary of the case for change](#). Of course these 'safeguards' are irrelevant if a future Government wishes to privatise and the waters being in 4 entities would make this more achievable.

Both DIA and LGNZ have produced two page national overviews, available on the DIA [website](#)<sup>4</sup> and [LGNZ websites](#)<sup>5</sup> respectively. Appendix B contains more detail on the national context and provides the DIA/LGNZ overviews.

We have been placed in Water Services Entity B, although the precise boundaries are still up for discussion. The diagrams below show the extent of the proposed boundaries for the proposed four water entities.

---

<sup>4</sup> [2872-DIA-A3-A New Water with-without reform Map 20210526 v2.7](#)

<sup>5</sup> [Three-Waters-101-Infographic.pdf \(lgnz.co.nz\)](#)

## Entity A

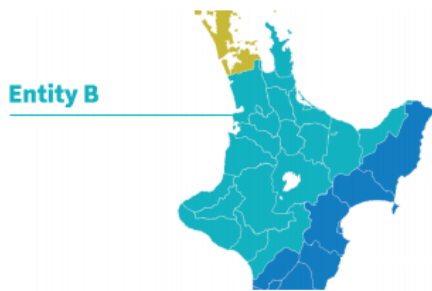


Auckland  
Far North  
Kaipara  
Whangarei

### Entity A

Connected population (2020)	1.7m
<b>Average household cost (2051, real)<sup>1</sup></b>	
With reform	\$800
Without reform	\$2,170

## Entity B

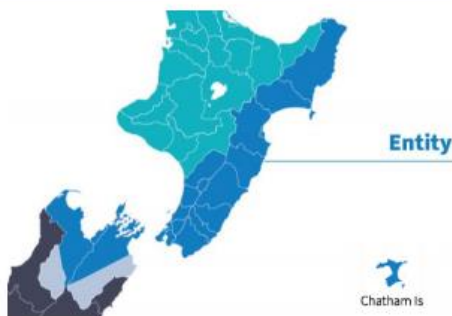


Hamilton  
Hauraki  
Kawerau  
Matamata-Piako  
New Plymouth  
Opotiki  
Rotorua Lakes  
Rangitikei  
Rotorua Lakes  
Ruapehu  
South Taranaki  
South Waikato  
Stratford  
Taupo  
Tauranga  
Thames-Coromandel  
Waikato  
Waipa  
Waitomo  
Western Bay of Plenty  
Whakatane  
Whanganui

### Entity B

Connected population (2020)	0.8m
<b>Average household cost (2051, real)<sup>1</sup></b>	
With reform	\$1,220
Without reform	\$4,300

## Entity C



Carterton  
Central Hawke's Bay  
Chatham Islands  
Gisborne  
Hastings  
Horowhenua  
Kapiti Coast  
Lower Hutt  
Manawatu  
Marlborough  
Masterton  
Napier  
Nelson  
Palmerston North  
Porirua  
South Wairarapa  
Tararua  
Tasman  
Upper Hutt  
Wairoa  
Wellington

### Entity C

Connected population (2020)	1.0m
<b>Average household cost (2051, real)<sup>1</sup></b>	
With reform	\$1,260
Without reform	\$3,730

## Entity D



Ashburton  
Buller  
Central Otago  
Christchurch  
Clutha  
Dunedin  
Gore  
Grey  
Hurunui  
Invercargill  
Kaikoura  
Mackenzie  
Queenstown  
Lakes  
Selwyn  
Southland  
Timaru  
Waimakariri  
Waimate  
Waitaki  
Westland

### Entity D

Connected population (2020)	0.9m
<b>Average household cost (2051, real)<sup>1</sup></b>	
With reform	\$1,640
Without reform	\$4,970

On 15 July, in partnership with LGNZ under a [Heads of Agreement](#)<sup>6</sup>, the Government announced a package of \$2.5 billion to support councils to transition to the new water entities and to invest in community wellbeing. This funding is made up of a **'better off' element** (\$500 million will be available from 1 July 2022 with the investment funded \$1 billion from the Crown and \$1 billion from the new Water Services Entities) and **'no council worse off' element** (available from July 2024 and funded by the Water Services Entities). The **'better off'** funding can be used to support the delivery of local wellbeing outcomes associated with climate change and resilience, housing and local place making, and there is an expectation that councils will engage with iwi/Māori in determining how to use their funding allocation and of course it will be subject to approval from DIA.

**Council's funding allocation is \$15.12M.** The detail of the funding (including expectations around the use of reserves) and the full list of allocations can be found in Appendix C. Conditions associated with the package of funding have yet to be worked through, however currently require consultation with mana whenua and approval from the DIA.

In addition to the funding announcements, the Government has committed to further discussions with local government and iwi/Māori over the next eight weeks on:

- the boundaries of the Water Service Entities,
- how local authorities can continue to have influence on service outcomes and other issues of importance to their communities (e.g. chlorine-free water),
- ensuring there is appropriate integration between the needs, planning and priorities of local authorities and those of the Water Service Entities,
- how to strengthen the accountability of the Water Service Entities to the communities that they serve, for example through a water ombudsman.

As a result, the original timetable for implementing the reform (outlined in Appendix A) and for councils to consult on a decision to opt-in (or not), no longer applies as it is our understanding that the Government will be the decision maker on whether the reforms proceed or not, i.e. the community and Council will not have the opportunity to consider opt in or out.

Next steps are expected to be announced after 31 September 2021, which would include the timeframes and responsibilities for any community or public consultation.

It is also important to note that the Government has not ruled out legislating for an "all-in" approach to reform to realise the national interest benefits of the reform.

In the interim the DIA continues to engage with council staff on transition matters on a no regrets should the reform proceed. These discussions do not pre-empt any decisions about whether to progress the reforms or whether any individual council will transition.

On the assumption that the reform goes ahead, it is anticipated that councils will continue to deliver water services until at least early 2024 and council involvement in transition will be required throughout.

---

<sup>6</sup> [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/heads-of-agreement-partnering-commitment-to-support-three-waters-service-delivery-reform.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/heads-of-agreement-partnering-commitment-to-support-three-waters-service-delivery-reform.pdf)

## 4 Council specific information and analysis

This section of the report provides information to enable Council to decide what feedback should be provided in relation to financial impacts of the proposal.

The three key financial benefits that the reforms are intending to deliver are:

- Increased ability to borrow at the level necessary to fund required capital works
- The possibility of equalising/standardising three waters charges across the entity area
- Efficiency

This section of this report covers:

- Analysis of the financial information provided by DIA
- The impact on debt and debt limits
- The financial impact of possible equalisation of charging across Entity B
- The financial impact of probable efficiencies
- The efficiency impact on the remaining parts of HDC (as an organisation)
- Overall likely financial impact on HDC population as ratepayers/taxpayers

While the Government and LGNZ consider that national case for change has been made, each council will ultimately need to make a decision based on its local context.

Councils do not have a national interest test for their decision making. Councils are required to act in the interests of their communities and the community's wellbeing (now and into the future), provide opportunities for Māori to contribute to their decision-making processes, ensure prudent stewardship and the efficient and effective use of its resources in the interests of the district or region (including planning effectively for the future management of its assets) and take a sustainable development approach<sup>7</sup>.

Council should consider whether the proposal best meets these objectives, how the proposal could be modified to best meet those objectives, and what feedback could be provided.

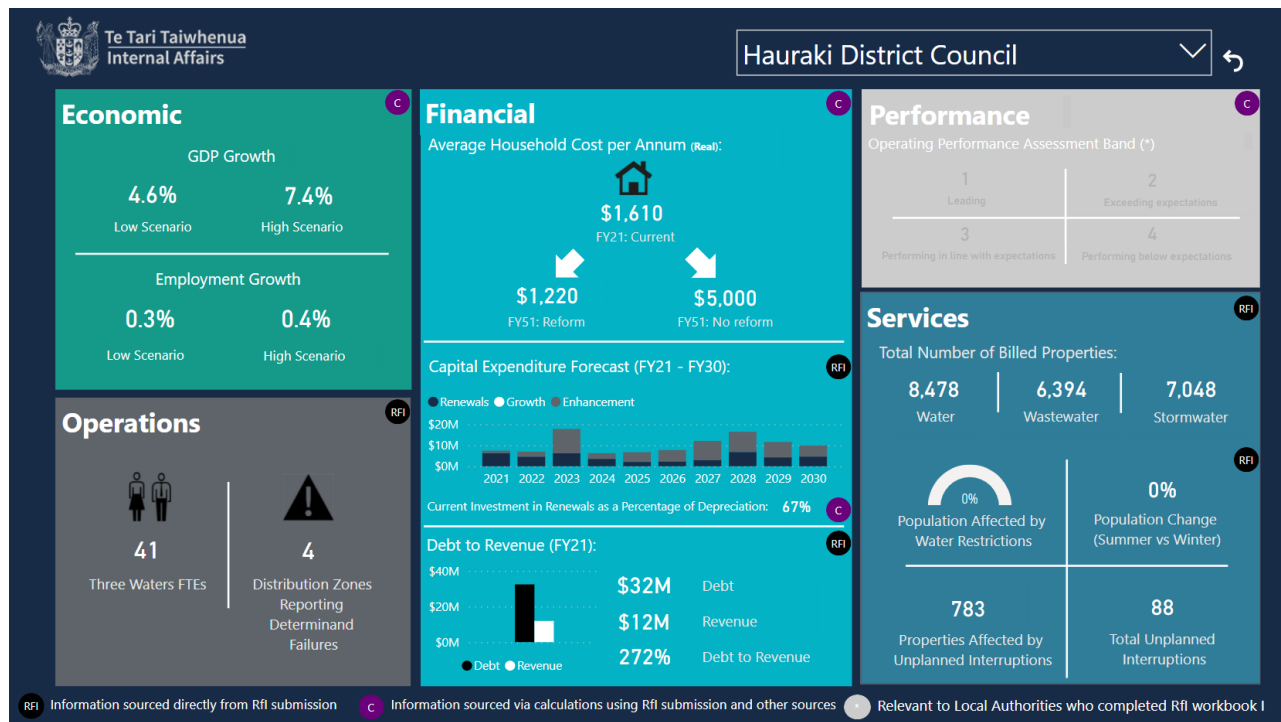
Council currently delivers three waters as an in-house service

---

<sup>7</sup> See for example sections 5 and 14 of the LGA.

### 4.1 Financial Information provided by DIA

Our dashboard looks like this:



It, and the dashboards of other councils, can be accessed on this [site](#)<sup>8</sup>.

Staff do NOT believe that the dashboard presents an accurate picture of HDC’s current charges, or the likely future charges with or without reform. The information provided by DIA does not provide a suitable basis for making decisions on feedback.

The dark grey section highlights operational information. There has been one zone that has had a ‘determinand failure’ rather than the four stated. Two of the determinand failures (*e.coli* in these instances) occurred in the Kaimanawa network zone prior to disestablishing the old rural treatment plant. We incorrectly included manganese issues in the plains as determinand failures.

The key financial measures that are highlighted in the dashboard (in the light blue section) are the ‘Average Household Cost per annum’ now, and in the future with and without reform.

The \$1,610 opening average household cost is 48% too high. This was caused by including all water supplied as residential water, including rural water supplied.

The correct value should be \$1,089.

The biggest driver in the calculation of the future average household costs, is the level of capital expenditure required over the next thirty years.

<sup>8</sup>

<https://app.powerbi.com/view?r=eyJrIjoiOGE1OTJlYWUtdZDZkNy00YWZjLTgzN2EtOTY1MzQxNGM5NzJmIiwidCI6ImY2NTljYTVjLWZjNDctNGU5Ni1iMjRkLTE0YzkyZGYxM2FjYiJ9>

The DIA model forecasts that Council needs to spend \$13.8M per annum on enhancement capital (i.e. capital for growth and level of service), and \$3.5M per annum on renewals. Overall the next 30 years, the DIA model assumes Council will need to spend \$518M.

This is somewhat different to the \$171M figure calculated using the more Hauraki specific forecasting in Council’s 2021 Asset Management Plan. See table below:

	DIA	Hauraki AMP	Variance (\$)	Variance (%)
Annual renewals	\$3.5M	\$3.6M	(0.1M)	(2.8%)
Annual ILOS & growth	\$13.8M	\$2.1M	\$11.7M	557%
Total annual capital	\$17.3M	\$5.7M	\$11.6M	202%
30 year capital	\$518M	\$171.5M	346.5M	202%

The DIA 30 year capital value is three times the Asset Management Plan forecast.

How did DIA/WICS calculate the \$13.8M per annum for level of service improvements and growth?

They estimated the requirement using three methods, adjusted based on their assumptions about the NZ three waters environment:

- What was spent historically in Great Britain,
- What Scotland is forecasting to spend, and
- The gap in asset value between NZ and Great Britain/Scotland

DIA have then calculated Council’s future capital spend as a share of this national forecast, based on our population.

This does not taken into account the current state of our assets, or the current level of service we can provide, or what future improvements are required in our district.

**Staff believe it is likely that more service/growth improvements will be required over the next 30 than the \$2.1M p.a. we have forecast. However, at the \$13.8M p.a. DIA are forecasting, Council could build a new wastewater treatment plant every year. This figure would seem to be overstated for Council.**

This high level of capital expenditure has caused the DIA model to increase the average per household costs from \$1,069 to \$5,000 in a bid to keep debt within an acceptable level.

Staff believe that the assumptions made, have rendered this tool ineffective.

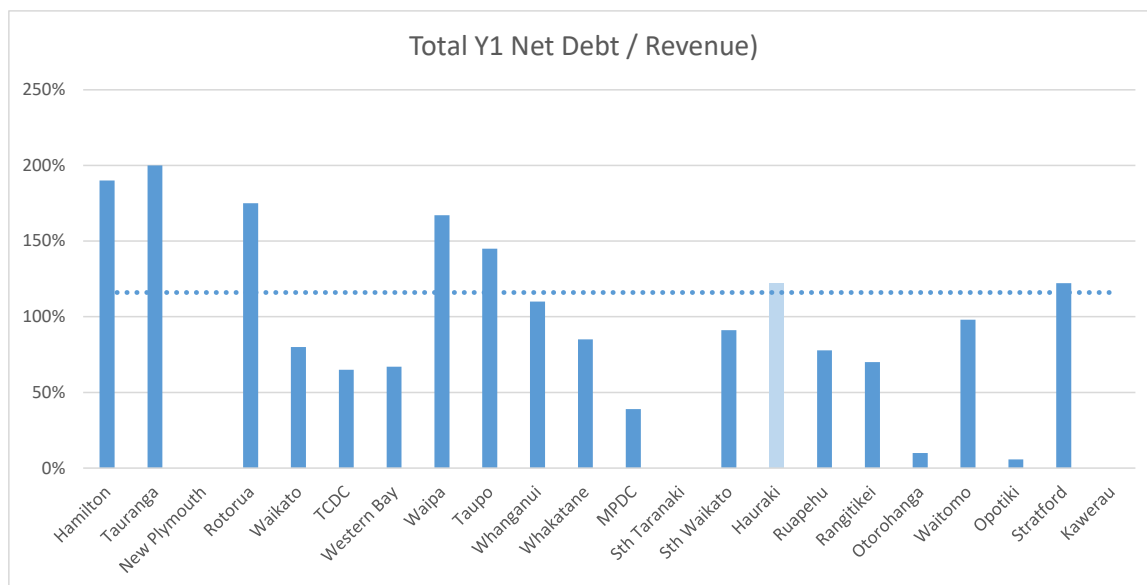
## 4.2 Debt and Debt Limits

Lack of available capacity to borrow is a significant issue for a number of councils, particularly high growth city councils.

Councils are facing having to fund roading, three waters and community infrastructure for growth. On top of this is increasing drinking water standards, increasing wastewater and stormwater discharge standards, replacing aging pipe networks, as well as meeting other community aspirations.

**Under the reforms, removing three waters debt should free up borrowing capacity to invest in other infrastructure such as transport, community facilities and community placemaking.**

### 4.2.1 Who has the most debt in Entity B?



This chart is ordered from the largest councils to the smallest, based on the number of dwellings.

It gives an indication of how close councils are to maxing out their borrowing.

It is based on 2021/22 councils' overall net debt divided by their total revenue. This measure is one of the caps set by the LGFA. Councils with the highest ratio, are those that are the most exposed to changes in interest rates, and have the least capacity to borrow for needed future capital.

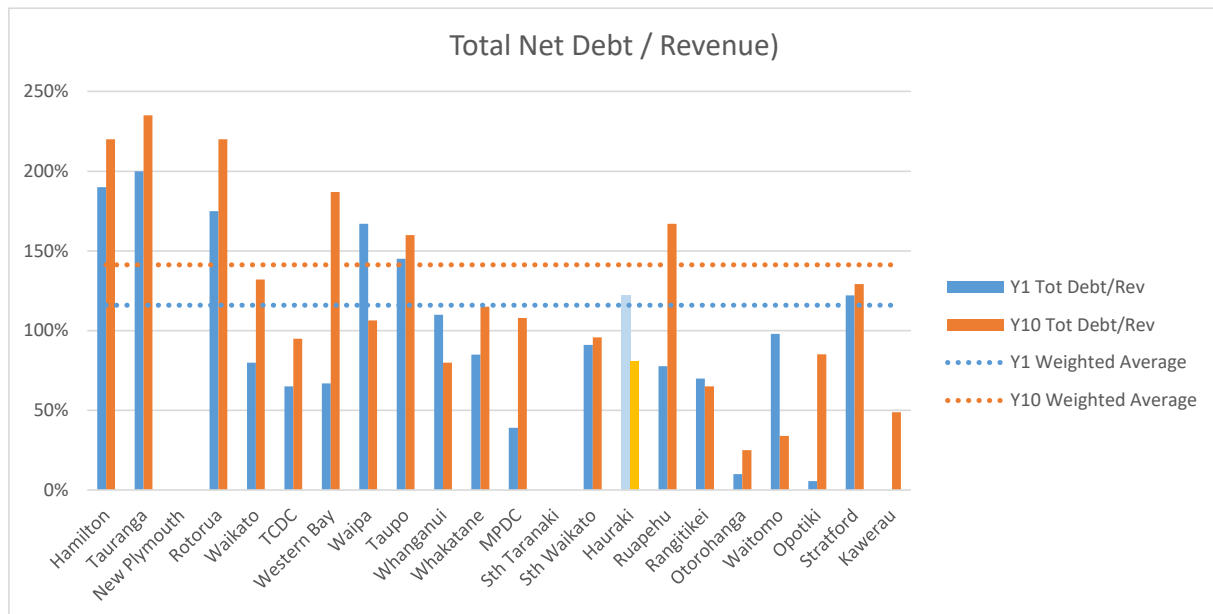
As can be seen, the two largest councils have the highest debt. Some councils have no debt.

Councils that have a Standard & Poors credit rating of 'A' or higher can borrow up to 280% of revenue from the LGFA. All other councils can borrow up to 175%.

The dotted line shows the weighted average debt over all the Entity B councils.



The following chart adds in the debt ratios at 2030/31, the end of the current LTP (the orange bars).



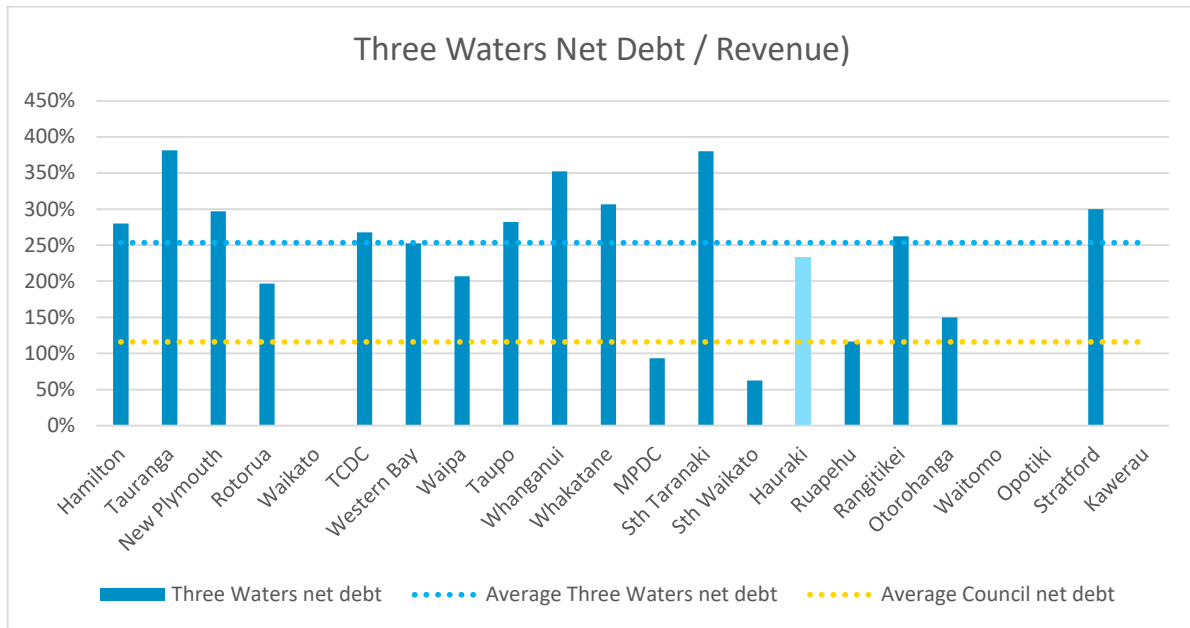
At the end of 2030/31, the larger councils still have the highest debt ratio. By comparing the blue and orange bars, this chart shows which councils’ debt is increasing. As can be seen, most councils’ debt is increasing, particularly the larger councils. Hauraki’s debt is decreasing, however this is based on receiving subsidies for wastewater upgrades. Tauranga City has the same subsidy assumption.

The Year One weighted average debt is 116%  
The Year Ten weighted average debt is 141%

Council’s Year One debt is 122%  
Council’s Year Ten debt is 81%  
Council’s Year Ten debt with no subsidies is 114%

4.2.2 So how much of the debt of the councils relates to three waters?

Three waters debt makes up the majority of the overall debt. Some councils with no overall debt, still have three waters internal debt that would be transferred to the new entity.



This chart shows the debt to revenue ratios of the three waters activities, i.e. just debt related to three waters divided by just the revenue from three waters.

The blue dotted line shows the weighted average debt to revenue ratio for three waters.

The orange dotted line shows the total council debt to revenue ratio (as shown in the previous charts).

The overall council weighted average debt is 116%

The three waters weighted average debt is 253%

**By taking away the three waters debt, most councils will be able to borrow more for their other activities.**

**It is likely that on a per dwelling basis, the entity will be taking on a similar amount of debt to the Hauraki per dwelling debt.**

**After 10 years the entity will likely have to borrow more than the forecast Hauraki per dwelling debt.**

#### 4.2.3 How much more can the new entities borrow?

Currently Hauraki's three waters debt per dwelling is similar to the average across Entity B (\$3,000 for Hauraki compared to the average \$3,500).

This equates to total three waters debt of \$28M for Hauraki, and \$1,412M across Entity B.

As per the previous chart, this \$3,500 per dwelling debt being taken on by Entity B is approximately 250% of revenue.

Estimates of credit ratings have been prepared by the credit rating agency Standard & Poors (S&P) based on a number of scenarios.

DIA estimates used in the scenarios forecast debt to revenue ratios of up to 1200%.

The entity scenario currently proposed by government, includes a government provided \$500M liquidity facility for the new entities.

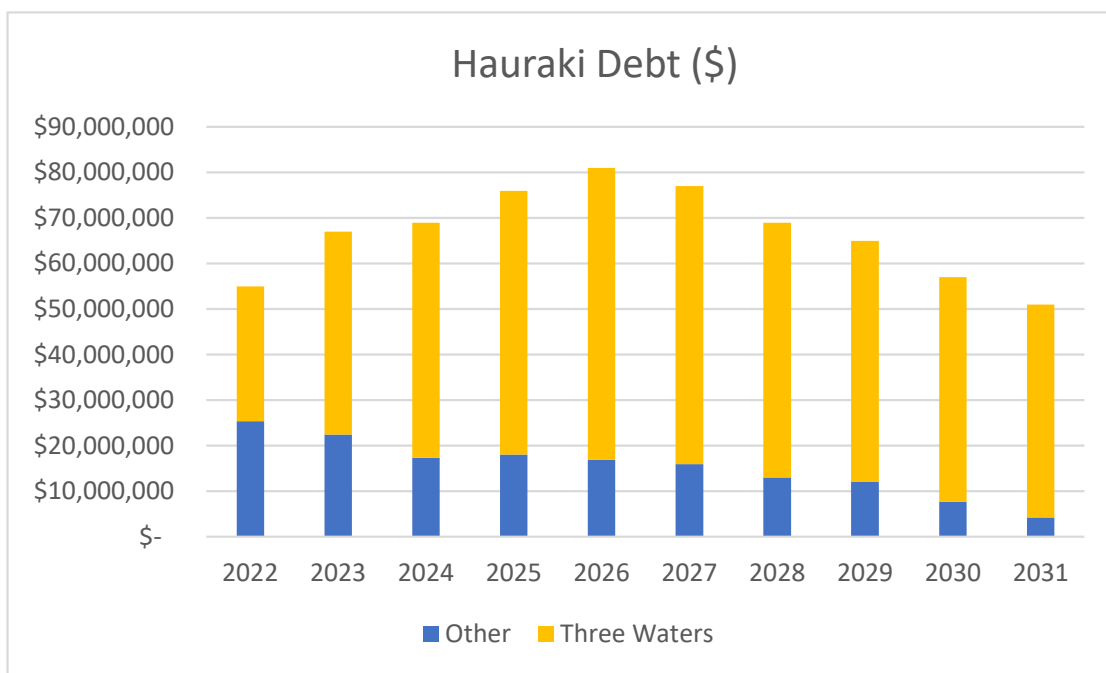
Without this liquidity facility, S&P forecast a credit rating of bbb-.

But based on the scenario, with this liquidity facility, S&P have also assumed it is very likely that the government would bail out any water entity that was failing, and have forecast that the new entities will have an AA+ credit rating, similar to that of LGFA.

**Borrowing up to the forecast 1200% of revenue, would be equivalent to \$6,700M across Entity B, or \$132M of three waters debt at Hauraki.**

4.2.4 What does HDC's debt look like?

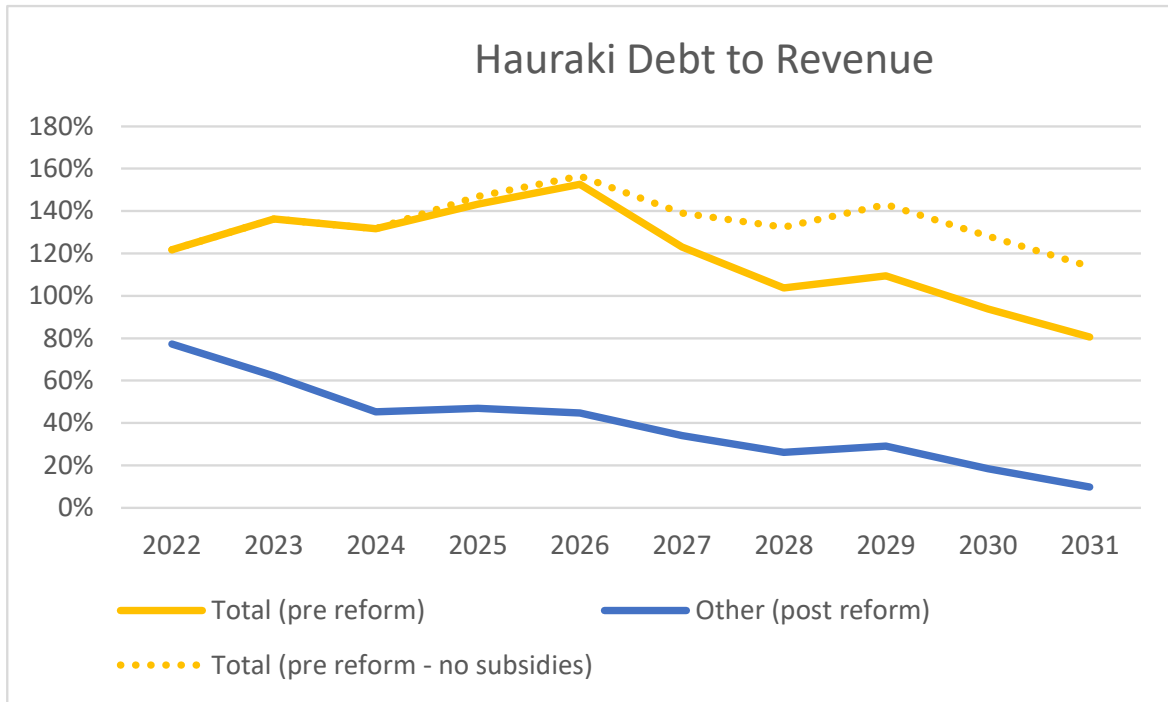
So how much debt are we forecasting for Hauraki?



This chart shows that we are expecting Council debt to increase from \$55M to a peak of \$81M before reducing to \$51M in 10 years time.

Most of Council's debt relates to three waters.

Council can borrow up to 175% of revenue. With the reform, this three waters debt will be transferred to the new entity, but revenue will also be transferred.



The orange line on this chart shows the current debt forecast per the LTP, showing debt peaking at 153% of revenue in 2026. This is getting close to the 175% cap.

The blue line shows Council debt if we didn't have the three waters, i.e. no three waters debt, and no three waters revenue.

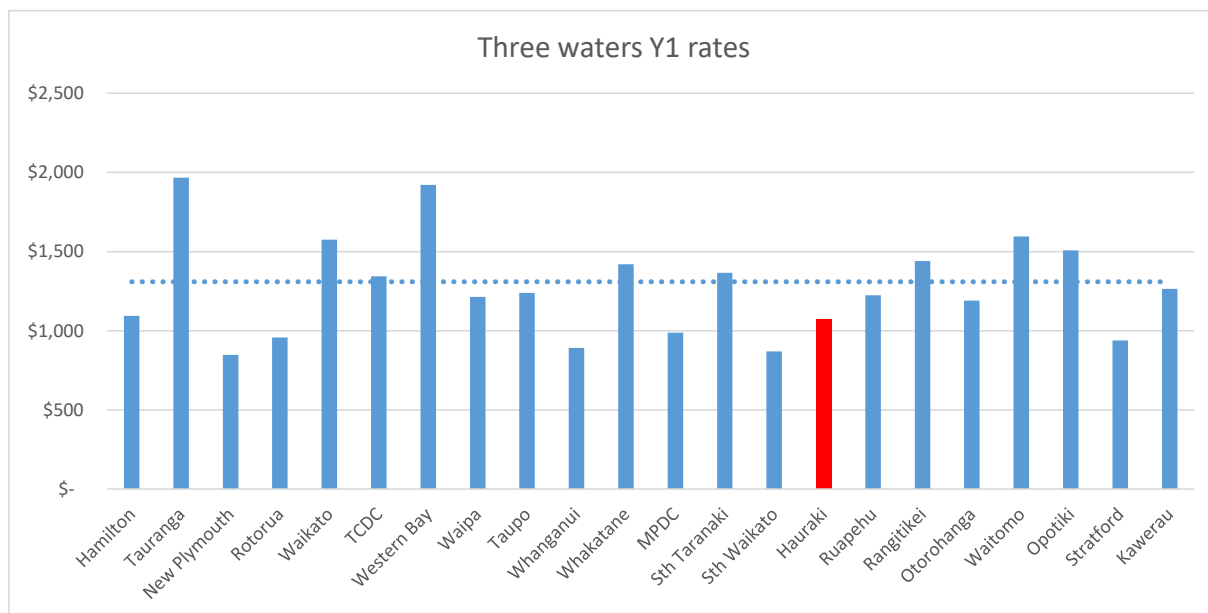
**This shows that, if needed, Council will be able to borrow significantly more to fund its other activities after the reforms.**

#### 4.3 How does Hauraki stack up if prices/rates were equalised across Entity B?

One of the possibilities with the reforms is to have some form of equalised pricing across the entity.

There may still need to be some form of pricing mechanism to discourage new development in particularly remote areas that would be particularly expensive to service, especially for small developments.

The following chart shows the average per household three waters rates charged across the Entity B councils in 2021/22:



The dotted blue line shows the weighted average household three waters rates.

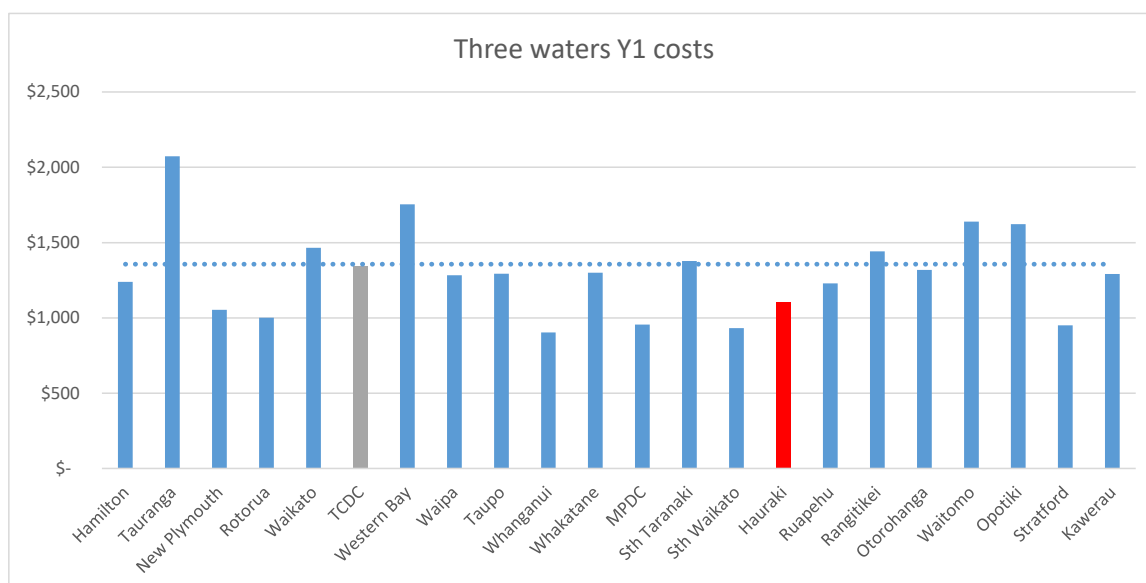
**Hauraki’s 2021/22 charges were \$1,072 compared to the weighted average \$1,310.**

One issue with relying on rates/charges as a measure of the likely impact of price equalisation, is that some councils are running significant deficits.

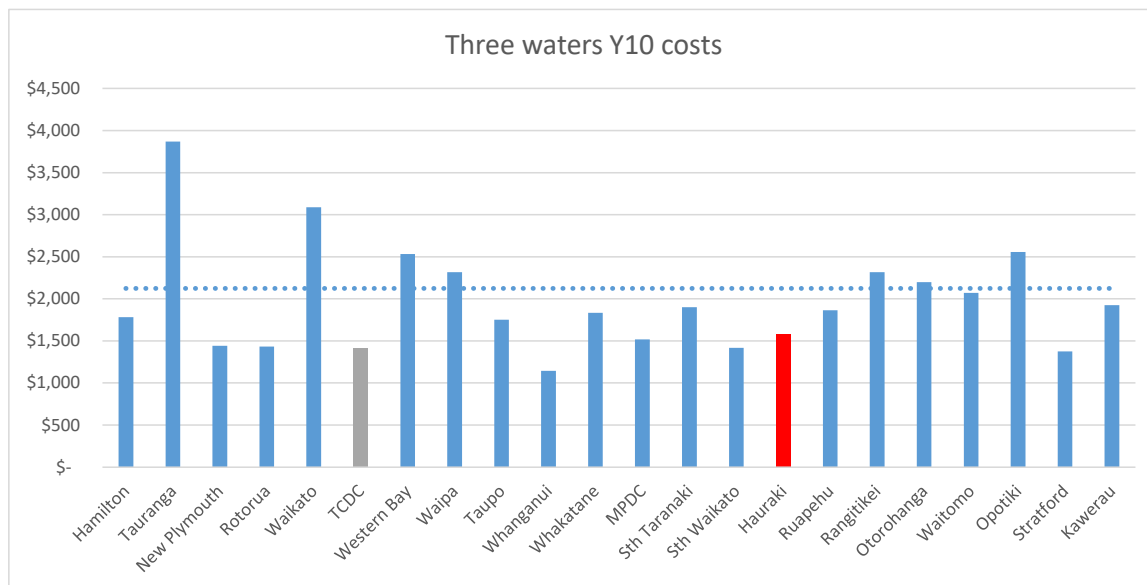
A more useful measure is the average per household cost of three waters.

To calculate this, staff have accounted for the effect of the deficits and surpluses. The column for TCDC has been greyed as insufficient information is included in their LTP to perform this calculation. Staff have assumed there was no deficit/surplus for TCDC.

The following two charts show the average per household three waters costs in 2021/22 and 2030/31 (Year 1 and Year 10 of the current LTP’s):



**Hauraki’s household cost in 2021/22 was \$1,106 compared to the weighted average \$1,356.**



**Hauraki’s forecast household cost in 2030/31 is \$1,586 compared to the weighted average \$2,124.**

#### 4.4 How much would Hauraki ratepayers benefit from likely efficiencies

**Staff believe that the level of the long term efficiencies forecast by DIA (45%) will not be realised.**

#### Scottish Water v Hauraki

Much of the DIA analysis is based off comparisons between NZ and Scotland.

The WICS report states:

‘There appears to be no obvious reason why well managed and governed New Zealand entities could not match the performance of the British companies. Economy wide productivity in New Zealand is broadly comparable to Scotland.’

Staff have not located any analysis comparing the current level of efficiency in three waters in NZ v Scotland.

The efficiency analysis is based on savings made by Scottish Water between 2002 and 2020. Similar savings were made in the period after English water entities were amalgamated.

Staff have not located any research carried out by DIA into directly comparable costs, e.g. the average cost to lay 10 metres of 200mm MDPE pipe. The analysis seems to be comparing pre and post reform costs in other jurisdictions.

One measure of comparison is the typical residential charge for three waters.

In 2020/21 the Scottish charge was \$732.  
In 2020/21 the Hauraki charge was \$947 (30% higher).

Scottish Water have stated that their charges will need to increase significantly in the next years to fund planned improvements.

Current Scottish water and wastewater discharge standards appear similar to the NZ drinking water standards, and the wastewater consents for the Plains wastewater discharges.

Generally speaking, Hauraki is already meeting the Scottish standards, and seems to be meeting the wastewater standards more comprehensively than Scottish Water.

The efficiency analysis does not take into account population density. NZ's population density is only 26% of Scotland's. On that basis, an average waters scheme covering a similar geographic area would have four times the number of users paying for it.

The primary reason given for increased efficiency, is the size of the organisation. For comparison, Auckland Water's 2020/21 charges were \$1,060, cf. Hauraki's \$947.

Staff believe the most significant per connection cost driver is not the size of the waters supplier organisation, but rather the size of waters schemes, i.e. number of households (or other properties) connected to, and paying for that scheme.

Generally this is limited by geographical distance. The size of the waters entity will have little influence over this. The reforms would likely encourage more schemes that supply customers across district borders. This does happen to a limited extent currently, e.g. the Paeroa water supply provides water across the borders into TCDC and MPDC.

LGNZ commissioned a report from the international consultancy firm Castalia.

The conclusion of the report is:

None of the empirical evidence (collected by the government's own consultants) provided evidence that economies of scale in production can be generated by amalgamating water utilities

Capital expenditure:

- Economies of scale in procurement due to greater bargaining power
- Optimisation of capital works programmes across amalgamated entity. Can generate larger cost savings if significant capital works required

Operating expenditure:

- Rationalisation of management and operations across amalgamated entity

However, these benefits are usually a relatively small proportion of the overall cost of water services and offset against costs of reform

The Frontier Economics report concludes that savings were made following overseas amalgamations, however these savings have levelled off.

The Castalia research suggests that savings from amalgamations are made in the short to medium term, however long term there tend to be diseconomies of scale, i.e. the larger organisations become less efficient.

In a number of areas, the major efficiency benefits of aggregation relate to areas where Council is already partly acting in an 'aggregated' manner:

- Combined Procurement – electricity, chemicals, and pipes are already subject to regional procurement
- Works profiling – capital works tend to come in large lumps. Agreeing an aligned forward capital program of works with other councils would provide certainty to construction contractors, and should produce less competition from different councils for the scarce resource of contracting capacity. Council has not made much progress in the area

**It does seem likely that there will be savings from the reform.**

Staff's estimates of potential likely savings are:

Capital Works – 10%

General procurement - 5%

Interest – 4%

Overheads – 20%

**The size of savings realised from reform are likely to be in the 5% to 15% range.**

#### 4.5 How much will Council be affected as an organisation

Services left with Council would be more costly, on a per ratepayer basis. This additional cost to the ratepayer should be offset against potential waters savings.

This effect could be reduced if Council was amalgamated, or if additional services (with accompanying revenue) are given to Council, possibly as part of the Future for Local Government reform.

Assuming the reforms go ahead, Council will look different going forward. There would be a significant reduction in revenue, and in the number of staff.

#### **Overheads**

'Overheads' is the term we use for costs that either don't directly relate to an activity that provides a service to ratepayers or the public, or are costs that relate to a number of activities.

Generally these costs are allocated to the direct activities using a cost driver, or a percentage estimate.

Some examples include:

- IT - spread on the basis of the number and type of devices,
- HR - allocated based on the number of staff, and
- Chief Executive- spread on an estimated percentage basis.

Sometimes costs go from one overhead activity to another, before finally being allocated to an activity, e.g. IT provides support to HR, and vice versa.

**In 2021/22 in the order of \$2.9M of overhead costs were funded by three waters activities.**

#### **Stranded overheads**

A number of staff will be transferred to the new entity, and there will be less work to do as a result of three waters being transferred.

There are still a lot of activities that Council will still need to carry out, that in the past have been partly funded by three waters. E.g. Council will still need to prepare a Long Term Plan, file a GST return, have IT servers with strong cybersecurity measures, etc.

Overheads will reduce, but by less than the \$2.9M funded by three waters activities.

This difference is known as stranded overheads, and will result in an increase in the funding required from other activities to fund Council's remaining overheads.

The likely amount that could be saved is approximately \$1.4M from general and property overhead activities with possible further savings of \$700k by 2030/31.



A further \$100,000 could potentially be saved if the depots were closed, and one smaller depot was retained

**This leaves \$1.4M of stranded overheads to be funded. It is likely this would reduce over time by a further 50% leaving \$700,000 of annual stranded overheads.**

Government has set aside funding to ensure councils are 'no worse off'. It is likely that this will be used to compensate councils for stranded overheads or a period (possibly two years).

After this, the stranded costs will have to be met by increases in the remaining rates.

**This cost would increase long term 'non-waters' rates charges by 6.4% in the short term reducing to 3.2% long term.**

#### 4.6 Overall Financial Impact on Hauraki Ratepayers

Council will have significantly more debt headroom to enable funding of other works

#### Savings

The table below shows the dollar and percentage impact of a range of three waters savings scenarios against likely short term, and long term stranded overhead costs.

It shows some examples of the combined impact on ratepayers/waters users.

Waters Savings (%)	Waters Savings (\$000's)	Stranded Overheads (\$000's)	Overall savings/(cost) (\$000's)	Overall savings/(cost) (%)
0%	-	1,400	(1,400)	(4.1%)
5%	603	1,400	(797)	(2.3%)
10%	1,205	1,400	(195)	(0.6%)
20%	2,410	1,400	1,010	3.0%
0%	-	700	(700)	(2.1%)
5%	603	700	(97)	(0.3%)
10%	1,205	700	505	1.5%
20%	2,410	700	1,710	5.0%

The water savings values are dependent upon the efficiency savings achieved, and the impact of the amalgamation of other councils' debt and their costs upon the entity

Government is also offering \$15M of funding to Council to fund projects that would leave 'the community better off'.

Staff have not included the impact of this as Council will have to spend the \$15M to get the \$15M.

Our asset condition, performance (and confidence) levels for

- water are high
- wastewater are medium
- stormwater are low

Generally, our maintenance budgets are adequate for the next 30 years, however adjustments may be needed for stormwater.

While the Council has a net negative carbon footprint, wastewater is a significant contributor to Council's carbon emissions, accounting for 68% of our emissions. The majority of the forestry assets that are owned by Council is on water conservation land around Tetley's Quarry and this is likely to be transferred to the new entity. Our emissions reduction plan and funding for it to be sufficient to address our short, medium and long term responsibilities including NZ Emissions Trading requirements is appropriate.

There is also the potential for Council to have to work with and potentially take over some private water supplies if they are unable to meet quality standards and regulatory requirements. Appendix D has a breakdown of these suppliers and the risk and mitigation options available. The risk is considered low for HDC.

There is one additional item that I would like to draw Council's attention to:

- Land Drainage and Flood Protection has not been included in the above analysis. Future work will be required to consider the ongoing feasibility of the Council delivering this activity in the future. We may have to consider vesting this activity with the Regional Council.

Council has ensured that its budgets reflect the need to have compliance with current and future expected legislation, regulation and standards.

## 5 Options available to Council for three waters service delivery

Section 5 provides an overview of the options available to Council and is followed by a very high level and brief analysis of the Council's reasonably practicable options. The time constraints on providing feedback to the Government and LGNZ by the end of September 2021 have prevented a full analysis and review of the options.

This summary will provide some of the required information to enable Council to make a decision and consult on opting in or out of the reform process at the end of the eight week period (but not all as there is further information to be developed and decisions to be made), although whether this is ultimately required will be dependent on where the Government gets to with the reform process and the decisions it makes after 30 September 2021.

Staff have used the Local Government New Zealand, Taituarā, and Te Tari Taiwhenua Internal Affairs [guidance](#)<sup>9</sup> and our risk framework and policy, plans and previous studies to understand the potential impact of reform and other practicable options (both today and in the future) in terms of service, finance and funding, economic development and growth, workforce, delivery and capability and social, cultural and environmental wellbeing.

### Option A - Government Proposal

- Under this option, we are in entity B, a publicly owned water services entity that owns and operates three waters infrastructure on behalf of councils, mana whenua and communities.

---

<sup>9</sup> <https://www.lgnz.co.nz/assets/Three-Waters-Guidance-for-councils-over-the-next-eight-weeks-FINAL.pdf>

- The ownership and governance model is a bespoke model, with councils listed in legislation as owners, without shareholdings or financial interests, but an advocacy role on behalf of their communities. Iwi/Māori rights and interests are also recognised and representatives of local government and mana whenua will sit on the Regional Representative Group, issue a Statement of Strategic and Performance Expectations and receive a Statement of Intent from the Water Services Entity. Entities must also consult on their strategic direction, investment plans and prices / charges.
- The law currently prohibits Council deciding to opt-in to the current proposal (given section 130 of the LGA, which prevents councils from divesting their ownership or interest in a water service except to another local government organisation such as a Council Controlled Organisation) and what we know about this option at present.

### **Option B - Council as a standalone deliverer of three waters / Status Quo**

- Council currently delivers three waters services itself through a mixed model of in-house and contracted services.
- While the RFI information, dashboard and supporting information provided to Council suggests that this might not be a sustainable future model for the country, we have used the information in section 4 to analyse whether this is a viable option for Council and our communities.
- The analysis indicates this continues to be a viable option, however retention of staff may become an issue.

### **Option C – Asset owning Sub-Regional CCO**

- The geographic region that has been assessed as part of the group delivering three water services under this option is the Eastern Waikato and includes: Thames-Coromandel, Hauraki, Matamata-Piako and South Waikato District Councils.
- While it is possible that a group could be set up as a shared service, at scale this is likely to be suboptimal to the CCO option under the Government’s modelling, however additional work is required to test this.<sup>10</sup>
- This option has therefore been developed as council-controlled organisations (CCOs) as provided for in the LGA with governance, management and operational oversight.
- This option enables assets to be transferred.
- Although both a management CCO and an asset owning CCO have benefits, the detailed analysis in the [Hawkes Bay report](#) demonstrates that a regional asset owning CCO is a more effective service delivery model than the management CCO and best met the investment objectives and principles set by the participants in that review.
- This option has therefore been developed assuming that assets are owned by a CCO.
- In 2020, The East Waikato Councils had Morrison Low prepare a high level review of the option of an East Waikato waters entity. The Report is included as Appendix E. The report did not consider any reduction caused by efficiencies gained as has the WIC’s report. It was based on the 2018-28 LTP of the 4 Councils.
- Research work undertaken by the Group Manager Service Delivery titled “Water Services Management in New Zealand – Opportunities for Sub-Regional Collaboration (2011)” concluded that a sub-regional entity would result in reduced costs, increased resilience and a higher level of service delivery.
- There are existing examples of CCOs [WaterCare](#) (ownership water and wastewater assets and provide services) and [Wellington Water](#) (who don’t own but do manage all three waters on behalf of their owners) and studies (mentioned above) that have been considered in developing and analysing this option.

---

<sup>10</sup> [HB-3-Waters-Delivery-Detailed-Analysis-29.07.20-Full-Report.pdf \(hb3waters.nz\)](#)

- Please note that both the Auckland Council and the owners of Wellington Water are affected by the Government's proposal and are assessing their options, e.g. for Wellington Water to become an asset owning company.

## 6 Council decision making and consultation

Part 6 of the LGA, sections 76 to 90, provide the requirements for decision making and consultation, including the principles of consultation and information that needs to be provided including the reasons for the proposal and the reasonably practicable options.

In particular, section 76 requires that in making a significant decision, which a decision on the future management and or ownership of three waters assets will be, councils must comply with the decision-making provisions. This is a 'higher bar' than the "promote compliance with" that applies for ordinary decisions.

Section 77 states that councils must seek to identify all reasonably practicable options and then assess the advantages and disadvantages of each option.

Section 78 requires that in the course of making a decision a Council must consider community views but section 78(3) explicitly says that consideration of community views does not require consultation, which is reinforced by case law.

Section 79 gives Council discretion to decide how the above Part 6 requirements are met including the extent of analysis done etc. Therefore, while a decision could be challenged, a judicial review is unlikely to be successful unless the decision made by council was manifestly unreasonable, the process was flawed or the decision was beyond its powers (as given in law, ie the council did not act within the law).

However, despite section 79 of the LGA, a decision to transfer the ownership or control of a strategic asset from the council (or to it) must explicitly be provided for in the council's Long Term Plan (and have been consulted on specifically in its consultation document).

Council's existing LTP and the consultation information and process used to develop it will not suffice to meet this test, as Council did not itself have adequate information on the options and the implications earlier this year when it consulted on the LTP. An LTP amendment and commensurate consultation process on the ownership and governance arrangements and asset transfers proposed would be necessary.

There are also provisions in the LGA that relate to unlawful decisions to sell or dispose of assets, which can be investigated by the Auditor-General.<sup>11</sup>

A decision to opt-out would also be affected by the consultation and decision-making requirements set out in this report, including the need to follow a robust process that could survive a judicial review, as well as make a final decision that was not manifestly unreasonable in the circumstances.

Given the Government's

- 8 week period of engagement with mana whenua and councils
- commitment to explore issues such as council and community influence of service outcomes, integration with other reform proposals, spatial and local planning
- request for councils to give feedback on the proposal, identify issues and solutions
- and uncertainty around next steps, including whether the reform may become mandatory or legislative change will remove legal barriers to opting in it would be premature to make a decision to opt out of the reform process and may expose the Council to litigation risk.

---

<sup>11</sup> See sections 43 to 47 of the LGA.

A Government Bill to progress the reforms could address the issues raised above, for example removing the section 130 requirements has explicitly been raised.

At this stage no decision is required on future delivery arrangements. Based on the analysis in this report, Council should wait until it has further information before consulting on and/or making a decision on the Government's proposal.

It is recommended that the Council therefore notes the options canvassed in this report, the very high level analysis of them and the information and decisions that are yet to be made.

If reform is not made mandatory, to ensure sufficient information is available to meet the moral and legal requirements of Council decision-making, staff will further develop the analysis of options (based on further information from the Government, advice on next steps, and regional discussions) prior to Council decision making and consultation on future water services delivery. Whether this is ultimately required will be dependent on where the Government gets to with the reform process and the decisions it makes after 30 September 2021.

## 7 Information that the Council requires or potential solutions to outstanding issues to convey to Government and LGNZ

There are still several issues that need to be resolved, including:

- the final boundaries
- protections from privatisation
- consultation with mana whenua and communities
- how will community voice be heard and what influence will local authorities have (and what can the community realistically expect the council to influence particularly if it is not on the regional Representation Group)
- representation from and on behalf of mana whenua
- integration with other local government reform processes
- integration with spatial and local planning processes and growth
- prioritisation of investment
- workforce and capability – we don't have enough of the right people now to deliver three waters and we need to retain our people through the transition
- what will a Government Bill cover and whether the reform will be mandatory
- conditions associated with the Government's package of funding for local government
- transition arrangements, including our own workforce challenges (without transition challenges on top) and due diligence for asset transfers etc.

Governance, regulation and planning are discussed in the standalone report due to the importance thereof.

Council is invited to discuss whether there are specific information needs, issues or solutions that the Council would like staff to convey to the DIA or LGNZ.

## 8 Conclusion

While there is uncertainty about the future steps in the Government’s reform proposal, and current legislative impediments to it, the current eight-week period provided by the Government to Councils in which to provide feedback, gives Council the opportunity to understand the information it has received (and will continue to receive) from the RFI and modelling processes.

It also provides an opportunity for Council to understand its potential options, including the financial, workforce and sustainability impacts for Council and the wider economic, social and cultural implications of each option, using the guidance that has been issued. It also provides an opportunity to engage in discussions with other councils in its entity grouping, share information and ask questions and propose solutions to issues it sees to Government and LGNZ.

All of this information will be useful to inform future decision making by both council and Government and consultation and engagement with mana whenua and communities.

## 9 NEXT STEPS | TE ARA KI MUA

Timeframe	Action	Comments
<b>30 September</b>	Prepare a draft submission for the Council’s consideration	

### Approval

<b>Prepared by</b>	Adrian de Laborde <b>Group Manager Service Delivery</b>  Duncan Peddie <b>Group Manager Business Support</b>  Charan Mischewski <b>Strategic Planner</b>
<b>Approved by</b>	Langley Cavers <b>Chief Executive</b>

## APPENDIX A - 2020 Background (including Taumata Arowai information and Indicative Reform Programme)

In July 2020, the Government launched the Three Waters Reform Programme to reform local government three waters service delivery arrangements, with the following objectives:

- improve the safety, quality, and environmental performance of water services
- ensure all New Zealanders have access to affordable three waters services
- move the supply of three waters services to a more financially sustainable footing, and address the affordability and capability challenges that currently exist in the sector
- improve transparency about, and accountability for, the delivery and costs of three waters services
- improve the coordination of resources and unlock opportunities to consider New Zealand's water infrastructure needs at a larger scale and alongside wider infrastructure and development needs
- increase the resilience of three waters service provision to both short and long-term risks and events, particularly climate change and natural hazards
- provide mechanisms for enabling iwi/Māori rights and interests.

The 2020 indicative timetable for the full reform programme is provided below. It was always subject to change as the reforms progressed, future Government budget decisions and Councils were advised that any further tranches of funding would be at the discretion of the Government and may depend on progress against reform objectives.



Also in July 2020 the Government announced an initial funding package of \$761 million to provide a post COVID-19 stimulus to maintain and improve water three waters infrastructure, support a three-year programme of reform of local government water service delivery arrangements (reform programme), and support the establishment of Taumata Arowai, the new Waters Services Regulator.

Following initial reports (that used publicly available council information) from the Water Industry Commission for Scotland (WICS), between October 2020 and February 2021, (all) 67 councils participated in the Government's Request for Information (RfI) on council's three waters assets, including future investment requirements. In return they received what was known as Tranche 1 stimulus funding (under a MoU and funding agreements with Government) for operating or capital expenditure that supported the reform objectives, economic recovery through job creation and maintaining, increasing and/or accelerating investment in core water infrastructure delivery, renewals and maintenance.

In line with Government policy, Taumata Arowai became a new Crown entity in March 2021 and will become the dedicated water services regulator when the Water Services Bill passes, expected to be in the second half of 2021 (the Select Committee is due to report back on 11 August 2021). They will oversee and administer, and enforce a new, expanded and strengthened drinking-water regulatory system, to ensure all New Zealand communities have access to safe drinking water. They will also provide oversight of the regulation, management, and environmental performance of wastewater and storm-water networks, including promoting public understanding of that performance.

An overview of local authority obligations under the Bill is provided below. The Bill provides for a range of compliance and enforcement tools including compliance orders, enforceable undertakings, infringement offences, and criminal proceedings, which can be taken against council officers (but not elected officials).

Taumata Arowai will have the authority to prepare standards and rules that water suppliers (such as councils) must comply with. Their [initial working drafts](#) are available online<sup>12</sup> and are currently being updated. Consultation will occur later this year. Guidance to support the operational compliance rules is also being developed and will be available when the rules are consulted on.

It is anticipated that monitoring, compliance and enforcement of standards will increase substantially on the status quo with the passing of the Water Services Bill and as Taumata Arowai begins to operate. It is also likely that the drinking water standards and their coverage (including non-Council water suppliers) and environmental standards will become more rigorous over time. This creates risks for council in meeting future standards and mana whenua and community aspirations (such as greater investment required than currently planned, risk of enforcement action).

---

<sup>12</sup> [www.taumataarowai.govt.nz/for-water-suppliers/](http://www.taumataarowai.govt.nz/for-water-suppliers/)



Water Services Bill obligations of local authorities

Table 2 below is from [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/transforming-the-system-for-delivering-three-waters-services-the-case-for-change-and-summary-of-proposals-30-june-2021.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/transforming-the-system-for-delivering-three-waters-services-the-case-for-change-and-summary-of-proposals-30-june-2021.pdf)

Local authorities as suppliers of water services	General obligations of local authorities
<ul style="list-style-type: none"> <li>• Duty to provide safe drinking water and meet drinking water standards, and clear obligations to act when water is not safe or fails to meet standards</li> <li>• Key provisions include:                             <ul style="list-style-type: none"> <li>○ Suppliers need to register with Taumata Arowai</li> <li>○ Local authority suppliers will need a drinking water safety plan and a source water risk management plan</li> <li>○ Water suppliers must give effect to Te Mana o te Wai</li> </ul> </li> <li>• Taumata Arowai will have significant compliance and enforcement powers, including powers to direct suppliers and enter into enforceable undertakings with suppliers</li> <li>• Officers, employees and agents of suppliers will have a duty to exercise professional due diligence</li> <li>• Complying with these new requirements is expected to require significant capital and operating expenditure by local authorities (including paying levies to Taumata Arowai for operation of the regulatory system)</li> </ul>	<ul style="list-style-type: none"> <li>• Local authorities will have a duty to ensure communities have access to drinking water if existing suppliers face significant problems in complying with drinking water standards including:                             <ul style="list-style-type: none"> <li>○ Requirements to work with suppliers and consumers to identify solutions</li> <li>○ Intervention responsibilities if a supplier is unable to meet standards, including potentially taking over management and operations of private or community supplies</li> </ul> </li> <li>• In rural communities, this could represent a significant risk (contingent liability) for local authorities</li> <li>• Local authorities will be required to make assessments of drinking water, wastewater and sanitary services to ensure communities have access to safe drinking water</li> <li>• Local authorities will need to assess drinking water services available to communities at least once every three years, including private and community supplies (excluding domestic self-supplies)</li> </ul>

## Appendix B - The Government's conclusion that the case for change has been made

1. The modelling has indicated a likely range for future investment requirements at a national level in the order of \$120 billion to \$185 billion, an average household cost for most councils on a standalone basis to be between \$1910 and \$8690 by 2051, compared to the current level of investment outlined in Council LTP's.
2. It also estimated these average household costs could be reduced to between \$800 and \$1640 per household and efficiencies in the range of 45% over 15-30 years if the reform process went ahead.
3. The efficiencies noted are underpinned by evidence across a range of countries based on joined up networks (the conclusion is that 600,000 to 800,000 connections achieve scale and efficiency), greater borrowing capability and improved access to markets, procurement efficiencies, smarter asset management and strategic planning for investment, a more predictable pipeline and strengthened benchmarked performance, governance and workforce capabilities.
4. The [briefing to the Minister](#) notes that this "investment is what WICS has estimated is necessary for New Zealand to meet current United Kingdom levels of compliance with EU standards over the next 30 years, which in its assessment (and confirmed by Beca) are broadly comparable with equivalent New Zealand standards."
5. However, this is caveated as a conservative estimate that does not take into account iwi goals and aspirations, higher environmental standards or performance standards that are anticipated in future legislation, uncertainties in asset lives, seismic and resilience risk, supply chain issues, and the current workload to manage and deliver improvements as well as address renewal backlogs.
6. For councils with non-council drinking water suppliers in their areas there is additional risk if they are unable to consistently provide safe drinking water to their consumers, including the potential for council to have to take on the water supply. Council operating on expired consents or with consent renewals in the next 15 years also face uncertainty over the standards they will need to meet in the future and therefore the level of investment that needs to occur.
7. Councils could also add to the above list of uncertainties and challenges their business as usual workload, the workload associated with delivering on stimulus packages and associated with responding to other government reform initiatives such as reform of the Resource Management Act, and general workforce retention and attraction issues, which are exacerbated by public sector competition for talent and skills.
8. The modelling indicated that between one and four water services entities would provide the most efficiencies and reduce costs to individual households.
9. When this is added to
  - a. known variations across the nation in water suppliers' compliance with drinking standards, including permanent and temporary boil water notices
  - b. evidence of poor health and environmental outcomes, including expired resource consents for wastewater treatment plants (and the need for 110 of these plants to go through the resource consenting process in the next 10 years)
  - c. stormwater overflows and other challenges
  - d. climate change
  - e. Te Tiriti obligations and the need to uphold Te Mana o te Wai
  - f. the size and scale of current service delivery units and workforce issues
  - g. the obligations and responsibilities that councils (and other water suppliers) will face when the Water Services Bill and associated regulations are enacted
  - h. the Government has concluded that the status quo is not sustainable and that the [case for change](#) has been made.

10. The four entities and their proposed boundaries (which may yet change) and the proposed structure for the system are as follows:

Figure 1: Proposed boundaries for the 4 new waters entities

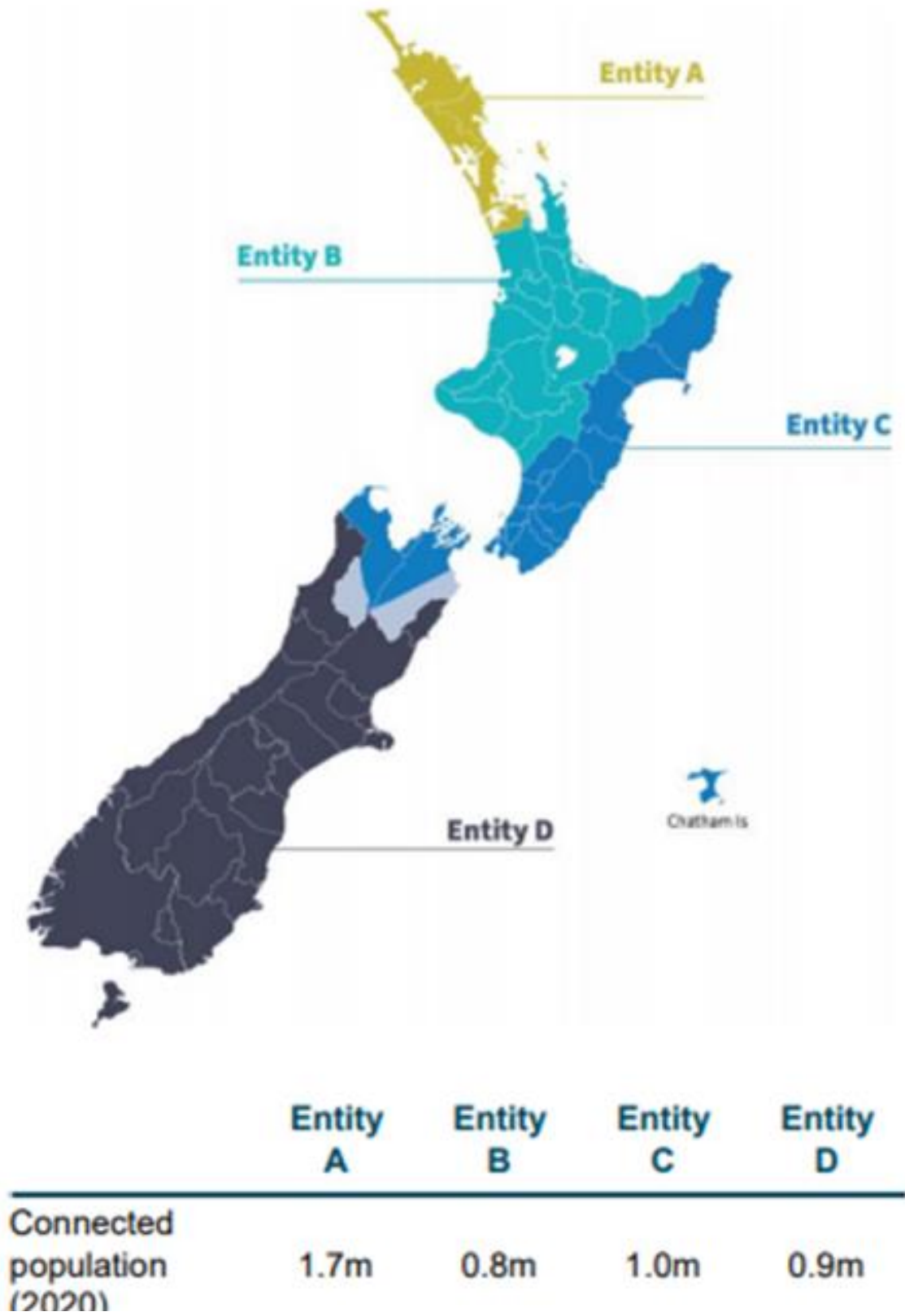
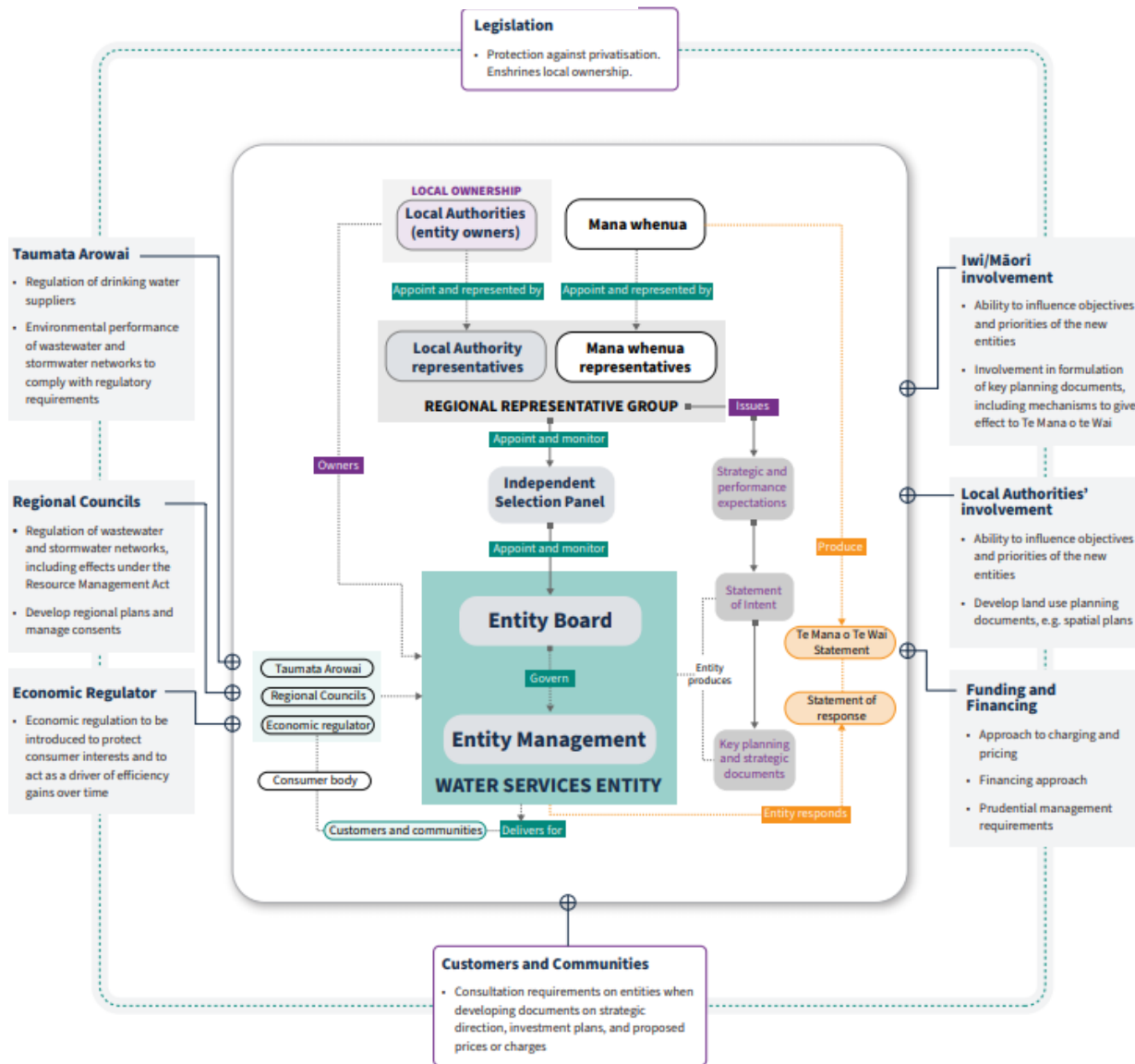


Figure 2: Proposed structure of new 3 waters entities



## Appendix C - funding to invest in the future of local government and community wellbeing

1. On 15 July, in partnership with LGNZ under a [Heads of Agreement](#)<sup>13</sup>, the Government announced a package of \$2.5 billion to support councils to transition to the new water entities and to invest in community wellbeing.
2. The **'better off' element**: an investment of **\$2 billion** into the future for local government and community wellbeing.
  - The investment is funded \$1 billion from the Crown and \$1 billion from the new Water Services Entities. \$500 million will be available from 1 July 2022. The funding has been allocated to territorial authorities (which includes unitary authorities)<sup>14</sup> on the basis of a nationally formula that takes into account population, relative deprivation and land area.
  - The funding can be used to support the delivery of local wellbeing outcomes associated with climate change and resilience, housing and local placemaking, and there is an expectation that councils will engage with iwi/Māori in determining how to use their funding allocation.
3. The **'no council worse off' element**: an allocation of up to around \$500 million to ensure that no local authority is in a materially worse position financially to continue to provide services to its community as a direct result of the reform.
  - This element is intended to ensure the financial sustainability of councils and address reasonable costs and financial impacts associated with the transfer of assets, liabilities and revenues to new water services entities.
  - Up to \$250 million is available to meet the unavoidable costs of stranded overheads and the remainder for other adverse impacts on financial sustainability of territorial authorities (including future borrowing capacity).
  - Of this \$250 up to \$50 million is allocated to Auckland, Christchurch and Wellington Water councils, the remainder is available to other councils.<sup>15</sup> This funding is not available until July 2024 and is funded by the Water Services Entities.
4. Council's funding allocation is \$15.12M.
5. The package is in addition to the \$296 million announced in Budget 2021 to assist with the costs of transitioning to the new three waters arrangements. The Government will "meet the reasonable costs associated with the transfer of assets, liabilities and revenue to new water services entities, including staff involvement in working with the establishment entities and transition unit, and provision for reasonable legal, accounting and audit costs."<sup>16</sup>
6. The Government is also encouraging councils to use accumulated cash reserves associated with water infrastructure for this purpose. There are likely to be practical limitations on a council's ability to do this set by councils' own financial strategy and policies (including conditions on the use of the reserves ie targeted reserve funds must be used for the purpose they were collected for in the first instance e.g. if collected for capital works).

---

<sup>13</sup> [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/heads-of-agreement-partnering-commitment-to-support-three-waters-service-delivery-reform.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/heads-of-agreement-partnering-commitment-to-support-three-waters-service-delivery-reform.pdf)

<sup>14</sup> Please note that any allocation to Greater Wellington Regional Council (the only regional council affected by the proposed changes) is not clear at this stage.

<sup>15</sup> Due to their size and in the case of Wellington Water and Auckland's WaterCare having already transferred water service responsibilities (to varying degrees)

<sup>16</sup> 15 July 2021 FAQ [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/three-waters-reform-programme-support-package-information-and-frequently-asked-questions.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/three-waters-reform-programme-support-package-information-and-frequently-asked-questions.pdf)

7. There are also political and / or community acceptance challenges with this approach - if the assets are transferred under a voluntary or mandatory process the reserve balances are expected to be used to invest those funds in the communities that paid for them, consistent with the conditions under which they were raised rather than pooling as a general fund. Councils and communities are unlikely to embrace using these funds instead to enable the transition.
8. The proposed national allocations are as follows:

Council	Allocation
Auckland	\$ 508,567,550
Ashburton	\$ 16,759,091
Buller	\$ 14,009,497
Carterton	\$ 6,797,415
Central Hawke's Bay	\$ 11,339,488
Central Otago	\$ 12,835,059
Chatham Islands	\$ 8,821,612
Christchurch	\$ 122,422,394
Clutha	\$ 13,091,148
Dunedin	\$ 46,171,585
Far North	\$ 35,175,304
Gisborne	\$ 28,829,538
Gore	\$ 9,153,141
Grey	\$ 11,939,228
Hamilton	\$ 58,605,366
Hastings	\$ 34,885,508
Hauraki	\$ 15,124,992
Horowhenua	\$ 19,945,132
Hurunui	\$ 10,682,254
Invercargill	\$ 23,112,322
Kaikoura	\$ 6,210,668
Kaipara	\$ 16,141,395
Kapiti Coast	\$ 21,051,824
Kawerau	\$ 17,270,505
Lower Hutt	\$ 38,718,543
Mackenzie	\$ 6,195,404
Manawatu	\$ 15,054,610
Marlborough	\$ 23,038,482
Masterton	\$ 15,528,465
Matamata-Piako	\$ 17,271,819
Napier	\$ 25,823,785
Nelson	\$ 20,715,034
New Plymouth	\$ 31,586,541
Opotiki	\$ 18,715,493
Otorohanga	\$ 10,647,671
Palmerston North	\$ 32,630,589
Porirua	\$ 25,048,405
Queenstown Lakes	\$ 16,125,708
Rangitikei	\$ 13,317,834
Rotorua Lakes	\$ 32,193,519
Ruapehu	\$ 16,463,190

Selwyn	\$ 22,353,728
South Taranaki	\$ 18,196,605
South Waikato	\$ 18,564,602
South Wairarapa	\$ 7,501,228
Southland	\$ 19,212,526
Stratford	\$ 10,269,524
Tararua	\$ 15,185,454
Tasman	\$ 22,542,967
Taupo	\$ 19,736,070
Tauranga	\$ 48,405,014
Thames-Coromandel	\$ 16,196,086
Timaru	\$ 19,899,379
Upper Hutt	\$ 18,054,621
Waikato	\$ 31,531,126
Waimakariri	\$ 22,178,799
Waimate	\$ 9,680,575
Waipa	\$ 20,975,278
Wairoa	\$ 18,624,910
Waitaki	\$ 14,837,062
Waitomo	\$ 14,181,798
Wellington	\$ 66,820,722
Western Bay of Plenty	\$ 21,377,135
Westland	\$ 11,150,183
Whakatane	\$ 22,657,555
Whanganui	\$ 23,921,616
Whangarei	\$ 37,928,327
<b>Total</b>	<b>\$ 2,000,000,000</b>

## Appendix D - Private Water Schemes

<b>Known Private Drinking Water Supplies</b>	<b>risk – low, medium, high</b>	<b>why and any mitigation in place</b>
3 Schools (Kaiaua, Kaihere and Waimata)	Low	MoH responsible??? Proprietary treatment devices available
The Language School	Low	Proprietary treatment devices available
Kaiaua Marae	Low	Proprietary treatment devices available
Dickey Camp Adventure Camp	Low	Proprietary treatment devices available
Waitawheta Camp	Low	Proprietary treatment devices available
Falls Retreat & Bistro	Low	Currently being reticulated with Council Water
Pūkoro Mirinda Shorebird centre – it does have a few accommodation units		Proprietary treatment devices available
Waharau Regional Park – water provided at visitor centre	Low	Auckland Council responsibility. Proprietary treatment devices available
Hauraki Golf Club (Mangatarata)	Low	Proprietary treatment devices available
Waihi Golf Club	Low	Proprietary treatment devices available
A number of cafés and restaurants (such as Whiritoa General Store and Café, the Patetonga Café, The Wood Turner’s Café, Smoko and The Cornerstone Café are not connected)	Low	Proprietary treatment devices available. In some instances the Council’s reticulation could be extended to provide potable water to the establishment.
A number of our community Halls do not have potable water supplies (Kaiaua, Patetonga, Whiritoa (Surf Life Saving & Fire))	Low	Proprietary treatment devices available
Unknown number of 2nd dwellings supplied on farmland	Low	Proprietary treatment devices available

Appendix E



# Impacts of three waters reform

December 2020





**Document status**

<b>Job #</b>	<b>Version</b>	<b>Approving Director</b>	<b>Date</b>
2573	02	Dan Bonifant	Dec 2020

© Morrison Low

Except for all client data and factual information contained herein, this document is the copyright of Morrison Low. All or any part of it may only be used, copied or reproduced for the purpose for which it was originally intended, except where the prior permission to do otherwise has been sought from and granted by Morrison Low. Prospective users are invited to make enquiries of Morrison Low concerning using all or part of this copyright document for purposes other than that for which it was intended.



## Contents

Introduction	1
Water reform	1
Reform programme	2
Memorandum of understanding	2
Three waters RFI	2
Iwi	3
Impacts	3
Impact of reform on the four councils	4
Financial analysis	4
Our approach	4
Investment required	4
Future status quo	5
Impact on councils' debt	6
Affordability	7
Appendix A    Case study: Hawke's Bay water reform review	8
Approach to the review	8
Problem definition	8
Current situation	10
Projected future costs	10

## Tables

Table 1	Three waters reform RFI timeline	3
Table 2	Three waters capital investment (2020 – 2028)	5
Table 3	Comparison of household affordability (2031)	7
Table 4	Estimated three waters residential rate affordability metric: enhanced status quo (2032)	12

## Figures

Figure 1	Three waters rates comparison (GST excl)	5
Figure 2	Comparison of peak three waters debt LTP vs Future status quo (2029 - 2031 projected)	6
Figure 3	Investment objectives	8
Figure 4	Principles	9
Figure 5	Comparison of size and population and current cost of water	10
Figure 6	Enhanced status quo: estimated future costs	11



## Introduction

This report provides a summary of the three waters reform program, context around key issues, and uses existing data to project potential impacts on the four councils of likely change.

A case study with key results from our 18 month detailed review of Hawke's Bay is included as an appendix. The Hawke's Bay case study may provide some useful insights to inform your process, particularly as Wairoa and Central Hawke's Bay are relatively small and serve predominantly rural communities.

## Water reform

The New Zealand government is reforming how drinking water, wastewater and stormwater (three waters) services are delivered across New Zealand. The reforms began in response to the issues identified following the 2016 Havelock North drinking water contamination.

In its 20 November 2018 Cabinet paper, the government stated that *"the scale of the challenge indicates that the status quo is not sustainable in the long term"*.

Government is seeking solutions to the challenges facing the delivery of three waters services, which include:

- underinvestment in three waters infrastructure
- persistent affordability issues
- additional investment required to meet improvements in freshwater outcomes
- a need to increase resilience to climate change and natural hazards
- the need to enhance community wellbeing.

The three po (pillars) of water reform the government is now implementing are:

- **The establishment of Taumata Arowai, the water regulator**
  - Taumata Arowai – Water Services Regulator Act was passed in July 2020
  - Its role is to oversee, administer, and enforce the new drinking water regulatory system, and to provide oversight of the wastewater and stormwater networks
  - Taumata Arowai will become the dedicated water regulator in 2021 from the enactment of the Water Services Bill
- **Regulatory reform, as proposed in the Water Services Bill**
  - Currently before parliament, the Bill contains the details of the new drinking water regulatory system, source water protection and Taumata Arowai's oversight role for wastewater and stormwater networks
  - Expected to be enacted in late 2021
- **Reforms to water delivery services**
  - Government has indicated a starting position in favour of a public, multi-regional water authority
  - A voluntary reform process begun in July 2020 alongside a Covid-19 stimulus package. All councils in New Zealand signed up to a memorandum of understanding and accepted the findings associated with that



Three waters are predominately owned and delivered by local authorities.

## Reform programme

The New Zealand government's starting intention is the creation of public multi-regional models for water service delivery. The design of these entities is to be informed by discussions with local government and the preference is for shared ownership with local authorities.

The water reform programme has the following objectives:

- Significantly improving the safety and quality of drinking water services, and the environmental performance of drinking water and wastewater systems.
- Ensuring all New Zealanders have equitable access to affordable three waters services.
- Improving the coordination of resources, planning, and unlocking strategic opportunities to consider New Zealand's infrastructure and environmental needs at a larger scale.
- Increasing the resilience of three waters service provision to both short- and long-term risks and events, particularly climate change and natural hazards.
- Moving the supply of three waters services to a more financially sustainable footing and addressing the affordability and capability challenges faced by small suppliers and councils.
- Improving transparency about, and accountability for, the delivery and costs of three waters services, including the ability to benchmark the performance of service providers.
- Undertaking the reform in a manner that enables local government to further enhance the way in which it can deliver on its broader "wellbeing mandates" as set out in the Local Government Act 2002.

To support this process, government has provided stimulus funding of \$761M. This is intended to both support the reform of local government water services delivery and to provide economic stimulus through investment in infrastructure works that improve three waters.

## Memorandum of understanding

In August 2020, the Crown signed a Memorandum of Understanding (MOU) with all eligible local authorities to progress the water reforms. This MOU also included a commitment to share information to support the programme.

Following the signing of the MOU collectives of local authorities were able to access stimulus funding to undertake their regional/sub-regional reviews. The deadline for completion of reviews is 30 June 2021.

## Three waters RFI

In October 2020, a Three Waters Request for Information (RFI) from local authorities was released. The information requested in the RFI will support the detailed analysis of the reform options later in 2021. All local authorities are required to provide a base level of data and information on their water infrastructure, while a representative sample of local authorities must provide more detailed information. The response deadline for all local authorities is 1 February 2021 and responding to the request is proving challenging given the detail required and the timeframes.



**Table 1 Three waters reform RFI timeline**

RFI process item	Key dates
RFI released	Friday 23 October 2020
Deadline for those councils wanting to respond to more detailed information request	Friday 6 November
DIA support for information requests including – webinar, weekly clinics, notifications	21 October 2020 to 1 Feb 2021
Deadline for questions to DIA	22 January 2021
Response deadline	1 Feb 2021
DIA asking clarification questions of local authorities	30 Nov 2020 to 26 Feb 2021

A joint local and central government Three Waters Steering Committee has been established to ensure that the perspectives, interests, and expertise of all levels of government and communities nationally are considered.

**Iwi**

Water is a critical taonga for Māori that holds a central role in their sense of identity and well-being. Many hold the inherent understanding that Māori are *Ko wai mātou* – we are water. The principle of kaitiakitanga is strong for ancestral water so Māori perspectives, knowledge and interests are pivotal to any discussion of water.

Taumata Arowai – Water Services Regulator Act 2020 establishes a Māori Advisory Group for Taumata Arowai and requires the independent Board to have a broad knowledge of the Treaty, Māori perspectives, and tikanga Māori. The board will be required to report on how it has had regard to the advice of the Māori Advisory Group.

The Local Government (Community Well-being) Amendment Act 2019 enhances the statutory requirements around infrastructure CCOs and Māori. For example:

- before a CCO makes a decision that may significantly affect land or a body of water, it must take into account the relationship of Māori and their culture and traditions with their ancestral water, amongst other things
- local authorities must consider whether the knowledge of tikanga Māori may be relevant for directors of the CCO.

Council signatories of the Three Waters Services Reform MOU are required to recognise that the reform programme gives rise to rights and interests under the Treaty of Waitangi and acknowledge the role of Māori. It is expected that the outcome of discussions with iwi/Māori will inform the design of appropriate mechanisms to reflect their Treaty interests. This will include clarity of roles and responsibilities, for example, co-governance arrangements for the new water services entities.

**Impacts**

While the government focus is a reforming of three waters (regulating regulators and service delivery) the direct impacts and flow on impacts of any change on councils are significant issues for councils to understand and prepare for.



## Impact of reform on the four councils

Morrison Low has undertaken a high-level review of the current and projected investment in three waters for each council. The government three waters reform process is moving at a fast pace and by March 2021 the government is expected to have developed options for new aggregated water supply entities. The intention of this report is to inform the councils of the likely financial impact of the reform so that councils can engage in that aspect on an informed basis. However, the impact of the reforms will be far wider than just financial as it will affect staff, the community and the services they receive. As the reform programme progresses and more details emerge these aspects will be increasingly important.

### Financial analysis

#### Our approach

In order to provide a consistent base position from which to compare, the 2018 LTP was used as the starting point. Projections going out until 2031 were made to provide a ten year forecast. The base position was adjusted to allow for changes to the existing forecast through the 2019 and 2020 Annual Plan processes. Estimated costs arising from investment into three waters sufficient to ensure that each of the four councils would meet assumed increased environmental standards and compliance requirements for three waters were also allowed for.

The three waters reform, more specifically the regulatory changes, will increase the costs of delivering three waters services. There is both increased capital investment required for water and wastewater treatment networks to meet the new standards and operational costs for water and wastewater treatment networks to meet the new standards and demonstrate compliance with those. Capital investment has been estimated by reference to:

- the estimated costs to upgrade wastewater and drinking water plants in order to meet potential future regulatory standards, as estimated by GHD and BECA in their reports to the Department of Internal Affairs. We have assumed that regardless of consent status, these upgrades would be required within the LTP period
- a standard uplift in capital programmes of 30% when compared to 2018 long term plans. This represents the lower range of increases in capital works programmes that we have observed in the councils<sup>1</sup> through our work in three waters reform and asset management support.

#### Investment required

The table below shows the difference between capital investment required under the 2018 LTPs and our estimate of the future status quo. While these increases are significant, they are not out of line with the councils' own draft capital programmes for three waters services currently being developed.

---

<sup>1</sup> Our high level review of preliminary draft capital works programmes for the four councils showed an average uplift (compared to 2018 adopted LTP programmes) of over 90%, so the estimate used in our analysis is conservative.



**Table 2 Three waters capital investment (2020 – 2028)**

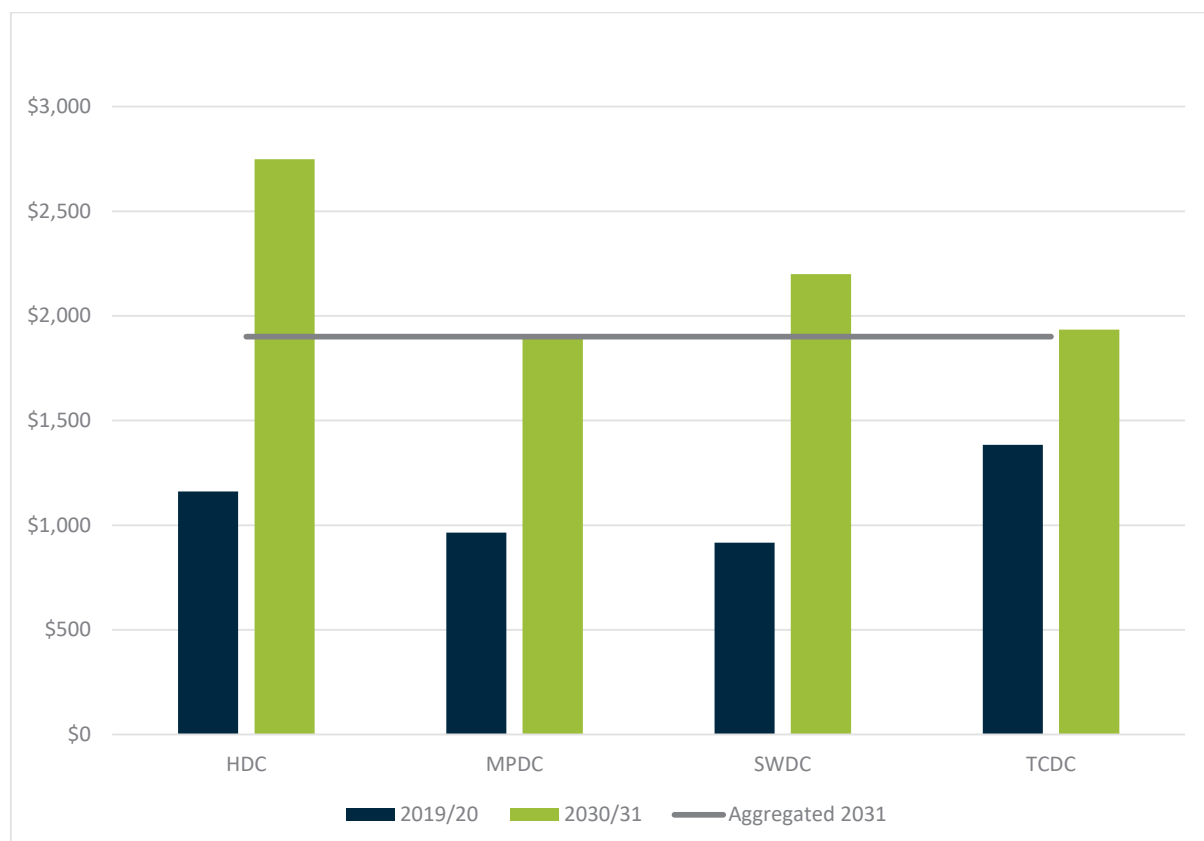
	HDC	MPDC	SWDC	TCDC	Aggregated
2018 LTP (as amended)	\$52.6m	\$40.6m	\$52.5m	\$109.2m	\$254.9m
Future status quo	\$118.0m	\$93.4m	\$113.5m	\$197.8m	\$422.7m

### Future status quo

The resulting ‘future status quo’ position highlights these by reference to the average three water rate. The chart below shows the change in estimated future costs arising from the three waters reform. The estimated average three water rate in 2031 across the councils ranges from \$1,900 per household in Matamata Piako and Thames Coromandel to \$2,800 in Hauraki.

The average three water rate has also been estimated on the basis of the four councils aggregating their three waters services. This is presented in the chart below at \$1,900 per household but should be considered as illustrative only. The high-level analysis includes generic assumptions for the potential efficiencies that may be gained from aggregation and the costs of aggregation and assumes a separate entity similar to a jointly owned, asset CCO (similar to Watercare). Further, more detailed analysis would be required in order to provide a detailed estimate of what the costs and benefits of such an option would be for the specific councils if such an option were to be progressed.

**Figure 1 Three waters rates comparison (GST excl)**





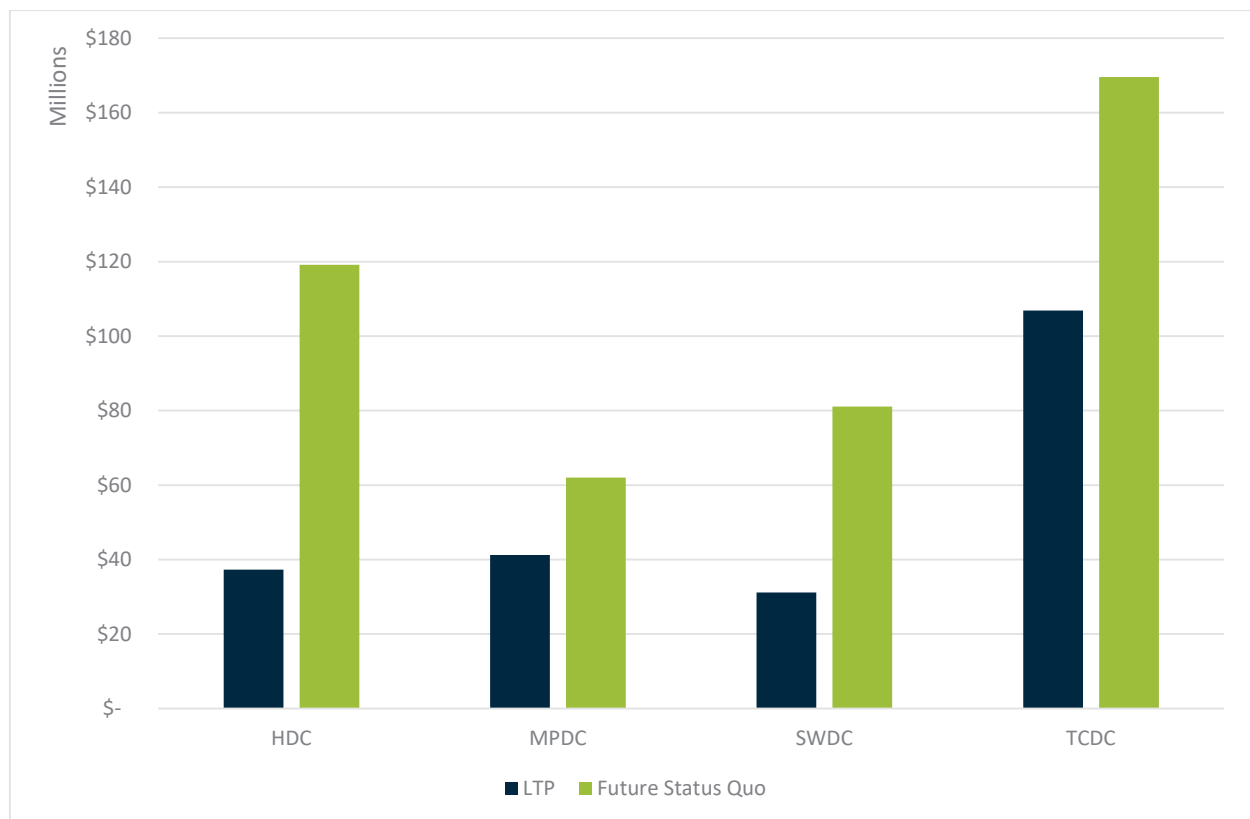
### Impact on councils' debt

Increases in capital programmes do not typically result in an immediate impact on rates (at least not of the same scale) as such investments are typically funded from reserves or through the use of external borrowing. Costs passed on to the ratepayer will include the additional operating costs associated with the investment (which in some cases is significant), depreciation, and the costs of borrowing.

Our modelling assumes that councils will seek to optimise the use of debt and are unlikely to set rates at a level where financial reserves are being developed. The consequence of this approach is that rates bills are minimised, but levels of borrowing peak at relatively high levels. The following chart shows the peak debt under current LTP projections and under the future status quo.

It is worth noting that “peak debt” occurs before the end of the modelling period for all councils other than Hauraki.

**Figure 2 Comparison of peak three waters debt LTP vs Future status quo (2021 - 2031 projected)**



We have not measured three waters debt against any of the Local Government Funding Agency’s borrowing covenants, as these covenants are measured at an entity level, and are not directly applicable to individual activities.





### Affordability

The international affordability metrics for water and wastewater cited by Water New Zealand<sup>2</sup> consider a range of spending between 2% to 5% of household income on water and wastewater as being unaffordable. This analysis shows the greatest financial impact from the reforms is on the Hauraki community where the projected average rate by 2031 is in the middle of that band at 2.9% of household income being spent on water and wastewater and services. South Waikato and Thames Coromandel increase to just over the lower threshold of 2% and under the aggregated option the average rate is below the threshold in Matamata Piako and at the threshold for the other councils.

For the purposes of this analysis median household income for each district has been estimated based on the regional household income in Waikato, and differences in median personal income between the district as household income data is not publicly available at a territorial authority level.

**Table 3 Comparison of household affordability (2031)**

	Future status quo	Aggregated three waters
Hauraki	2.9%	1.9%
Matamata Piako	1.6%	1.5% <sup>3</sup>
South Waikato	2.3%	1.9%
Thames Coromandel	2.1%	1.9%

<sup>2</sup> Water New Zealand 2017-18 National Performance Review

<sup>3</sup> The lower percentage reflects higher household incomes in Matamata Piako District rather than a difference in three waters charges for Matamata Piako under an aggregated model



## Appendix A Case study: Hawke’s Bay water reform review

The five Hawke’s Bay councils were the first region to undertake a review of potential models for delivering a regional water services entity. Morrison Low in New Zealand (in conjunction with Opus) undertook the review over 2019 and 2020.

### Approach to the review

#### Problem definition

Guiding the review were:

- the six investment objectives developed and agreed through a series of workshops with council leaders, employees and Māori committee representatives
- principles developed through engagement with the Māori committees
- a current state assessment
- consideration of the future requirements of three waters services.

Figure 3 Investment objectives

To provide three water services in a way that is affordable and effective	The three waters service's model must address the challenge of providing for an effective, affordable service in a fiscally responsible way
To provide services that are safe, reliable and resilient	Access to safe and reliable three waters service are fundamental to all the urban and rural communities of Hawke's Bay
To provide services through a model that enables a meaningful role for Māori	The Local Government Act requires a local authority to provide opportunities for Māori to contribute to its decision making processes
To provide services through a model that has the value of water at the centre	Water is vital to community life and as such three water services are part of a holistic water systems
To provide three waters services in a way that supports our urban and rural communities	The services influence how people across Hawke's Bay live, work, gather, socialise, recreate and value environmental amenity
To provide three waters services that build enduring capability and capacity	The three waters model must be capable of, and have the capacity to, deliver quality sustainable planning, management and operation of three water services now and into the future



Figure 4 Principles

Value te ao Māori	Incorporating and implementing mātauranga Māori, culture and values (i.e. Te Aranga Design Principles) are a core element for any potential framework to realise and enhance the region’s commitment to MāoriValue water
Value water	Wai is the essence of all life and the world's most precious resource. It is of high important to Māori, as it is the life giver of all things, a precious taonga, part of our whakapapa
Whakapapa – genealogical links	Recognise and respect the relationship and whakapapa (genealogical link) that mana whenua have with water.
Te mauri o te wai – the life force of water	Mauri is the integrated and holistic well-being and life suport capacity of water. The well-being/healthiness of the water, the land and the people are intrinsically connected.
Holistic approach to water	Although the project is based around the review of the service and delivery of the three waters (infrastructure), the proposed model needs to take into account a holsitic water approach: there is only one water.
Enabling of te tiriti o Waitangi	Involving mana whenua in governance and decision making-mkaing required to ensure Te tititi o Waitangi obligations are met, as well as making sure they are able to activiely exercise kaitiakitana in a practical
Mana motuhake - identity, self-determination	The identity of mana whnua in Hawke’s Bay should not be lost in any potential model. But inclusion and co-governance whilst keeping their identity is an opportunity

The primary focus of the review was to complete an assessment of the current state of council three waters services in Hawke’s Bay and develop a recommended approach to ensure the sustainable delivery of these critical services over the long term. The review followed a structured, staged process moving from current state assessment, definition of key principles, into analysis of a long and short list of options and their impacts on the councils.

The review was undertaken using the better business case framework

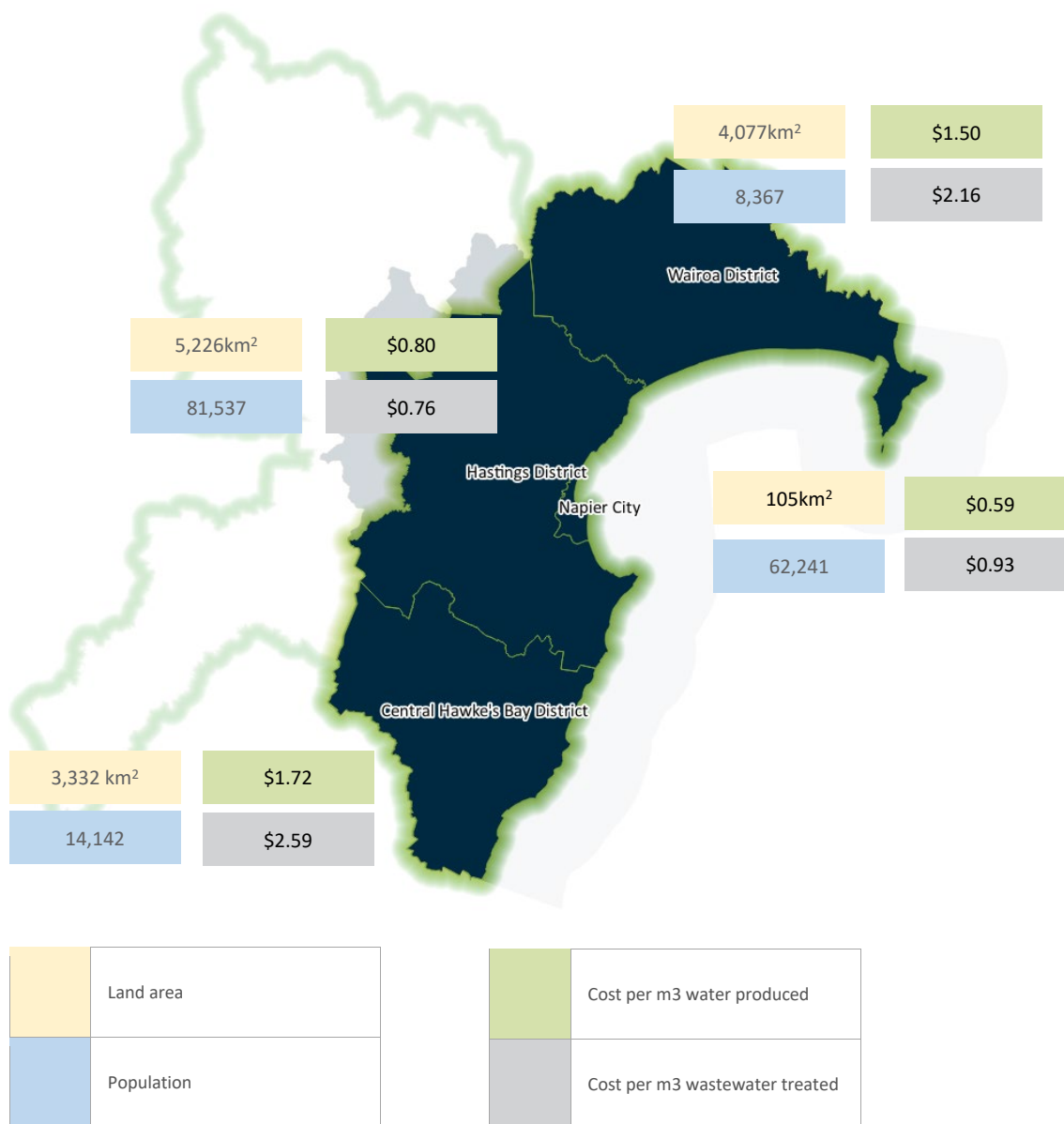




### Current situation

The review found that the cost of producing drinking water and treating wastewater in the two rural councils (Wairoa and Central Hawke’s Bay) was more than double the cost in the two city councils

Figure 5 Comparison of size and population and current cost of water



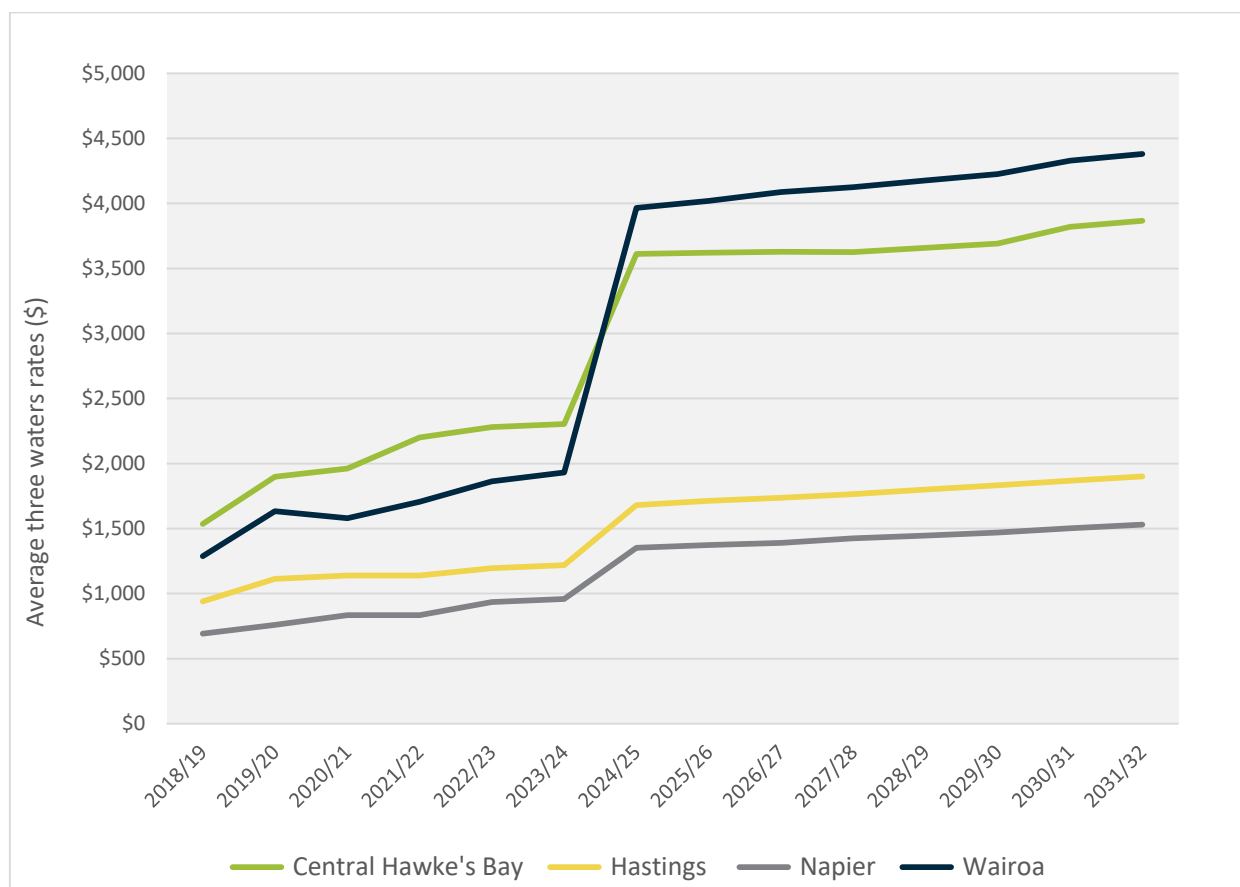
### Projected future costs

The forecast capital programme of each council, plus the estimated capital investment required to meet new regularity standard as well as estimated increases in operational costs was calculated for each council. This was referred to as the **enhanced status quo** and was used throughout the review as the basis against which all other options were assessed.



This assessment highlighted that the changes in regulatory and environmental standards arising from the reform could see the average three waters rates rise by more than 100% in all councils but reach over \$3,500 and \$4,000 respectively in Central Hawke’s Bay and Wairoa.

**Figure 6 Enhanced status quo: estimated future costs**



The impact of that on communities of the Hawke’s Bay was considered by reference to household affordability. The international affordability metrics for water and wastewater cited by Water New Zealand<sup>4</sup> consider a range of spending between 2% to 5% of household income on water and wastewater as being unaffordable. The table below demonstrated that by 2032 Wairoa exceeds, and Central Hawke’s Bay is close to, the highest benchmark of 5% of household income being spent on water and wastewater services.

<sup>4</sup> Water New Zealand 2017-18 National Performance Review



**Table 4** Estimated three waters residential rate affordability metric: enhanced status quo (2032)

	2018/19	2031/32
<b>Central Hawke's Bay</b>	2.7%	4.4%
<b>Hastings</b>	1.1%	1.9%
<b>Napier</b>	1.0%	1.5%
<b>Wairoa</b>	2.1%	5.9%